

RESEARCH REPORT

Measuring Results and Monitoring Progress of Transitional Justice Processes

January 2021



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Cover Image: Victims of the Colombian conflict take part in a reconciliation project with former FARC guerrillas in Granada, Antioquia, on September 23, 2017. (Joaquin Sarmiento/AFP via Getty Images)

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About ICTJ

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org

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Introduction

When transitional justice processes are discussed, from the case of Sierra Leone to South Africa, Nepal to Argentina, there is lively debate about what results have been achieved, whether the process has “succeeded,” and on what grounds different claims can be made. When these processes are ongoing, reliable information about them is relatively scarce and usually heavily contested. Results are at times resounding and inspiring, changing the lives of people on a massive scale; but unlike in the medical sciences, the evidence regarding transitional justice approaches is “noisier” and more complicated. It usually includes a long list of considerations related to the specific context and other characteristics of how transitional justice has been uniquely applied.

Evaluation science takes after medical science in the way that programs, policies, or whatever is evaluated is considered as the “treatment”—an intervention geared toward producing change. From an evaluation science standpoint, and for the purpose of this discussion, transitional justice measures and policies may be considered as a series of correlated interventions aimed at producing results in a society. These results can be defined as verifiable change in the short or medium term at the level of the behavior of key actors, the situation of victims, institutions, the enactment of specific reforms, and society’s adherence to a set of rules, etc. In the long-term, these interventions are thought to have potential impact on development,¹ peace, rule of law, gender inequality, reconciliation, consolidation of democracy, and other dimensions.²

Transitional justice processes are complex,³ politically contested, and not necessarily linear. Because of this, they present unique theoretical and practical challenges for measuring results, which include challenges for gathering data, registering unintended outcomes, reporting progress, providing feedback to interventions, and extracting useful information to establish impact or counterfactuals.

¹ Please note that impact is used here to refer to longer-term effects outside the direct area of control of an intervention. Several authors and practitioners define impact differently. For a more informed discussion about this, please see Hearn and Buffardi, *What Is Impact?*

² According to UN General Assembly, *Report of the Special Rapporteur*: “There is no consensus on the aims that are properly pursued through the implementation of the measures. This is neither unique to transitional justice nor fatal, but nor is it inconsequential. The absence of theoretically-worked-out models of transitional justice is expressed in the plethora of (mutually incompatible) extraordinary effects attributed to the measures.”

³ Given the way that the term “transitional justice” is understood, the very nature of transitional justice practice and the range of contexts to which the international community applies a transitional justice lens have evolved over time. In this report, transitional justice is used in a broad sense to refer to the many measures or policies that can be implemented to address and repair the legacies of massive human rights abuses. These measures can be judicial and nonjudicial and include, among others, truth-telling processes; criminal justice initiatives in national, regional, or international jurisdictions, reparations programs; and political and institutional reforms. Transitional justice is profoundly political and dependent on the context. Usually changes are long term and intergenerational, comprising transformations in the reality of individuals, the institutions of a state, and the cultures of society, etc.

In particular, as a transitional justice approach is applied in contexts where there are weak or compromised state institutions, the capacity (and sometimes willingness) of the state to collect and report official data is often extremely low, while secondary data at the country level is rarely reliably available. In many of these contexts, the space for civil society is also limited, as is its ability to monitor processes. Moreover, transitional justice processes often occur in contexts of fragility,⁴ conflict, and violence (FCV),⁵ which pose additional complications in terms of security, stability, resources, and capacity for evidence gathering. All of which requires an especially conflict-sensitive approach.

At the same time, the current global environment is one of increasing competition among non-profit organizations for financial support, and funders increasingly demand evidence of what works (and what works where) in order to inform their funding decisions. Actors in the transitional justice sector face the challenge of producing this evidence while there is little agreement among practitioners, donors, and stakeholders on the right approach and means to do so.

Similarly, it would be useful for domestic political and societal stakeholders to have evidence to understand how transitional justice processes unfold, in part to enable them to articulate the value and results of these processes to their domestic constituencies. This also would help governments leading these processes to design evidence-based strategies, better articulate their demands for justice, and, ideally, counter the political challenges that they face, while creating greater societal endorsement of transitional justice.

This report aims to contribute to developing better monitoring and evaluation practices, to support an evidence-based approach to transitional justice processes and interventions. It promotes a more nuanced approach to monitoring and evaluation that takes into consideration the specific challenges, conditions, and needs of the field and different contexts. While this document contributes to the broader conversation in the sector about this topic, it does not pretend to provide all of the answers to these markedly complicated issues.

This report is based on a desk review conducted by the International Center for Transitional Justice (ICTJ) on the topic followed by a series of semi-structured interviews with members of three stakeholder groups: academics, practitioners, and donors.

This document considers how to assess the process and results of transitional justice measures, referring to both the efforts to assess transitional processes themselves and efforts to assess programs supporting transitional justice processes (like ICTJ's own work). Clearly, insights about the former apply also to the latter; however, they can be considered separately, if necessary.

The first section of this report unpacks the concepts of assessing results and monitoring the progress of transitional justice processes. By applying a utilization-focused evaluation model to identify different types of users,⁶ ICTJ's research observes an imbalance among the beneficiaries of transitional justice interventions vis-à-vis decision makers and external supporters. It discusses different meanings of "results" and makes a distinction between different moments and types of evaluations. ICTJ considers that the transitional justice sector focuses mostly on evaluations

4 The Organisation for Economic Co-operation and Development defines *fragility* as the combination of exposure to risk and insufficient coping capacity of the state, system, and/or communities to manage, absorb, or mitigate those risks. Fragility can lead to negative outcomes, including violence, the breakdown of institutions, displacement, humanitarian crises, or other emergencies. See OECD, *States of Fragility*.

5 World Bank, *Fragility, Conflict, and Violence* webpage.

6 A utilization-focused evaluation is an approach based on the principle that an evaluation should be judged on its usefulness to its intended users.

and assessments ex-post, whereas it places too little emphasis on assessments in the initial development stages of a transitional justice process, when insights and information are most useful.

The second section examines features of evaluating and monitoring transitional justice processes, discussing the traditional logical framework model for monitoring and evaluation and contending that some of its assumptions do not apply to transitional justice processes. Transitional justice processes are (1) complex, (2) politically contested, and (3) carried out in contexts that present important constraints, including conflict, fragility, and violence. These features bring into consideration methodological issues for assessment, including the unpredictable and inter-related behavior of the system, the nature of political contestation and the role of the opposition in interventions and issues of security, power asymmetries, exclusion, language, and relationship with the state. ICTJ suggests using appropriate methods and tools, including open-ended methodologies for monitoring and evaluation, adaptive approaches, and more qualitative methods that can be combined to provide an accurate picture of the situation and inform decisions.

The third section discusses indicators for results of transitional justice processes, the role of perception surveys, and points to the Sustainable Development Goals (SDGs) framework as the privileged space to anchor data and evidence about transitional justice processes. The report concludes with recommendations for practitioners and policymakers as well as external observers and supporters, such as donors and academics.

Key Considerations for Measuring Results and Monitoring Progress

Why Measure Results and Whom Is It For?

After the struggle of a difficult transition, government and other institutional stakeholders, donors, citizens, civil society organizations, and other actors engage in a process—sometimes a peace negotiation—to define the path forward, to break recurring cycles of impunity, deliver justice, deal with the past, and set the foundation for a peaceful future.

Different stakeholders likely have differing notions regarding the purpose and possible components of the transitional justice process and differing goals and expectations for achievable results.⁷ Therefore, discussing early on how to measure the progress and assess results, and including such a perspective, is useful in helping different stakeholders address these differences. Different stakeholders might have different priorities and preferences. By asking questions, such as “what are different (national) stakeholders trying to achieve in the process,” “what does success look like for them,” and “which criteria will be included to determine success/failure of interventions and to chart whether the process is moving into the right direction,” stakeholders have an opportunity to articulate their positions and purposes, unpack their assumptions, incorporate evidence in their decision making, and better agree on what to do and what to expect. Outputs from such discussions would also help in developing public communication strategies, establishing alliances with organizations and donors, managing expectations, and setting realistic goals. At the same time, an approach that incorporates evidence and is supported by data is less vulnerable to manipulation, denial, and political contestation by perpetrators and other actors who oppose the process.

Actors in charge of transitional justice processes have a lot on their plate, which means that they seldom are able to introduce an evaluation lens to their work. In most cases, the capacity of institutions and staff is limited. When supporting these processes to promote an evidence-based approach, external actors should consider what evidence and data are available or could be collected (and by whom) and how to use them to inform decisions.

The first steps in designing an evaluation or monitoring approach is to start with the users and the purposes in mind. An evaluation is “an applied inquiry process that collects and synthe-

7 Bell, Transitional Justice.

sizes evidence that ‘culminates in conclusions about the state of affairs, value, merit, worth, significance or quality of a program, product, person, policy, proposal or plan.’”⁸ There are two components to them: “an empiric aspect (that something is the case) and a normative aspect (judgment about the value of something).”⁹ The collection and analysis of data are not the purpose in themselves, but to provide feedback on interventions, provide evidence, and assist in decision making. Despite the technical trappings, a few characteristics of an evaluation and its potential findings can be determined by looking around the table at the participants taking part in the discussion. How many women are present? Are there any representatives of minority populations? Are there any victims? Is anyone talking on behalf of the victims? Whose government is at the table, which political parties are represented?

What users are relevant to this conversation? For this report, the following four types of users are considered:

1. Internal actors

- a. Individuals in societies going through transitional justice processes—including victims and other participants in or beneficiaries of these processes—who can make their voice, values, experience, and perspectives explicit through monitoring and evaluation efforts.
- b. Individuals who require quality information about what is happening in a transitional justice process to make decisions and inform that process’s development (what is called “formative evaluation” in the sector) and to pursue internal advocacy inside their society. This group includes government, policymakers, and local organizations.

2. External actors

- a. Organizations actively engaging with the context in question through interventions, programming, and funding. These include foreign governments, development aid agencies, international nongovernmental organizations, and multilateral organizations. These organizations use assessments to inform their own programs, learn and adapt, and report results to their investors.
- b. Observers who are interested in understanding these processes in a global context, extract lessons, and, in some cases, expand the evidence base to inform their support and investment.¹⁰ This group typically includes academics, international development actors, and donors (although these users may be found in the other roles, too).

In practice, beneficiaries are often assumed to be mere “suppliers of information” with little agency in the design of evaluation approaches. In general, not considering beneficiaries, victims, and “non-victim” citizens as users whose perspective is necessary to define what to monitor and why could result in an “extractivist” model of monitoring and evaluation in which data is collected from beneficiaries solely as “information resources,” instead of as valued partners or decision makers. In such cases, information is often sought to validate decisions that have already been made or to collect feedback data and evidence of results only after an intervention is already over and there is no more budget or opportunity to make significant changes—which

⁸ See Fournier, Evaluation.

⁹ Ibid. See also Duggan, “Show Me Your Impact” and Ainley “Evaluating the Evaluators: Transitional Justice and the Contest of Values.”

¹⁰ Academic researchers might focus more on the connections between different sets of evidence and results and explore the connections between variables and less on normative judgements. Geoff Dancy makes the distinction between “evaluations” and “impact assessments” that claim no commitment to any prior set of values—for example, quantitative large-n studies. See Dancy, *Impact Assessment*.

undermines what should be the goal of evaluation. For example, ICTJ has seen this happen with women who suffered human rights violations being viewed as “victims” whose only role is providing testimony. As a result, their roles as activists, decision makers, or former parties to the conflict are obfuscated. Data collected from such an approach would not fully capture women’s priorities and viewpoints regarding the shape, modalities, and results of transitional justice policies and programs.

By thinking about the purpose of an evaluation and its users from the beginning, evaluators, policymakers, and supporters can include considerations to make their work and data more useful.

First, efforts to measure and evaluate transitional justice processes can make interventions, policies, and processes more inclusive and responsive by focusing on and providing information about the preferences, needs, experiences, and perspectives of beneficiaries. This can be done by policymakers and actors leading those processes or by organizations supporting those efforts.

In practice, it is rare for domestic transitional justice processes to even adopt a monitoring-and-evaluation approach in the first place. When they do, their focus is usually on evaluating the delivery of activities or post-effort results. In lieu of organic systems to collect such data, transitional justice institutions, such as truth commissions and government bodies, sometimes attempt to address this information gap by commissioning ad-hoc studies. For example, ICTJ conducted a study on the Gambian Truth, Reparations and Reconciliation Commission to provide key data regarding the conditions for women’s participation. The [report](#) was intended to inform the discussion about women’s experiences and their expectations for future reparations programs. While admittedly an ad-hoc study, this intervention was important because the data showed that many women had been unable or unwilling to participate in the commission’s public hearings on reparations.

Second, the information that external actors collect in an evaluation can “have a home” with domestic stakeholders, fill existing information gaps, inform decision making in a timely way, and be in a form that stakeholders can understand and act on. For example, some academics interviewed for this report noted that, when working on “everyday” indicators for justice and peace in Colombia, they started by contacting relevant authorities to find out potential uses for the information they were about to collect as a key step in their study’s design.

Third, if rigorous enough, such information could advance the overall knowledge about transitional justice processes and related supporting arguments among those interested in applying lessons in other contexts, including research institutions. For example, the International Development Research Centre used data collected in their monitoring and evaluation of a Guatemalan museum’s campaign on history education to infer interesting lessons about the theories of change of similar interventions and evaluation methodology itself.¹¹

What Are We Talking About When We Talk About Results?

Our research on evaluation suggests that interlocutors automatically assumed different things about what was meant by the term “results.”¹² In general, for policymakers and representatives of donor governments, a discussion about measurement quickly led to references to measuring changes at the macro level, especially at the institutional level. For them, results referred

¹¹ Duggan, “Show Me Your Impact.”

¹² This was a feature of the methodology used in semi-structured interviews that offered interesting insights.

to measuring (and counting the number of) created institutions,¹³ laws, commissions, or their products (such as generated legal cases, verdicts, or convictions) and their potential results in terms of their impact on dimensions such as peace or recurrence of conflict, democracy, and human rights practice.

At the same time, some stakeholders from civil society organizations who were interviewed naturally pointed to changes at the micro level, for individuals, households, and communities. They often referred to victims and communities—and their needs, perceptions of justice, trust in the government, and attitudes related to violence as well as changes to their situation brought about by programs or policies (for example, access to justice, health care services, psychosocial support, and reparations).

It makes sense that different interlocutors think about measuring process and results at the level on which they are working. (See Table 1 below.) There are, of course, evaluations that are designed to be multilevel. Importantly, some literature points to evaluations that look at the capacity of institutions and organizations in charge of carrying out these interventions to fulfill their mandate, which adds a mid-level dimension.¹⁴ Looking at this aspect is critical; it is more important for programs in fragile, less-developed contexts where the capacity of state bodies to carry out complex public processes tends to be weaker.

Table 1. Scope and Level of Change¹⁵

Scope of change to assess in evaluations	Local (micro), state, province, national, (macro) international
Unit where change happens (and can be verified)	Individual, household, community, institution, population

It is reasonable to expect and measure change at the same level as the intervention—for example, measuring change at the national level for national-level policies and so forth. But at the same time, it makes sense to consider how these interventions reflect or impact other units down the line. This last logical step—that the creation and implementation of a national-level transitional justice policy, measure, or institution should have an effect that is measurable at the level of individuals or families—is not a trivial matter, as will be discussed below. Similarly, local and community-level processes can have impacts at the national level—and even national-level processes can change international practice and laws.

One major challenge for evaluators is assessing the so-called “implementation gap,” or the frequency with which measures to address past human rights violations are proposed, and even designed, but then left unimplemented or only partially implemented.

Researchers and members of the international community indicate that while information about institutional developments in the creation of transitional justice measures and related policies are normally available, information about the actual implementation of these measures

¹³ An excessive focus on institutions can mean that insufficient attention is put on the longer and more difficult process of carrying out the promises written on paper. For example, in Côte d’Ivoire, an official of an international organization delivered a speech congratulating the government for having accomplished its mission by putting in place an investigative commission to make perpetrators accountable. Hobbled by insufficient and inadequate government support (and later an amnesty), the commission, however, closed years later without fulfilling its mandate.

¹⁴ Pham et al., “Evaluating Transitional Justice.”

¹⁵ Hearn and Buffardi, “What Is Impact?”

is often incomplete or unreliable, though there are notable exceptions.¹⁶ They argue that such information would be critical to drawing general inferences about the causal links between different transitional justice measures and their claimed effects on peacebuilding, prevention, civic trust, and democracy, and to producing knowledge that is not exclusively causal in nature.

There is not much that can be said about the success or failure of transitional justice process and transitional justice as a field itself if researchers only have information about the creation of institutions and know little about the implementation of policies and measures on the ground. A review of the first wave of quantitative research trying to identify outcomes of transitional justice processes by Brandon Stewart and Eric Wiebelhaus-Brahm concluded: “Statistical research has treated transitional justice mechanisms as dummy variables. In other words, they have been coded as ones and zeroes to reflect the presence or absence of a TJ [transitional justice] mechanism.”¹⁷ In terms of a study’s validity, there is a lot to gain from better information on implementation, differences among processes, etc. More recent research has built on mixed methods approaches.¹⁸

What Should Be Measured and When?

There are different applications and different evaluation questions that are appropriate to ask at different stages of a process that go along with different potential uses of the collected information. (See Table 2 below.)

Table 2. Monitoring and Evaluating the Phases of a Program, Policy, or Intervention in a Transitional Justice Process¹⁹

	Design	Implementation	Completion
Main Questions	<ul style="list-style-type: none"> • What justice from who and when? • What should the intervention look like to get the results we want? • What constraints may the intervention face? 	<ul style="list-style-type: none"> • How is implementation going? • Is the intervention doing what it is supposed to do? • Does the data suggest that anything needs to be changed? 	<ul style="list-style-type: none"> • What are the results? • Were there any unintended results (positive or negative?) • Are changes (if any) attributable to the intervention?
Type of Evaluation	<ul style="list-style-type: none"> • Analysis, preassessment, and baseline studies 	<ul style="list-style-type: none"> • Formative evaluation and process monitoring 	<ul style="list-style-type: none"> • Outcome evaluation

In the initial design stage, when a transitional justice program is being discussed but before measures are put in place, it is useful to have solid empirical information about the issues that the transitional justice process is supposed to address. This information can be both quantitative (for example, the number of victims, their gender and geographical distribution, and their situation in terms of access to health care and psychosocial support, disabilities, and displacement) and qualitative (for instance, expectations of justice or return if displaced, grievances, chal-

16 See, for example, from academia, University of Notre Dame, “Colombia Barometer Initiative,” or Skaar et al., *Beyond Words*. On the practitioners’ side, see, for example, the Reconstituted Joint Monitoring and Evaluation Commission in South Sudan, which is a more political instrument.

17 Stewart and Wiebelhaus-Brahm, “The Quantitative Turn.”

18 See, for example, Salehi and Williams, “Beyond Peace vs. Justice;” Wiebelhaus-Brahm, *Truth Commissions*; Dancy and Michel, “Human Rights Enforcement.”

19 Pham and Vinck, “Empirical Research;” and Rossi and Freeman, “Evaluation.”

lenges, priorities, and trust in the government), so that policies and programs are budgeted and designed in a way that responds to the realities on the ground.

During implementation, it is useful to have information about the intervention's progress and any delays or unexpected effects. This information should be processed quickly, so it is actionable and adjustments can be made. (For this to happen, policymakers or program officials who are the intended "users" of the information need to be onboard and a feedback cycle needs to be established.)

Once the process has been completed, the main question is whether the intervention achieved what it set out to do and whether changes that occurred as a result of the policy or program or if they happened for a different reason. This is generally the stage where "outcome evaluations" are conducted and results are discussed, although results are sometimes measured while the process is ongoing.

This study and ICTJ's institutional experience show that in terms of collecting data for monitoring and evaluation, there is a problematic imbalance in the amount of attention paid to different stages in the lifecycle of transitional justice policies and programs. Stakeholders observed that most evaluation efforts take place at the end of the policy cycle (more often, the planned end). They contend that there is insufficient focus at the beginning, when it can be most useful in establishing baselines and in feeding evidence to those designing the policies, programs, and reforms.²⁰

The expected timeline for desired change to happen (and, therefore, the time over which an evaluation would be able to measure change) varies depending on the scope of the intervention and the level of changes expected. Based on interviews with practitioners and ICTJ's own experience, both domestic and international stakeholders seem to systematically underestimate the amount of time required to design and implement transitional justice policies. For example, the Special Tribunal for Lebanon, established in 2009, took 11 years to reach a verdict (in August 2020);²¹ Similarly, Lebanon's Law 105 for the Missing and Forcibly Disappeared Persons, which aims to establish a commission to uncover the fate of those missing in the 1975-1990 civil war, took nearly 30 years and a great deal of effort to see the light of day. Even before the war had ended, the Committee of the Families of the Disappeared (established in 1982) was demanding that the government help to locate the missing. In 2000, 2001, and 2005, the committee and other civil society organizations successfully pressured for the creation of three governmental committees, but each failed to deliver any significant results. The turning point, however, came in 2010, when ICTJ organized a visit to Sarajevo for the Committee of the Families of the Disappeared, civil society representatives, experts, and members of parliament to learn about the steps taken in Bosnia and Herzegovina regarding the identification of the missing. Subsequently, back in Lebanon, the demand for a law and the establishment of an independent commission was articulated and the first draft law supported by ICTJ was prepared in 2012. The law was passed in 2018 and commissioners were selected in early 2020, but its work is yet to commence.

Domestic and international transitional justice processes are often subject to setbacks and delays that are difficult to predict accurately when these processes start. Implementation is difficult,

20 Pham, "Evidence-Based Research." "There is little to no systematic research done at the formation stage of the development of the institution, yet it's one where it is most useful especially in establishing priority and strategies for effective programming. Early research permits explicit articulation of goals and importantly how these goals can be achieved based on the assumptions made at the outset. It also permits the analyses of the contextual constraints and enabling factors. Finally, for impact evaluation, the pre-development research provides a baseline to measure impact at the end of the program. . . . It requires both sustained efforts and investment."

21 El Bejjani Noureddine et al., "Justice Served?."

and contextual factors change many times during the lifetime of an intervention, bringing about the risk that the process will stall or be derailed. Setting aside “black swans”—extreme and unlikely events, like a global pandemic—more mundane occurrences, such as electoral cycles and rotations of government, economic crises, general bureaucratic and legal delays, and changes of vital staff at key institutions midway in a process, are much more frequent, especially in fragile contexts.

Transitions are never total; they bring both change and continuity, which may lead to various types of delays and unexpected resistance to processes. Even when a process is underway, institutions and structural inequalities can take decades to change, and in the meantime, political settlements can carry over divisions and violence from the conflict to the peace.²²

In addition, transitional justice interventions, and most of the programs designed to support them, follow dynamics that are linked to budgetary cycles (at the level of the program, government, or donor) that are shorter than what would be required to accurately cover the whole lifecycle of the process.

Some practitioners interviewed for this study argued that evaluators and organizations working in transitional justice processes should sidestep the time lag required to measure results. They contend that the results of transitional justice interventions will only be measurable in the long term, and that, in any case, the results will depend to a high degree on factors outside of the control of the stakeholders carrying out the interventions. Consequently, they suggest that measurements and assessments should not focus on outcomes but, instead, provide information that is relevant for the process, such as process monitoring. For them, the role of such monitoring is to provide information that guarantees a “high-quality process” that responds to the mandates of society and conforms to internationally accepted norms, such as inclusion and gender sensitivity.

ICTJ does not share that position completely: Institutional experience in this sector (including ICTJ’s) shows that some significant measurable results linked to specific interventions in a transitional justice process happen in the short to medium term and can be tracked. (Most of the time, while direct attribution is difficult to isolate, contributions can be claimed.) However, it is understandable why some stakeholders make the case for emphasizing process monitoring. On one hand, there is enormous value in ensuring a process is sufficiently inclusive, participatory, and gender sensitive. In cases where processes are stalled and interventions are relatively small, it makes sense, as well, to focus on process quality and sound theories of change, as donors acknowledge change at the outcome level would take time. On the other hand, a greater focus on users of the information in practice could serve as a counterpoint to what is at times a disproportionate focus on results and attribution without acknowledging the methodological challenges inherent to the field.

22 Duthie, *Justice Mosaics*.

Features of Transitional Justice Processes and Their Implications for Assessments

Complexity, Contestation, and Uncertainty

Traditional evaluation designs assume a relatively high level of predictability and control. Such a model works reasonably well when delivering a well-proven vaccine to populations in need or when following a blueprint to build a hospital; however, more complex programs or contexts challenge this basic assumption.

Transitional justice processes defy many of the assumptions of the traditional “logical framework” model. They clash with the epistemological stance that variables can be clearly isolated and the assumption that it is possible to neatly assign and quantify attribution to the effects of a specific policy or program. As noted in academic discussions on the matter,²³ the logical framework model also assumes the neo-positivist stance that the best research is the one that tests the causality between two variables.

Actors who seek to make the case for transitional justice and some donors that fund or support transitional justice processes share these general epistemological assumptions and harbor corresponding expectations (including easy-to-isolate variables, single-cause attribution, and linear progress). Because evaluations and research are also funded by these donors, their criteria shape how evaluations are designed and identify the time at which most efforts are focused, usually at the end of a program. One UN official said in an interview, “You cannot deliver 500 kilograms of transitional justice.” Yet, for the most part, monitoring and evaluation protocols used for transitional justice, and the programs supporting it, use the same logical frameworks, performance management tools, and evaluation criteria that were originally designed for fairly straightforward development and aid programs, like food delivery.

However, transitional justice processes show characteristics that indicate that they are complex systems and complex interventions.²⁴ From an evaluation science standpoint, complex systems and interventions behave differently and merit different approaches to better understand progress and results. The following are some of the features of complex systems:²⁵

23 Dancy, “Impact Assessment.”

24 The word “complex” here does not mean difficult (even though the work certainly is). It is used in its technical meaning, associated with systems thinking and complexity theory. See, for example, Bamberger et al., “Dealing with Complexity.”

25 Rogers, “Using Programme Theory.”

- **The potential for feedback loops.** Dynamics in which the actions of some actors result in incentives for a pattern of behavior in other actors, which may become self-reinforcing. For example, recent work by ICTJ explained the resilience of authoritarianism and corruption in Tunisia due to “mutually reinforcing impunity.”²⁶ Government officials engaged in corruption were immune to prosecution because they were able to silence those who would denounce them. At the same time, members of the regime engaging in human rights violations were immune to prosecution, because holding them accountable would threaten those profiting from corruption schemes. This creates a vicious circle (or negative feedback loop) that reinforces both economic crimes and violations of physical integrity and other human rights.
- **Tipping points.** This is when sudden, dramatic change is triggered after long periods of apparent stagnation. One example is the prosecution of crimes committed during the dictatorship in Argentina. Impunity had been the norm in the country from 1983 to the 2000s. Decades of incessant pushing from strong civil society organizations made possible the slow, almost imperceptible erosion of the tenets of impunity until, in 2005, the Supreme Court of Argentina overturned laws that for decades had impeded the investigation and prosecution of crimes committed during the military dictatorship. Hundreds of prosecutions followed. In the words of one of ICTJ’s program officers at that time, “Argentina shows that human rights issues stay in society, regardless of what the state or politicians decide. The fact that, after the Full Stop and Due Obedience Laws, the issue did not die, that civil society kept it alive, is a lesson that Argentina gives to the world.”²⁷
- **Nonlinearity.** This means that the results are not necessarily proportional to the amount of effort or investment put into them. The Truth and Reconciliation Commission in Côte d’Ivoire is one unfortunate example. A civil society representative described the commission as a “humongous, obscene waste of money” that yielded virtually “no victim testimony.” For her, “The key is not to judge inputs with outputs; they don’t always go hand in hand.”²⁸ In other cases, relatively inexpensive interventions can lead to massive results.
- **Emergence.** This refers to new dynamics caused by the actions of individual stakeholders, acknowledging that independent, isolated actors can sometimes interact in complex ways, evolving into a more complex pattern (such as geese forming a V formation in flight). One example would be how street protests in Armenia in March 2018 coalesced around the figure of Nikol Pashinyan, changing the political landscape of the country and making a transitional justice process possible.
- **Path dependency.** This means that not all theoretically possible policy options are available to stakeholders in each context. What has been done before, the lessons learned by current staff, and institutional culture and experiences tie potential reforms and measures in a transitional justice context to a much narrower spectrum of possibilities determined by the prevailing legal, historical, and institutional constraints. For example, in Uruguay in 1989, there was a public referendum to repeal an amnesty law that prevented the prosecution of human rights violations committed during the authoritarian period.²⁹ Voted on just four years after the end of the dictatorship, in a context of uncertainty and amid fear of the potential return of military rule if the amnesty was repealed, balloters upheld the amnesty with 56 percent support. In 2009, despite quite different conditions, the fact that “people had decided to turn the page

26 For the case of Ben Ali’s Tunisia, see Carranza and Azer Zouari, *Work, Freedom, Dignity*. For a broader discussion on the links between corruption and human rights violations in Transitional Justice, see ICTJ, *Global Justice Corruption*.

27 ICTJ, *Argentina Prosecutions*.

28 Zvobgo, “Demanding Truth.”

29 Lessa and Payne, *Amnesty in the Age of Human Rights*.

on prosecutions” was one of the main reasons why a second attempt to repeal the amnesty failed. Some prosecutions were eventually possible after a series of judicial verdicts and a law that congress passed in 2011.

- **Adaptation.** Politicians, perpetrators, and other actors in transitional justice contexts learn and adapt their behavior as the process develops, which can significantly affect the course of an intervention. For example, in Colombia, some former members of the Revolutionary Armed Forces of Colombia—People’s Army decided to split from the movement in 2019, abandon the deal established in the 2016 Peace Accords, and go back to fighting as a response to the killings of demobilized combatants, lack of trust in the new government, and criminal drug dealing charges pressed by the United States against some of their main representatives.³⁰ This has changed the itinerary of the transitional justice process in ways that cannot yet be known.

Transitional justice processes are complex, and the features and examples described above show patterns of behavior that do not fit in well with a logical framework approach. These processes experience fits and starts, agendas evolve, and different stakeholders influence each other, shifting strategies over time. There is a high level of uncertainty associated with such systems and complex interventions that should be considered and reflected in the expectations and design of evaluations and the tools used to monitor the processes themselves. For example, a static intervention design, in which assumptions, budget, and activities are rigid, would quickly become irrelevant in a changing environment where supporters and opponents of a transitional justice process learn and change their tactics quickly.

Politics

One way to make sense of the complexity is to incorporate political analysis into thinking. Despite having many technical components, transitional justice is an inherently political practice.³¹ The political context of a transition brings about changes in and contestation over power dynamics, with significant implications for the form and feasibility of responses to massive violations.³² This has some interesting implications for monitoring and evaluation (and for comparative research).

Rachel Kleinfeld, in her 2015 paper,³³ notes a few key implications for program design, monitoring, and evaluation for these types of interventions that are relevant for transitional justice processes.

First, those who oppose the process may contest both the ends and means. The policies and measures that are adopted are those that amass the most political support, not necessarily the ones involving the best technical practices. A clear example are the transitional justice provisions included in peace accords, because they are by design the result of a political compromise and, therefore, the ones on which parties to the conflict were able to find common ground. The implication for transitional justice processes is that political viability—or pathways for making a technically sound alternative politically viable—is a key component to consider when assess-

³⁰ See, for example, *Washington Post*, “Colombia Peace Accord;” and Bravo Medina and Jiménez Valencia, “Volvera la Guerra.”

³¹ Sharp, *Evaluating the Evaluators*. “TJ is an inherently political practice, ill-suited to technical definitions. Both what counts as a transition (in itself inherently political, as it involves the (re)building and legitimation of power structures) and what counts as justice are essentially contested.”

³² Duthie, *Justice Mosaics*, 12.

³³ Kleinfeld, *Improving Development Aid Design and Evaluation*.

ing policy options. An exaggerated focus on evaluating capacity gaps and technical expertise without considering the political dimension may miss the mark completely.

Second, reforms are frequently followed by counter reforms due to the influence of opposition actors. Change is contested, swinging back and forth. Examples of this are Argentina's Full Stop Law, which created amnesties for human rights violations, or attempts in Tunisia to pass the Economic Reconciliation law in 2017, which was defeated thanks to the quick response by civil society, including ICTJ. Measuring success at only one point in time means little for whether a reform will be sustained.

Third, political variables are interdependent, but the tools that are considered by some to be the gold standard of scientific research, such as regressions and randomized, controlled trials, assume such variables can be separated. There is a use for such tools in transitional justice, for example, in comparing aspects of interventions, while controlling for most other factors, to identify which intervention is more effective. Otherwise, however, such methods are not suited to determining how to get reforms implemented in the first place.

Understanding that transitional justice is political in nature and that processes may develop in an erratic, somewhat unpredictable way goes against the grain of the traditional way in which programs and policies are designed and how they are evaluated. Some methodological approaches that address some of these issues will be discussed below.

What Complexity, Contestation, and Uncertainty Mean for the Monitoring Process and Assessing Results

As political processes go, transitional justice processes are dynamic. The measures and policies adopted, the problems they want to address, and their stated and de facto goals may shift over time. Moreover, due to the highly political nature of transitional justice processes, the expectation placed on the results will be different or mean different things to different stakeholders who may well harbor contradictory goals.

It is, therefore, important to consider who is defining the criteria for success for a given process, how decisions are made regarding what is to be done, and what is the criteria for success; it is also critical to identify who is left out and what it would take for decision makers to advance justice. The implication for methodology is that these features lend themselves to monitoring and evaluation approaches that can feed stakeholders with rich context information and political analysis and allow for rapid adjustments. These methods tend to be more qualitative than quantitative.

Many actors in the fields of transitional justice, peacebuilding, and democratic governance are making conscious efforts to use monitoring (and management) methods that build in such possibilities, such as adaptive monitoring or problem-driven-iterative-adaptation (PDIA).³⁴

Similarly, some donors and organizations are trying to use more open-ended ways to measure progress that allow for capturing shifting dynamics and outcomes that can often be unexpected. They mention using methodologies such as most significant change (MSC),³⁵ outcome

³⁴ A good example of adaptive monitoring (applied to peacebuilding and mediation) can be found in Wadley, "Valuing Peace: Delivering and Demonstrating Mediation Results." Similar methodologies are also applicable to transitional justice processes. For more details about PDIA, see, for example, Andrews et al., *Building Capability*.

³⁵ See, for example, *Monitoring and Evaluation NEWS*, "Most Significant Change."

mapping,³⁶ outcome harvesting,³⁷ and the qualitative impact assessment protocol (QUIP).³⁸ These are all monitoring approaches without indicators that favor qualitative methods and collect rich contextual data.

ICTJ's own experience of using such methods is quite positive. One advantage of such methods is that they are actor oriented, bottom up, and sensitive to changes that happen when "nothing happens." The "logical framework" approach is at times blind to whatever happens in the hiatus between the design and the implementation of a program or policy (which can take a long time). A practitioner working in conflict and post-conflict settings makes the following point about using MSC: "We can manage expectations by telling a more nuanced story."³⁹ Thus, the methodology is process oriented and allows organizations to capture and communicate evidence of change that happens beneath the surface, such as alliance forming and channels of communication being established between rival factions, like tectonic plates that shift and realign before a big shakeup. "The greatest value is in things often overlooked."⁴⁰

On the research side, a wave of quantitative studies in the early 2010s aimed at shoring up claims about transitional justice on "more empirical" foundations has been followed by a more recent trend of studies that aim to incorporate more elements about the context, the sequence in the process, and the interaction between different phases of a transitional justice process.⁴¹ Some, but not all, of these studies use a mixed-methods approach, taking care to bring political variables and explanations into the mix, using methods such as the case study method, process tracing, or qualitative comparative analysis.⁴²

In the discussions leading up to the writing of this report, some donor government representatives supporting transitional justice processes pointed out that the adoption of more open-ended monitoring and evaluation approaches present a dilemma because governments use (and themselves have to report to) accountability structures that are based on traditional monitoring and evaluation framework and standard process indicators. This is also the situation of some international organizations that report to different donors. (ICTJ's own results framework is closer to a traditional approach, increasingly using tools and monitoring approaches without indicators.⁴³) It is important to note that for the time being, it is mostly donors and civil society organizations in the development sector that use open-ended monitoring and evaluation techniques, even though those might be helpful for governments carrying out transitional justice processes themselves. Some of these governments leading transitional justice processes—for example, the Colombian government—have put in place already quite complex monitoring and evaluation structures to assess performance of government units, using mostly predetermined indicators. In that context, it is difficult to build in the capacity to collect timely data that can point to unintended effects or changes in environment and use it quickly to learn and adapt. The reason is that officials also need to comply with (usually ambitious) key performance indicators defined at the national government level.

In other cases, transitional justice is being developed in contexts of conflict, fragility, and violence, where state structures are weak or insufficiently developed. For example, in current incipi-

36 See, for example, Jones and Hearn, *Outcome Mapping*.

37 See, for example, Wilson-Grau, *Outcome Harvesting*.

38 See, for example, University of Bath, "Evaluating Impact."

39 Interview with practitioner conducted by author, January 6, 2020.

40 Ibid.

41 Stewart and Wiebelhaus-Brahm, "The Quantitative Turn."

42 See, for example, Salehi and Williams, "Beyond Peace vs. Justice;" and Dancy and Wiebelhaus-Brahm, "Timing, Sequencing, and Transitional Justice Impact."

43 ICTJ, "Evaluations" webpage.

ent processes in South Sudan and the Central African Republic, government bureaucracies (and the presence of the state) are not completely developed and face critical challenges that make it very difficult to adopt and take advantage of sophisticated monitoring and evaluation schemes.

Ships in Turbulent Waters: Contextual Constraints

Transitional justice processes as initially conceived emphasized their role in political transitions from authoritarianism to democracy and in post-war accountability; however, over time, the practice of transitional justice has unfolded in an increasingly diverse range of contexts. Transitional justice, for example, is now an integral part of the UN post-conflict reconstruction and peacebuilding agenda. At the same time, societies where practices now termed “transitional justice” were conceived (such as Argentina, Chile, and South Africa) share distinct characteristics, including strong state capacity, well-established bureaucracies, and (relatively) strong civil society actors—which is not the case for many societies undertaking transitional justice processes today.⁴⁴

The issues described below are important for all societies dealing with massive human rights violations, but some of the risks are exacerbated and critical in contexts where state capacity is weak and where conflict is very recent or still endures. At times, this section describes contexts of fragility, conflict, and violence; when doing so, fragility is broadly conceived, without attaching the concept to specific country lists, as “the combination of exposure to risk and insufficient coping capacity of the state, system and/or communities to manage, absorb or mitigate those risks.”⁴⁵

For monitoring and evaluation, the implication is to identify how different contexts for transitional justice bring about different constraints or opportunities, and how those would be reflected in the nature of the interventions, feasibility, timeframe, goals, and criteria for success.

Preassessments

The first key implication was mentioned in previous sections: the importance of pre-assessments at the onset of transitional justice processes. These assessments are crucial when interventions, measures, and policies are still being debated and designed. In contexts of fragility, conflict, and violence, such evaluations can play a critical role in bringing to the fore key capacity gaps, specific challenges, and potential pitfalls that can derail the process or cause a flare-up in hostilities. They are also useful to get the “lay of the land” of the political landscape, identify factions, and help shape the intervention respecting local demand.

Security

As evaluators working in the peacebuilding and humanitarian sectors know well,⁴⁶ there are important considerations in designing monitoring and evaluation tools, especially in settings of fragility. Evaluation is as much of an intervention as any other; therefore, it should take into consideration existing conflict sensitivity policies and follow the principle of “do no harm.”

Security is a primary consideration for data collection, and it should encompass both the situation of the evaluators and the potential consequences to respondents in their communities. Such considerations should include the feasibility of the evaluation in terms of its ability to col-

44 Duthie, *Justice Mosaics*, 9.

45 OECD, *States of Fragility*, 22.

46 See, for example, OECD, *Evaluating Peacebuilding*.

lect valuable information that is not biased, already known, or that could be collected in a different way, such as by tapping into secondary sources. More importantly, it should also consider unintended outcomes and the potential of exposing people to unnecessary risks, fueling existing grievances, or ignoring the pressing needs of the target population.

For example, ICTJ discussed a population survey regarding transitional justice processes in Libya. It was considered that there was a potential risk for respondents and surveyors to be targeted by militias for being seen hypothetically discussing accountability measures, and, therefore, it was decided to collect survey data via text message or digital tools that could ensure participants' security. In another example, ICTJ planned to conduct its annual monitoring survey with civil society stakeholders in Tunisia, soliciting their assessments of the ongoing transitional justice processes. However, at the time, victim groups and other civil society organizations were organizing protests and sit-ins and venting their frustration over the delayed publications of the Truth and Dignity Commission's report. ICTJ's Tunisia office and headquarters decided that the timing of the survey could raise expectations among activists and victims, highlight current frustrations among stakeholders, and potentially exacerbate protests in an unsafe way. The survey was, therefore, postponed.

Gender and Inclusion Issues

The same constraints that apply to the transitional justice processes themselves could produce selection bias in evaluation or monitoring practices. For example, a lack of communications infrastructure or difficulties in accessing this infrastructure could mean that data regarding the perspectives and situation of people in remote locations or members of vulnerable, oppressed, or marginalized populations are unavailable or difficult to collect. If such constraints are not considered, it could mean that these individuals and their experiences and perspectives could be left out of the design, monitoring, and evaluation of transitional justice processes and the efforts to support them. The social, cultural, and political dynamics of exclusion also plays a role. Transitional justice processes tend to be dominated by political elites put in power after a transition (with old or new elites usually represented by men), who, in general, drive processes forward from the capitals.

Gender-related barriers to inclusion limit participation in data collection in the same way that they hinder the participation of women, LGBT persons, or men and boy victims of sexual violence in statement-taking processes, audiences, and other transitional justice measures. The failure to properly address differences related to gender is probably the most prevalent and exclusionary design flaw in all transitional justice processes, although it is the most critical in societies where the situation of women and other gender groups is already at risk. This is critically important for victims, especially those who have suffered gender-based and sexual violence. These vulnerable populations are often marginalized because of the stigma surrounding such violations and may be inhibited from participating in surveys, consultations, focus groups, or other data collection methods unless specific measures and protocols are put in place.

In general, special efforts need to be made to ensure that the initial assessment, monitoring practices, and evaluations are conducted in a manner that allows for the participation of women, young people, minorities, and marginalized communities, so that the picture represents all members of society.

Planning that ensures the participation of women, victims, and minorities will allow groups to later disaggregate data and identify patterns of violations. Disaggregating data by gender (and other relevant variables, like region) is crucial, both at the initial phases and throughout, to be able to identify patterns.

Assessment, monitoring, and evaluation practices can reinforce exclusion or, on the contrary, serve as very powerful tools to ensure that the perspectives, feedback, and needs of particularly vulnerable or marginalized populations are included, thus contributing to a more effective policy design.

Relationship with the State

In contexts of state-building and peacebuilding, the same constraints described above in terms of access, combined with a weak domestic bureaucracy, limit the flow of information from state actors to the general population and vice versa. Whatever the use of any collected data—monitoring and evaluation efforts regarding transitional justice processes can at times fulfill a function of dissemination of information and even a symbolic role in reconstituting the public's relationship with the state.

Some stakeholders interviewed for this study reported instances in which community members learn details about an ongoing transitional justice process second-hand from a monitoring program. Examples included Colombia and Uganda. “By conducting the evaluation,” said one practitioner, “[we] are bridging the gap between stakeholders, including the state.”⁴⁷ They continued, “For many of the people we interviewed, the fact that we were asking questions, just the possibility of being acknowledged as legitimate actors, was already an outcome.”

Who is carrying out measuring efforts has important practical and symbolic implications, especially for processes that are carried out to (re)build the relationship between the state and the community or citizens. This is an issue both for societies where institutions are fragile and where the state is relatively strong but has a difficult history with the community. One logical recommendation for data collection activities is to include someone from the staff of the government agencies who are the duty bearers of a related transitional justice process. This can be positive in two ways: First, it shows that the government is committed to change and that the transitional justice process is serious; and second, it naturally closes the loop between collected information and the government program, making it more receptive and involved and potentially more likely to respond than if reading results in a report carried out by a third party.

ICTJ has had positive results with this approach in the Gambia, in which the participation of members of the Truth, Reconciliation and Reparations Commission in activities and data collection with groups of women helped them offer recommendations and make the overall process more sensitive to the challenges faced by women. However, this can have very negative effects if government officials announce an intention to facilitate a group's participation but then fail to show up. (Unfortunately, this happened in Nepal.) The way that government officials' participation is conducted is also relevant; it should be planned and mediated, because officials from formerly authoritarian regimes could have a tendency to lecture at communities or behave toward them in an intimidating manner.

47 Interview with practitioner conducted by author, February 14, 2020.

Expectations Versus Capacity

One key lesson learned by stakeholders monitoring or evaluating in FCV settings is to manage expectations carefully. Even though this is a key issue everywhere, it is especially important in contexts of fragility and scarcity, where the state is weak, and a lack of knowledge and information about transitional justice processes is the norm. In these situations, the potential unintended effect of data collection could be that questions about a process are interpreted as a promise of change to be materialized in the short term, leading to frustration, hopelessness, despair, or anger if such expectations are not met. For this reason, to avoid potential misunderstandings, it is good practice that enumerators or researchers clearly identify themselves, seek consent, and very plainly explain the purpose and potential results of the data collection exercise.

There is a real risk that a new, fragile government may be overwhelmed by standards that are set too high. In the practice of transitional justice, this concern is relevant when selecting what sets of monitoring and evaluation tools to use. In designing methods of data collection and analysis, it is important to create a good balance between the efforts, sophistication, and quantity of the information to be collected and the capacity of organizations to use that information.

Language and Power Dynamics

In social research, no matter what issue is under investigation, careful consideration is given to the language used to frame the topic and the way that data collection is designed. In order to avoid introducing bias, data collection tools are rigorously tested and retested.

If this is the standard for general assessments and research, it is all the more necessary when dealing with transitional justice processes, due to the charged experiences of trauma and strong emotions associated with dealing with past violations and the political nature of the concepts, measures, and policy options that are likely to be the subject of discussion. What is more, there is usually a very pronounced asymmetry of power between the evaluator or researcher and the respondent, which may lead to “contaminating” responses with the evaluation designers’ own views and understandings regarding aspects of transitional justice. This risk is higher when dealing with very vulnerable populations, such as refugees, the very poor, or minorities in post-conflict situations. A badly designed assessment could be manipulated by misinformed or malicious stakeholders to “check the box” of participation and provide legitimacy to top-down policy measures that perhaps will not respond to the actual needs and perspectives of the beneficiaries of such interventions. Even with the best of intentions, there are numerous pitfalls in the discussion of transitional justice. The need for careful design is paramount.

In a recent study of the perspectives of Syrian refugees in Lebanon, for example, ICTJ found in the design and testing phase that the term reconciliation (*moussâlaha*) is a sensitive term among Syrians, as it is commonly associated with the interests of the regime of Syrian President Bashar al-Assad.⁴⁸ The term is not a prominent part of regular public discourse. While the notion of reconciliation provided part of the conceptual framework for ICTJ researchers, the term itself was not used by interviewers unless respondents used it themselves. A number of different Arabic terms have meanings related to the “building or rebuilding of relationships.” The term coexistence (*ta’ayosh*) was among those most commonly used by respondents.⁴⁹ Researchers recorded similar experiences in studies of refugees from Central African Republic

⁴⁸ El Gantri and El Mufti, *Not Without Dignity*.

⁴⁹ *Ibid.*

and Syrian refugees in Jordan.⁵⁰ Further, in interviews with Central African refugees, researchers discovered that individuals would respond differently if the word reconciliation was part of how the questions were framed. It functioned as a buzzword that would lead interviewees to tell interviewers what they thought they wanted to hear, obfuscating their real needs and perspectives and supplanting them with a hollow “NGO-victim” roleplay.

One of the most common pitfalls in developing and using surveys and similar consultations in transitional justice processes is to focus too much on criminal justice (and prioritizing specific crimes and victims), which could lead to “template” policy options in assessment tools. Similarly, the use of the word “justice” only in the narrow meaning of “criminal justice” by state agents, evaluators, enumerators, or the development community may have the unintended effect of implicitly disqualifying other policy alternatives, because they are signified by discourse as “not justice.” A badly designed data collection method can impose a preset conceptualization of the process and defeat one key function of the tool. There is also the risk of failing to capture or “overwriting” key priorities of beneficiary populations, such as psychosocial support, access to documentation, health care services, and humanitarian needs. Ignoring or overlooking these needs and situations could defeat the purpose of the whole process. As an academic interviewed for this study said, “Transitional justice cannot proceed in isolation from other needs.” This is especially true for populations living in conditions of fragility, conflict, and violence, where scarcity, living conditions, and security concerns could mean life or death.

Another potential risk lies in translating and interpreting. Even if nuances in the positioning of the data collection and the language are chosen correctly, information can be literally “lost in translation.”

There are standard practices to minimize the potential sources of language and design bias mentioned above, such as recruiting local staff who are fluent in the local language and its cultural and political nuances; a rigorous testing and piloting stage; and using more open, less structured data collection methods, at least in the initial stages. Perhaps the most interesting way to avoid misinterpreting or colonizing the views and perspectives of beneficiaries in the field is to use participatory methods and construct the concepts and visions of transitional justice from the ground up. Such methodologies will be discussed in the next section.

50 Picco, *I Am 100 Percent Central African*; and ICTJ, *Uncertain Homecoming*.

Indicators for Results of Transitional Justice Processes

Searching for the ‘Right’ Indicators

As explained, there are epistemological assumptions that dominate the discourse about measuring progress and assessing the results of transitional justice processes. Among practitioners and funders, there are expectations for “finding” the right indicators for assessing the development of transitional justice processes and their results and thus resolving problems of “fuzziness” inherent to the work.

This interest is very positive in the sense that there are different approaches and assumptions coexisting under the umbrella of transitional justice work. Again, the conversation about measurement, goals, and indicators goes a long way in articulating such differences, establishing priorities, clarifying claims, and driving the discussion toward an accepted base of evidence. As such, the discussion itself is already very important. This is a welcome shift in a field that has been criticized for “scant efforts to monitor and evaluate the actual results of the implementation of the measures, not to mention any serious functional analysis of what the familiar transitional justice tools are good for, of what they are capable of delivering” and “an enormous lack of discipline.”⁵¹

However, as discussed above, there are many aspects of transitional justice processes that are highly dependent on the context, and, for that reason, there will be different policies, programs, and measures adopted to respond to dissimilar situations, making the “quest for the golden indicator” difficult.

Subjective Meaning of Justice

Given the above considerations, it should not be understood that there is nothing that can be worked on. Despite contextual differences among processes, at the core of all transitional justice interventions is the aspiration to achieve justice. Justice, as opposed to other variables in the world of development, such as child mortality, has an interpretative, subjective component. The idea of justice and defining what justice means (and for whom) is key to assessing the results of

⁵¹ De Greiff, *Report of the Special Rapporteur*, 79.

transitional justice programs and interventions and, more importantly, to helping to define early on what they are supposed to do.

Revisiting the discussion in the first section (Table 2), there is certainly a place for population surveys at the conceptualization stage of any process, to help define what justice means for society and its different groups. As discussed, such efforts should consider, first, the specific constraints and fragility of the context and, second, that information will be used meaningfully. (Decision makers in charge of policy are on board and direct feedback loops are established.)

Some researchers in the field have applied in practice the idea of “bottom-up” indicators in interesting ways. The Everyday Peace Indicators project systematically collects information from different communities and inquires what peace means for them, asking members of the community to establish indicators in a participatory way.⁵² Indicators constructed in this way take considerable effort and eventually will reference local everyday realities, such as “a peace indicator is that I can go to bed with my windows open.” Thus, they are not easily compiled and aggregated to inform nationwide policies. On the other hand, participatory methods like the one described have the advantage of not imposing external conceptions of justice on local processes and can provide valuable information, especially in the early stages of a process. Similar efforts can be made regarding defining justice in critical locations where processes are ongoing.

Result Indicators for Transitional Justice and the SDGs Framework

There are current indicators at the global level that include the justice dimension, including the SDGs, most notably, SDG 16, but also SDG 5 on gender and SDG 10 on inequality. At the same time, recent progress in collecting global evidence regarding justice, rule of law, and access to justice are promising. Global indicators could be linked to local efforts and thus help to track the impact on access to justice and other dimensions to which transitional justice processes are believed to contribute in the mid or long term.

The SDGs are particularly important because they establish a legitimate framework based on broad global consensus that include, for the first time, the justice dimension in the world’s development agenda. There are two important reasons to link progress and the results of transitional justice to the SDGs framework: validity (in defining issues in a way comparable with others) and accountability (being able to relate local processes to global goals). A set of shared standards linking the SDGs with the results of transitional justice would assist societies in framing their own process by allowing them to contrast it with mutually agreed-on commitments.⁵³

This aspiration is not without its complications. Ideally, the SDG targets would help measure conflicting results of transitional justice processes (in terms of populations gaining access to justice, equality, and perception of justice) against established indicators. But while the current set of indicators that the international community managed to agree on are useful, they are not always well suited or sensitive to all aspects relevant to transitional justice processes. In particular, they fail to shed light on the situation of victims of massive human rights violations or crimes committed by agents of the state or victims who are compromised in the commission of violations, among other issues. According to a recent report:

⁵² Everyday Peace Indicators website.

⁵³ ICTJ, *Argentina Prosecutions*. The Working Group on Transitional Justice and SDG16+ (which includes ICTJ among several governments and organizations) has produced a report that articulates the contributions of transitional justice to the SDGs, particularly SDG 16 on peace, justice, and inclusion, but also related goals on gender and inequality.

To achieve the SDGs, the world community has agreed on a set of indicators to measure progress. This process has identified a range of indicators that tap critical aspects of the SDG agenda, but for several of the goals, and perhaps particularly for SDG 16, the current crop of indicators still falls short of covering the full letter and spirit of the goals, answering the specific call for such efforts set out in the Agenda 2030.⁵⁴

Fortunately, the SDGs framework is much more robust than the current indicators. The letter and the spirit of the goals, the international networks of actors supporting it, and the stated commitment of 193 countries make it a privileged space for developments in terms of measuring the progress, results, and reporting of transitional justice processes.

Such spaces, for example, include the Voluntary National Reviews, where efforts could be made to link the work of government agencies in charge of reporting on the SDGs and collecting data regarding the design, implementation, and results in terms of ongoing transitional justice processes. This would be useful for technical reasons (such as helping countries access support and bringing attention to data collection around transitional justice processes), but also for practical and political reasons, because it would provide champions of transitional justice processes inside governments with a reference in terms of country commitments and obligations. This practice is encouraged by the UN Human Rights Council.⁵⁵ Already a number of countries with legacies of massive human rights violations—such as Colombia, Sierra Leone, South Africa, and Timor-Leste—have at least to some extent integrated their attempts to address the past within their development and SDG discourses and plans.⁵⁶ At the same time, these countries have included in their reports aspects that are relevant to their own contexts and experiences, such as linking transitional justice to socioeconomic participation and addressing the unequal distribution of land and the legacy of the past.

Similarly, reports submitted as part of Universal Periodic Reviews conducted through the UN Office of the High Commissioner for Human Rights are an opportunity to reflect the realities of transitional justice processes, a fact that is not always followed in practice. Participating governments, civil society organizations, and peer reviewers have a role to play in demanding such data.

Development-related reports and indicators at the international or national level should reflect the realities of the transitional justice process. This connection would help ensure sustainability and link different areas of the state that would otherwise potentially operate in isolation. At the same time, interaction with external accountability mechanisms, such as voluntary reporting, can help to shore up legitimacy for transitional justice measures, policies, and reforms in the political dynamic inside governments and domestic organizations.

54 Community of Democracies, *Voluntary Supplemental Indicators for Goal 16 on Inclusive, Just and Peaceful Institutions*.

55 UN Human Rights Council, Resolution 42/17.

56 Jones, Briony, and Duthie, "Justice Contexts."

Recommendations

For policymakers working in the definition and implementation of transitional justice processes domestically and their allies:

- 1. Convene stakeholders in a discussion on the establishment of an approach to monitor progress and assess results at the beginning of the transitional justice process.**
- 2. Use efforts to measure and monitor transitional justice interventions to make them more inclusive and responsive.** Establish ways and mechanisms for assessments to provide information about the preferences, needs, experiences, and perspectives of the beneficiaries of such interventions;
- 3. Devise ways of monitoring implementation to allow for adjustments along the way.**
- 4. Actors supporting these efforts should build a consensus with decision makers about how and when they would use that data and what information would be most useful for them.**
- 5. Assess priorities, contextual challenges, and institutional capacities to determine what information is already available and what is reasonable to collect.** Consult with decision makers on what the information should look like in order for them to use it.
- 6. Incorporate and consider matters of inclusion in data collection, such as gender, geographical location, and the situation of vulnerable populations (including victims, children and youth, and disabled people).** Both quantitative data (numbers, location, distribution) and qualitative data (needs, priorities, perspectives, barriers to access) will be relevant. Consider the use of participatory approaches and methods.
- 7. Consider data collection, consultation, surveys, and similar activities as part of the overall effort to strengthen the process's legitimacy and support change.** If the information is to be collected by allies of the government (such as the United Nations or nongovernmental organizations), suggest including a staff person from the official agencies who will be the duty bearer of a related transitional justice process.
- 8. Link transitional justice outputs and outcomes with broader development goals, such as the SDGs, or processes, like the Universal Periodic Review.**

For donors and researchers:

- 1. Support, design, and demand preassessments.** Such studies should help establish baselines, bring out the specific characteristics of the context, identify key stakeholders, and measure the capacities of existing institutions. Review programmatic practices so that funding and time are allocated for such assessments in programs designed to support transitional justice processes.
- 2. Incorporate a political perspective into monitoring and evaluation approaches and applied research related to transitional justice.** Identify political or social demand and resistance at the local level to set priorities, give shape, and provide support and sustainability to transitional justice initiatives.
- 3. Foster links among academics, practitioners, and policymakers.** Help actors who are designing approaches to assess transitional justice processes to connect with local policymakers and institutions and discuss the potential strategies. Establish alliances among domestic actors, researchers, and transitional justice practitioners in order to find potential spaces for collaboration and to strengthen both the uptake of initial findings (in the short term) and the evidence base regarding transitional justice outcomes in the long term. Research design should be combined with traditional monitoring and evaluation that could make a significant contribution to increasing the evidence base underpinning transitional justice.
- 4. Include assessment methods and tools that can provide an accurate picture of a complex system and its interactions.** These include process tracing, multilevel assessments, and open-ended methods, such as MSC or outcome mapping. Consider triangulating quantitative information with qualitative data regarding beneficiaries' perspectives, needs, and experiences to inform definitions.
- 5. Apply a conflict-sensitivity lens to assessments and interventions.** This includes considering issues of security, power asymmetries, use of language, inclusion, expectations, institutional constraints, and potential unintended consequences in research design and data collection activities.
- 6. Consider the long term.** Foster or propose designs that incorporate longitudinal observations, so that more complete information regarding stakeholders, processes, and participants can be collected over time to verify claims.
- 7. (For donors) Favor monitoring and evaluation approaches that can provide timely information that allows for adaptation to the context, such as adaptive management and PDIA.** Negotiate and build in mechanisms to use feedback and react accordingly in program design.
- 8. Demand and support the inclusion of transitional justice-related indicators, narratives, and overall accountability in international or multilateral mechanisms, such as reporting on the SDGs and Universal Periodic Reviews.**

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