



Applying a Coexistence Lens to Transitional Justice Processes

Recommendations and Guidelines

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Coexistence
International (CI)

West Africa
Network for
Transitional
Justice
(WANT-Justice)

These recommendations and guidelines were prepared as part of a joint project of Coexistence International and the Ghana Center for Democratic Development. The project explores the relationships and linkages between transitional justice and coexistence.

In West Africa, where many countries are emerging from violent conflict and have either experienced transitional justice processes (Ghana, Sierra Leone), are in the midst of such a process (Liberia), or may consider such a process in the future, questions of coexistence, social inclusion, and inter-group relations are paramount to the prevention of future violence. Considering transitional justice within a framework of inter-group relations is critical to ensuring a future free from violence.

Applying a coexistence “lens” to transitional justice processes increases the possibility of creating fundamental changes in societies that have been damaged by violence, patterns of inequalities, and abuse of authority. Using a coexistence lens in this context means that special consideration is given to inter-group and intercommunal relations when designing, enacting, and following-up transitional justice processes.

From a coexistence perspective, the emphasis on the process during the transition period after violence is critical. A process implies that the efforts are long-term and complex and will utilize various approaches and measures. Inclusion and participation—key values of coexistence—are critical for framing transitional justice processes, as they are prerequisites for restoring and rebuilding a sense of civic trust and unity. These two values mean that players from all sides of the conflict, from all levels of society, from all communities—women and men, victims and perpetrators, linguistic minorities and local and traditional leaders—are involved and consulted.

About Coexistence International

Based at Brandeis University (USA) since 2005, Coexistence International (CI) is an initiative committed to strengthening the resources available to policymakers, practitioners, advocates, organizations, and networks promoting coexistence at local, national, and international levels. CI advocates a complementary approach to coexistence work through facilitating connections, learning, reflection, and strategic thinking between those in the coexistence field and those in related areas.

About Want Justice

Housed at the Ghana Center for Democratic Development, WANT Justice was formed by fellows (from Ghana, Sierra Leone and Nigeria) of the International Center for Transitional Justice and the Institute of Justice and Reconciliation (Cape Town). The Network seeks to extend and deepen civil society engagements with transitional justice processes, promote dialogue and share lessons as well as networking within the West Africa sub-region. It aims to enhance the prospects and efficacy of transitional justice mechanisms for the consolidation of democracy in the West Africa sub-region through strengthening local actors – individuals and organizations.

A core set of coexistence skills and capacities are of particular relevance to the intersection of transitional justice and post-conflict work. These are (1) conflict analysis from structural and psycho-cultural perspectives; (2) dialogue facilitation with relevant individuals, groups, and institutions on difficult and contentious issues, using mediation and negotiation skills that can help participants to reach consensus among parties with divergent interests and objectives in group, community, international, and transnational disputes; (3) designing and implementing projects and programs that create opportunities for shared experiences, understanding, and the building of relationships across difference; and (4) recognizing and incorporating the sensibilities, resources, and needs of different sub-groups in society.

There are several stakeholders at the national, regional, and international levels who can impact transitional justice processes and have the potential to create fertile ground for positive, sustainable coexistence in societies emerging from violent conflict. These include governments in transition, local civil society, truth seeking bodies, national and international judicial systems, the international community, and regional bodies (e.g.: the African Union, Organization of American States), all of whom have a role to play in the design, enactment, and follow-up of transitional justice processes. These guidelines for applying a coexistence lens to transitional justice processes are therefore organized according to key stakeholders.

Initial learning already demonstrates that the potential of transitional justice measures for achieving justice, transforming institutions, and reconciling societies is great. Yet without deep attention paid to questions of inclusion and coexistence there is a risk of progress that is not sustainable or, even worse, that re-incites conflict.

The following 6 recommendations and the guidelines that follow are offered with the belief that more coexistence-sensitive transitional justice processes can contribute to improved and sustainable peace.

- o For a transitional justice process to be truly effective in helping to restore trust in people and institutions, it is critical that even the conceptualization and design phase be truly inclusive and participatory.
- o Different segments of society will advocate for different transitional justice measures and will have different conceptions of justice; a transitional justice process should seek to take into account different notions of justice.
- o In making decisions related to different transitional justice measures, questions of equity, balance, location, accessibility (particularly for women, for those who are disabled or live in rural areas), languages, and fair access to resources must be taken seriously.
- o A continuous role for local civil society should be built into transitional justice processes, and civil society should proactively assume a role as a contributor to, and watchdog of, the process and the implementation of recommendations.
- o To the extent possible, the national and local communities should have primacy in transitional justice processes, thereby increasing the opportunity for local ownership and sustainability.
- o The international community has an important role to play in helping to build the capacity of national and local leadership and both state and non-state institutions. Building transitional justice and coexistence capacities are important steps for the prevention of future violent conflict.

Taking into account these recommendations in the design, enactment and enforcement of transitional justice processes is a critical step in ensuring inclusivity and participation. The following guidelines are a next step for those stakeholders charged with identifying constructive, thoughtful and meaningful ways forward for societies emerging from violence.

These recommendations emerged from a workshop entitled “Transitional Justice, Reconciliation, and Coexistence” that took place in Monrovia, Liberia, in February 2008. This information-sharing and capacity-building workshop was organized by the Ghana Center for Democratic Development, in partnership with the Transitional Justice Working Group of Liberia and Coexistence International. For more background information on the project and the recommendations discussed here, visit CI’s website: www.coexistence.net.

KEY DEFINITIONS

Coexistence:

Coexistence is understood as encompassing the values of diversity, equality, and interdependence, and is evidenced in relationships across differences that are built on mutual trust, respect, and recognition; conflicts are addressed through non-violent means insofar as possible.

Transitional Justice:

According to the United Nations Peacebuilding Commission, “transitional justice is an approach to systematic or massive violations of human rights that both provides redress to victims and creates or enhances opportunities for the transformation of the political systems, conflicts, and other conditions that may have been at the root of the abuses.” This can include a combination of criminal prosecutions, truth commissions, reparations programs, security sector reform, and memorialization efforts, among others.

Civic Trust:

The International Center for Transitional Justice defines civic trust as trust that can develop among citizens who are members of the same political community but are nonetheless strangers to one another. It includes “horizontal” trust among citizens and also “vertical” trust between citizens and their institutions.

I. TO DESIGNERS OF TRANSITIONAL JUSTICE PROCESSES

A. Design and Development Phase

1. To create a participatory design process, employ strategies ranging from consultative forums to informal outreach.
2. Take into account the varying needs and sensibilities about justice, accountability, and reconciliation among stakeholders in the society.
3. Take steps to avoid actual or perceived political partisanship.
4. Build capacity among those responsible for enacting transitional justice processes so that they are equipped with the knowledge and skills to apply the lenses of both coexistence and gender.
5. Seek gender balance in all transitional justice structures, throughout the life of the process and on all levels.
6. Secure and manage funding to ensure operational capacity throughout the transitional justice process, including implementation of recommendations and resources needed to apply a coexistence lens.
7. Explore the use of reconciliation processes based on local or indigenous rituals and ceremonies.
8. Develop transitional justice measures to address regional and cross-border tensions resulting from intra-state conflicts.

B. Enactment Phase

1. Ensure sustainable technical and financial resources for all components of the transitional justice process.
2. Create professional and transparent systems for the hiring and appointment of those who will lead the transitional justice process.
3. Protect the integrity and independence of transitional justice processes.
4. Lay the groundwork for positive intergroup relations by, for example, providing for fair distribution of recovery services and culturally sensitive reintegration of ex-combatants, refugees, and internally displaced persons into the post-conflict community.

C. Enforcement and Sustainability Phase

1. Implement and enforce recommendations from the country's truth seeking bodies and other transitional justice measures.
2. Budget and allocate resources for implementation of recommendations that emerge from transitional justice processes.
3. Publish and make recommendations accessible in written and non-written forms in multiple languages and media.
4. Assess coexistence outcomes of the implementation of recommendations and make policy adjustments as necessary.
5. Build capacity for coexistence among civil servants, elected leaders, and citizens through education and training (e.g. in conflict management, negotiation, mediation, good governance, and human rights).
6. Apply a coexistence lens when developing national policies and governing practices (e.g. in education, development, health, natural resource management, culture, etc.).
7. Ensure that post-conflict governmental leadership emphasizes coexistence and social inclusion.
8. Create governance structures, processes, and institutions that provide models of inclusiveness and that incorporate local and traditional forms.
9. Take steps to address structural inequities that may have contributed to the conflict.
10. Create literacy and other civic education programs that engage members of diverse communities in learning about, and building relationships with, each other.

Designers of transitional justice processes may include transitional or national governments, international organizations, and international and local civil society, among others.

For instance, in Sierra Leone, the Truth and Reconciliation Commission was a product of the Lome Peace Agreement signed by the Government of Sierra Leone and the Revolutionary United Front (RUF). The Special Court for Sierra Leone, on the other hand, was initiated by United Nations Resolution 1315 and established by an agreement between the Government of Sierra Leone and the UN.

Civil Society Engagement with Transitional Justice

Surveying Public Opinion

With funding from the Open Society Initiative of West Africa, the Ghana Center for Democratic Development conducted a baseline survey of public opinion on the government's program for national reconciliation in Ghana. The study was undertaken in collaboration with the Civil Society Coalition on National Reconciliation and with technical assistance from the International Center for Transitional Justice.

Encouraging Participation

In Peru, a theatre company named Grupo Cultural Yuyachkani went into communities ahead of the Truth Commission, to perform sacred rituals that honored the suffering of the people in a language and through practices that the people could understand. In this way, as well as through workshops and performances, Yuyachkani prepared the people to testify before the commission, and in some cases, provided a safe space where they could tell stories they were still unwilling to tell the TRC.

II. TO LOCAL CIVIL SOCIETY

A. Design and Development Phase

1. Identify and advocate for opportunities for civil society to participate early on in the design of a transitional justice process.
2. Promote the incorporation of the eight guidelines in section I A.
3. Encourage the inclusion of marginalized voices in the design phase and help facilitate those opportunities.

B. Enactment Phase

1. Seek opportunities to participate in, and link efforts with, official transitional justice processes.
2. Consider creating parallel reconciliation processes based on local or indigenous rituals and ceremonies and popular artistic forms.
3. Advocate for inclusive transitional justice processes, use of local languages, and incorporation of specific cultural or artistic expressions.
4. Monitor ongoing transitional justice processes for inclusion and cultural sensitivity.
5. Reach out to civil society actors in other countries affected by related conflicts to facilitate people-to-people reconciliation.
6. Establish regional civil society networks for knowledge- and information-sharing.
7. Use diverse media and languages to engage in comprehensive, inclusive outreach to enhance participation in and legitimacy of truth-seeking bodies and other transitional justice processes.
8. Facilitate constructive dialogue and restoring of relationships between victims and perpetrators at the local level.
9. Seek expert and technical support from international partners and CSOs as needed to benefit from tested tools, skills, and best practices.
10. Assist in the reintegration of ex-combatants, refugees, and internally displaced persons through culturally sensitive approaches, within a framework of positive inter-group relations.

C. *Enforcement and Sustainability Phase*

1. Advocate for prompt and thorough implementation of recommendations set forth by the truth-seeking bodies.
2. Organize inter-cultural groups from different communities to monitor and promote implementation of the recommendations.
3. Facilitate relationships, create opportunities for collaboration, and promote dialogue among different groups, in every sector of society, through a variety of activities and programs (e.g. creative arts, sports, business ventures, development projects, etc.).
4. Build civil society partnerships across groups that are different in religion, ethnicity, economic class, etc.
5. Build capacity for coexistence work among civil servants, elected leaders, and citizens through education and training (e.g. in conflict analysis, negotiation, dialogue, mediation, good governance, and human rights).

III. TO TRUTH SEEKING BODIES

A. *Enactment Phase*

1. Create a participatory process that includes players from all sides of the conflict, from all levels of society, from all communities—women and men, victims and perpetrators, linguistic minorities, and local and traditional leaders.
2. Enhance participation and credibility of the truth-seeking body by connecting its work to relevant community-based programs and projects.
3. Prioritize independence and impartiality.
4. Enlist participation of local and traditional leaders.
5. Develop and implement culturally sensitive education, awareness, and outreach strategies.
6. Include in reports recommendations about addressing the causes of inter-group conflicts in the country, including structural inequities.
7. Produce accessible report, with recommendations available in written and non-written forms in multiple languages and media.
8. Incorporate provisions for education and training in coexistence capacities.

The term “*truth-seeking bodies*” is used to refer to truth and reconciliation commissions and other similar efforts.

Examples of truth-seeking bodies from around the world include:

- Truth and Reconciliation Commission (South Africa, Sierra Leone, Liberia)
- Ghana National Reconciliation Commission
- Comisión de la Verdad y Reconciliación (Peru)
- The Commission for Reception, Truth, and Reconciliation (Timor-Leste)
- Equity and Reconciliation Commission (Morocco)
- Commission of Inquiry to Find the Disappeared

IV. TO INTERNATIONAL COMMUNITY, INTERNATIONAL AND NATIONAL JUDICIAL BODIES, AND REGIONAL BODIES

A. Enactment Phase

1. Allocate adequate funds and other resources to governments and civil society for transitional justice processes, including applying a coexistence lens.
2. Facilitate regional or international dialogue and collaborative activities in situations where intra-state conflicts have caused cross-border or international tensions.
3. Support local civil society actors in their efforts to enhance participation in and legitimacy of truth-seeking bodies and other transitional justice processes by using diverse media and languages to engage in comprehensive, inclusive outreach.
4. Provide and fairly distribute recovery services to different groups within the country.
5. Prioritize independence and impartiality.
6. Address particular needs of victims of gender violence and take into account gendered patterns of abuse.
7. Acknowledge the importance of traditional law and cultural ceremonies.
8. Hear claims and appeals from authorized traditional or cultural representatives.

B. Enforcement and Sustainability Phase

1. Allocate funds to governments and civil society actors to implement the recommendations that emerged from truth-seeking bodies and monitor such implementation.
2. Advocate for prompt and thorough implementation of recommendations set forth by truth-seeking bodies.
3. Design long-term funding strategies with awareness of coexistence between groups and levels within society. Make sure these strategies serve to strengthen inter-group relations.
4. Build capacity for coexistence work among civil servants, elected leaders, and citizens through education and training (e.g. in conflict analysis, negotiation, dialogue, mediation, good governance, and human rights).
5. Facilitate relationships, create opportunities for collaboration, and promote dialogue among different groups, in every sector of society, through a variety of activities and programs (e.g. creative arts, sports, business ventures, development projects, etc.). Build civil society partnerships across groups that are different in religion, ethnicity, economic class, etc.

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