

RESEARCH REPORT

Advancing Victims' Rights and Rebuilding Just Communities

Local Strategies for Achieving Reparation
as a Part of Sustainable Development

November 2023



Cover Image: A Kaneleng woman sings for immediate reparations for victims of human rights abuses in The Gambia at an ICTJ-organized festival celebrating women and their role in the country's transitional justice process in the town of Basse in December 2022. Kaneleng are socially marginalized women in The Gambia who use music and song to convey messages of peace and resistance, promote human rights, and criticize society's wrongs. (Loum Patience/ICTJ)

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Contributors

This report is the product of a collaborative effort among ICTJ's country offices in The Gambia, Uganda, Tunisia, and Colombia, and its headquarters in New York. Contributing individuals include the following: Didier Gbery and Tuti Nyang in The Gambia; Marianne Akumu, Sarah Kasande, and Daniela Diaz Villamil in Uganda; Salwa El Gantri in Tunisia; Veronika Hoelker and Maria Camila Moreno in Colombia; and Ruben Carranza, Roger Duthie, Emma Merritt-Cuneo, Kelli Muddell, and Elena Naughton in New York.

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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Executive Summary

For societies that have experienced violent conflict and repression, moving forward often requires addressing the legacies of widespread and serious human rights violations, which include the harms, losses, and marginalization experienced by victims and affected communities. These legacies can constitute or create significant and long-term obstacles to individual and collective well-being. In these contexts, societies often respond to such legacies through a combination of transitional justice measures that seek the complementary or overlapping aims of acknowledgment, repair, accountability, and prevention.

Reparation for victims of massive human rights violations for the harms they have suffered is an obligation of governments that either caused or failed to prevent those violations.¹ Reparations are intended to acknowledge victims, repair the harm done, affirm victims as rights bearers, and reduce the likelihood that violations will recur. Reparations programs can provide material and symbolic support at the individual and collective levels. Complementary justice measures, such as criminal accountability and reform, can also have reparative elements.

In directly responding to harms experienced by victims, transitional justice measures such as reparations programs work to fulfill the right to remedy enshrined in the corpus of international human rights instruments. Given the impact of these harms on overall well-being, however, such measures can also be understood as an element of sustainable development—a global agenda for improving people's well-being and establishing more equal, peaceful, just, and inclusive societies. Transitional justice can help to overcome obstacles to development by improving people's agency, rebuilding social relationships, and addressing the underlying causes of violence and exclusion.²

Embodied in the 2015 Sustainable Development Goals (SDGs), the sustainable development agenda includes both a universal call to action and a recognition that each country faces specific challenges. As has been recognized in international policy, transitional justice measures can serve as a mechanism to shape sustainable development to local contexts. As a central element of tran-

¹ See UN General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, December 16, 2005.

² See most recently: Working Group on Transitional Justice and SDG16+, "Toward Victim-Centered Change: Integrating Transitional Justice into Sustainable Peace and Development," 2023; UN Human Rights Council, "Human Rights and Transitional Justice," Resolution A/HRC/51/23, September 30, 2022; UN General Assembly, "Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Fabián Salvioli. Sustainable Development Goals and Transitional Justice: Leaving No Victim Behind," A/77/162, July 14, 2022; UN Human Rights Council, "Human Rights and Transitional Justice: Report of the Office of the United Nations High Commissioner for Human Rights," A/HRC/49/39, January 12, 2022; Working Group on Transitional Justice and SDG16+, "On Solid Ground: Building Sustainable Peace and Development After Massive Human Rights Violations," 2019.

sitional justice, reparation explicitly demonstrates this potential contribution, and reparations programs can be designed in ways that enhance their contributions to sustainable development in terms of both process and outcomes.

Nevertheless, governments in countries affected by conflict and repression often do not prioritize reparations or reparative justice, while those that do implement reparations often fail to take victim-centered and gender-sensitive approaches or embed their programs in broader processes of change, leaving the underlying drivers of marginalization, violence, and abuse to persist.³ Further, recognition in international policy of the role that transitional justice plays in development has yet to translate into the type of external support that would most benefit local actors and push the reparations agenda forward.

This study examines the efforts and strategies of local actors to advocate for and shape reparations programs and reparative justice and highlights the synergies between these efforts and sustainable development in four contexts—The Gambia, Uganda, Tunisia, and Colombia. These countries represent a range of different situations where the progress made, the challenges faced, and overall political and institutional contexts vary significantly. In The Gambia, the truth commission's recommendations and reparations legislation have created expectations among victims that they would receive reparation, but a national program has yet to be implemented. In Uganda, the government has established the legal and policy framework for reparations, but because of stalled political will at the national level, there is no enabling legislation or mechanism to provide them. In Tunisia, the truth commission recommended a reparation program, but the political and economic situation have made progress on its operationalization unlikely in the near future. In Colombia, the challenges faced in implementing administrative reparations have informed the design of restorative sanctions that include reparative projects, although they have not yet been judicially awarded.

Nevertheless, a comparison of local actors' goals and strategies across these four contexts offers valuable insights for those working in these and other countries. These insights relate to the following: the specific ways in which reparations can contribute to well-being and development; innovative and effective approaches to ensuring victims and communities receive reparations and support; the integration of victims' needs into development policies, which with explicit purpose can constitute reparation; and the reparative elements of complementary accountability and reform measures that address corruption and marginalization and provide pathways to recognition and compensation.

In The Gambia, the specific focus may currently be on coordination among civil society and engagement with the government; in Uganda, it may be on organizing community-level initiatives with victims and survivors; in Tunisia, it may be on the need to address regional marginalization and gender discrimination; and in Colombia, it may be on both administrative reparations and restorative sanctions projects. Within a broad reparative and development lens, however, these are complementary strategies that are likely to evolve over time and can benefit from cross learning. In their different ways, they can all help to ensure that reparative justice not only contributes to development but also plays an important role in making it more inclusive and sustainable. The study therefore offers practical guidance and policy considerations on approaches to advancing reparation for massive human rights violations as an integral element of broader societal efforts to bring about meaningful and long-term change.

3 See, for example, Pablo de Greiff, *The Handbook of Reparations* (Oxford: Oxford University Press, 2006); Sarah Kasande and Eva Kallweit, "Building Blocks for Reparations: Providing Interim Relief to Victims Through Targeted Development Assistance," ICTJ, 2020; Ruben Carranza, Cristian Correa, and Elena Naughton, "Forms of Justice: A Guide to Designing Reparations Application Forms and Registration Processes for Victims of Human Rights Violations," ICTJ, 2017; Ruben Carranza, Cristian Correa, and Elena Naughton, "More than Words: Apologies as a Form of Reparations," ICTJ, 2015.

Findings

Legacies of violations as obstacles to sustainable development: The legacies of massive human rights violations—not just violations of political and civil rights but also of economic, social, and cultural rights—create significant obstacles to individual and group well-being and sustainable development. At the individual level, victims and survivors of violations suffer physical, psychological, social, economic, and political harms and losses, while groups, communities, and regions are often targeted by different forms of destruction, marginalization, and exclusion and experience social and political division and fragmentation. At the structural level, a series of drivers or root causes of violence and exclusion—including poverty, inequality, economic crises, patriarchal systems, migration, limited civic space, institutional capacity and integrity deficits, and limited political and structural transitions from repression or conflict—can reinforce these harms. The same root causes of violence and exclusion then constrain societal responses to them, including reparations for victimized and marginalized populations. The failure to reconsider the development paradigms that worsened poverty, reinforced inequality, enabled corruption, and sparked conflict or political violence, and the invariably unquestioning continuation of those paradigms after a transition, makes the promise of “never again” unlikely. The International Center for Transitional Justice’s (ICTJ) global research and field work, including discussions in workshops held in The Gambia, Tunisia, and Uganda, make it clear that when we speak of legacies of the past that are obstacles to sustainable development, they include the very same unjust development policies prescribed to and implemented by deposed or former rulers.

Reparations as an element of sustainable development: Reparations programs can help to reduce obstacles to well-being and development through the forms that they take and the various processes through which they are designed and implemented. This is clear from the priorities that victims most often express, that truth commissions commonly cite in their recommendations, and that governments build into administrative reparations programs to be as comprehensive and transformative as possible. While compensation is often a priority for victims, material reparation can also take the form of the following: medical and health care services, mental health and psychosocial support, livelihood support, employment opportunities, housing, land, education, and public transportation. Collective reparations for affected communities and regions can take the form of infrastructure and reconstruction, hospitals and clinics, schools, environmental programs, and other community development projects. Symbolic reparations include apologies and memorialization. Reparations programs can contribute to agency, empowerment, and rights awareness to the extent that they are participatory, consultative, and accessible. The challenges faced by reparations programs include a lack of inclusiveness and, above all, a lack of implementation.

Collective action among victims, survivors, and civil society: Collective action is a fundamental strategy for advocating for the operationalization of reparations programs that address the needs of victims and reduce the barriers to development that result from massive human rights violations. Collective action in the context of reparations includes victims and survivors themselves and their representation in victims’ groups and networks and other civil society organizations (CSOs). Increased collective action can constitute an element of sustainable development, given its role in increasing agency, empowerment, inclusion, and social cohesion. Moreover, when alliances and coalitions are formed across civil society actors with a range of mandates, collective action can increase the likelihood that reparations programs contribute to changing underlying structures of marginalization.

Direct engagement with government: While collective action among victims and civil society can constitute an element of development, strategies to push for the operationalization of a reparations program often include direct engagement with relevant government institutions. This can include: advocacy; lobbying; bringing victims, community members, and decision makers together; mobilizing and training victims to take a leading role in this process; and raising awareness among legislators and policymakers. The targets of this work include not only the bodies in charge of transitional justice policies, like the ministry of justice, but also a range of other ministries and departments involved in the implementation of comprehensive reparations—including ministries of finance, welfare, land, health, and education and legislative bodies, such as parliament, local government councils, and national assemblies.

Direct support to victims and affected communities: In contexts where reparations programs have not been implemented, especially where one is not expected to be instituted soon, civil society actors can step in, working outside of a reparations program to provide direct support to victims and affected communities in a range of ways. This can include assistance in the areas of collective healing, child tracing (connecting children born of war to their paternal family or clan), financial support, livelihoods, housing, land, education, medical care, psychosocial support, skills training, legal aid, and reintegration, all of which have a direct bearing on development. This type of support has shown to be particularly valuable for specific groups that face social barriers, such as youth activists and those who suffered sexual and gender-based violence (SGBV) and children born of war. Given that this type of initiative is often initiated at the community level, where patriarchal systems and views may be prominent, efforts like community sensitization may be needed to minimize stigmatization associated with participation. While this form of support can help to partially fill the gap left by the absence of a reparations program and inadequate development programs, however, it does not involve state acknowledgment of wrongdoing and therefore does not fulfill the obligation to repair. While it can offer valuable lessons for future reparations programs, unlike reparation programs, it may not restore victims' dignity or help rebuild their relationships in the community.

Victim-sensitive development policies: Another strategy outside the framework of a reparations program is to advocate for development policies and programs to orient more to the needs of victims and affected communities at both the national and local levels. In most cases, government development priorities in transitional periods will consist of general infrastructure reconstruction and economic development, not addressing and removing the specific obstacles to well-being that victims and communities face as a result of violence and repression. Opportunities may exist, however, to develop synergies between these two goals. For example, development plans in areas such as poverty reduction, land, education, and health can facilitate or reinforce the operationalization, impact, and acknowledgment components of reparations programs. Moreover, development programs can prioritize victims and affected communities, addressing their needs and potentially providing “building blocks” for future reparations. This may be an underutilized avenue of advocacy, because victims and civil society often do not see development programs through this lens while governments often ignore the reparative potential of development programs. But it also raises the risk of conflating reparations with development.

Operational challenges: In the difficult contexts following periods of violent conflict and repression, civil society faces a series of significant challenges in the operationalization of efforts to advocate for and shape reparations programs, provide direct support, and make development policy more victim centered. This includes having limited data about victims, the harms that they suffered, and their needs, which hinders the effectiveness and reach of reparations.

Another challenge is a lack of civil society coordination, which can be constrained by the lack of capacity and experience in civic engagement, especially if organizations with differing mandates and objectives compete for support and opportunity. A lack of coordination among government institutions may exacerbate the problem, reducing the impact of direct engagement with government. In addition, local actors, especially those at the grassroots level, face challenges accessing funding due to limited capacity, procedural barriers, and divergence from donor priorities. Finally, civic space is often limited by restrictions, fear of reprisals, and government interference, which speaks to the need for broader reforms.

Accountability and reparation: A broad understanding of accountability includes an element of reparation, therefore allowing for direct synergies between criminal justice processes and reparations and, in turn, development. To the extent that criminal accountability processes are participatory and accessible, for example, they can complement reparations programs in increasing the agency of victims and communities and in court judgments awarding reparations in the form of compensation for victims—for instance, for loss of property or natural resources or the imposition of restorative sanctions on perpetrators. In criminal justice processes, civil society actors can play a role by providing legal aid and psychosocial support, with the latter particularly important in cases of SGBV due to the stigma attached to it. At the informal level, victim-led documentation and storytelling processes can increase victims' agency while providing material for potential future criminal investigations. In some contexts, especially rural areas, traditional justice and reconciliation processes include elements of acknowledgement and repair in the form of dialogue and ritual. While these processes can bring challenges in relation to gender, youth, and community conflict, their potential contributions to areas such as reintegration of former combatants and access to land make the relevance to development clear. Accountability efforts to address corruption and economic crimes can also be reparatory by potentially generating funds through asset recovery and exposing exclusionary economic systems. In practice, the benefits of such efforts often remain unrealized, in part because they are accompanied by limited political transition and systemic change. Finally, sanctions for perpetrators that are imposed within a restorative justice paradigm demonstrate that retribution, reparation, and development can be combined at the design level and ideally in practice as well.

Synergies between reform and reparation: The reparative and transformative impact of reparations and reparative justice is likely to be limited if they are not embedded in broader processes of reform that seek to: prevent the recurrence of violations and marginalization, dismantle exclusionary and corrupt systems, and build more just and inclusive societies. Such processes can include constitutional reform, which can set up more inclusive legal and administrative frameworks; security sector reform (SSR), which is often understood as a key element of development, with substantive components of accountability and repair; and institutional reform in a range of sectors, including the judicial, health care, and education systems, which have important bearing on access to justice and enjoyment of economic, social, and cultural rights. It is also important not to ignore the transnational element of exclusive and abusive systems, including the role of international financial institutions and donor governments in maintaining unjust development models. Finally, the need to embed reparation within broader reform is demonstrated in the area of gender justice and equality, where violence, discrimination, and marginalization are integrally connected and require change at the political, social, economic, and cultural levels. While the scope and complexity of these structural problems are daunting, these areas of potential reform offer valuable opportunities for local actors.

Policy Recommendations

- Recognize the role played by legacies of past human rights violations, including violations connected to violence, repression, and unjust development paradigms, in creating obstacles to well-being and sustainable development for both individuals and communities.
- Consider reparations for victims of human rights violations—including of economic, social, and cultural rights—and communities affected by marginalization as a mechanism to overcome obstacles to well-being, agency, and inclusion and, therefore, as an integral element of sustainable development.
- Support collective action among victims, survivors, and civil society actors across different sectors in order to increase their influence on the design and implementation of state reparations programs and to overcome coordination deficits.
- Facilitate efforts to make connections between victims, survivors, and civil society and the entire range of government actors relevant to the operationalization of comprehensive reparations programs, including by increasing coordination among government actors themselves.
- Support civil society and grassroots initiatives that provide direct support to victims and affected communities outside the framework of official reparations programs, including by making it easier to access funding opportunities.
- Promote more victim-centered development policies and plans at the local, national, and international levels that respond to the specific needs and priorities of victims and affected communities, without conflating reparation with development.
- Support criminal accountability mechanisms that complement reparations, including by making them more victim centered through participatory and accessible processes, informal justice and reconciliation practices, efforts to address corruption and economic crimes and recover assets, and restorative sanctions.
- Promote broader reform processes that increase the impact of reparations by dismantling abusive and exclusionary systems—including their transnational elements—to foster constitutional and institutional reform and advance gender justice and equality.

Abbreviations

CSO	civil society organization
GWEDG	Gulu Women Economic Development and Globalisation
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice
IMF	International Monetary Fund
INLUCC	National Investigation Commission on Bribery and Corruption (in French, Instance Nationale de Lutte Contre la Corruption, Tunisia)
JEP	Special Jurisdiction for Peace (in Spanish, Jurisdicción Especial para la Paz)
JRP	Justice and Reconciliation Project
LRA	Lord's Resistance Army
MoJ	Ministry of Justice
NTJP	National Transitional Justice Policy, Uganda
RF-NDP	Green Recovery Focused National Development Plan, The Gambia
SDG	Sustainable Development Goals
SGBV	sexual and gender-based violence
SSR	security sector reform
TANGO	Association of Non-Governmental Organizations in The Gambia
TDC	Truth and Dignity Commission, Tunisia
TRRC	Truth, Reconciliation, and Reparations Commission, The Gambia
UNSDCF	UN Sustainable Development Cooperation Framework 2021–2025, Uganda
WAN	Women's Advocacy Network
WAVE	Women's Association for Victims' Empowerment

Methodology and Structure of Report

This study is based on components of the International Center for Transitional Justice's (ICTJ) programmatic work that was carried out from 2022 to 2023 in four countries: Colombia, The Gambia, Tunisia, and Uganda. While the study focuses on ICTJ's efforts to advance the reparations agenda in each context during specific years, it is grounded in ICTJ's years of influential work in each context that it has strategically built to support victims' efforts to influence reparations programs to be victim centered and gender sensitive. The study disseminates best practices and practical lessons generated through years of collaborative work between ICTJ and partners on the ground as well as years of ICTJ's work in the field more globally advancing reparations agendas. It aims to help activists from different countries learn from each other and share practical advice on long-term advocacy strategies for reparations and help policymakers and practitioners to identify opportunities to strengthen synergies between reparations and sustainable development, accountability, and institutional reform efforts.

To guide the collection of lessons learned, best practices, and reflections from ICTJ's work with local actors, a conceptual framework and set of research questions were developed for the project as a whole and then adapted to the particular dynamics of each case. While each of the four societies has experienced massive human rights violations, and victims and civil society in each context continue to seek justice, the contexts are different in a number of ways, including the nature of their reparations agendas and their political, social, economic, and cultural context. The work and strategies of ICTJ's local partners and stakeholders therefore exhibit both similarities and significant differences. This is reflected in the structure of the report, in which some sections or subsections may draw on only one or two contexts, while other sections cover all four. Even where only two contexts are discussed, the lessons learned from them may still be relevant in other contexts as their reparations agenda evolves through different stages.

The study on reparations efforts in The Gambia draws from: desk research on relevant policy documents related to reparations, the legal framework applicable to reparations and development policies; stakeholder mapping that identified relevant governmental and nongovernmental actors and decision makers; direct support to two civil society organizations (CSOs) implementing projects aimed to increase victims' access to reparations, Women's Association for Victims' Empowerment (WAVE) and Think Young Women; and information provided by a coalition established by ICTJ of civil society and victim-led organizations on reparations and gender issues. It also features findings from focus group discussions held by ICTJ with representatives from 20 victims' groups and CSOs representing a wide range of victim populations from all six regions of the country: Central River Region, West Coast Region, Upper River Region, Lower River Region, North Bank Region, and Greater Banjul. Participants were selected based on their com-

mitment to advance the right to reparation, informed by knowledge, relationships, and trust developed by ICTJ's office in The Gambia over years of close work with grassroots organizations outside the capital region. Discussions were led with open-ended and semi-direct questions to enable participants to freely express themselves.

The findings on Uganda derive from both desk and field research. The desk research formed a crucial foundation for the fieldwork in terms of identifying the gaps that the data collection process could address. It incorporates previous assessments conducted by ICTJ. The ICTJ Uganda office has carried out several significant research projects on different areas of reparations, including reparations for victims of sexual and gender-based violence (SGBV), in collaboration with the Women's Advocacy Network (WAN) and the Global Survivors Fund,¹ and reparations and development.² The field research gathered inputs from victims and relevant stakeholders during ICTJ-organized focus group discussions and interviews in Gulu City and Gulu district and in the course of direct support provided to three CSOs—WAN, Watye Ki Gen, and Golden Women's Vision Uganda—in implementing projects aimed to increase victims' access to reparations, building on years of strategic partnership and capacity building with survivor groups in Uganda.

The findings on Tunisia emerged from research and consultations with stakeholders and local partners via four workshops held in June 2022, building on ICTJ's leading work on asset recovery, women's rights, and collective reparations in the country. The first workshop, held in Tunis in partnership with the Tunisian Platform for Alternatives, brought together experts, policymakers, and activists in anticorruption and asset recovery. Two workshops on the social and economic rights of women victims held in Sidi Bouzid and Gafsa brought together women victims, CSO representatives, and activists. These two workshops were held in partnership with the CSO the Eva Voice Association and Nahla Akrimi, a feminist journalist at Gafsa radio and the secretary general of the CSO Rural Woman, and the International Youth Leadership Organization in Gafsa. The fourth workshop, held in Tataouine and facilitated by the historian Dhaoui Moussa, focused on combatting marginalization and corruption in Tunisia and the opportunities and challenges for the local community. Follow-up work included monitoring possible implementation of the national reparations program and new policies governing asset recovery and compensation.

Findings on Colombia are based on ICTJ's years-long efforts supporting Colombian civil society and providing influential technical assistance to the Special Jurisdiction for Peace (in Spanish, Jurisdicción Especial para la Paz, JEP) and other national institutions that advance justice for victims. Much of this work has centered around providing analysis and technical input on the JEP's restorative justice approach. Throughout 2022, ICTJ participated in and facilitated several workshops with magistrates, victims, and perpetrators to prepare them for public acknowledgment hearings in two legal cases: macro case 01, on hostage-taking committed by the Revolutionary Armed Forces of Colombia – People's Army (in Spanish, Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo, FARC-EP); and macro case 03, on civilian killings illegitimately presented as combat deaths by state agents. In macro case 01, ICTJ supported: individual psychosocial support sessions with 29 victims; 4 preparatory workshops with former FARC Secretariat members who were charged with hostage-taking; and 3 restorative encounters between victims and perpetrators. In addition to following up on decisions issued by the JEP regarding restorative sanctions, ICTJ engaged in analyses on how to operationalize

¹ This resulted in publication of a joint report: ICTJ and WAN, "We Cannot Survive on Promises Alone: Uganda Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence," 2022.

² ICTJ, "Building Blocks for Reparations: Providing Interim Relief to Victims Through Targeted Development Assistance," 2020.

reparative works, articulate them with the Victims Unit's reparations programs, and align them with other development initiatives in Colombia's Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Final Peace Agreement), signed between the government and the FARC-EP guerrilla in 2016.

The study's methods and analysis also build on and are informed by ICTJ's ongoing and previous wide ranging and influential work on the potential role of development programs in providing interim relief to victims; the need for comprehensive and gender-sensitive reparations for victims of conflict-related sexual violence; the inclusion of accountability for corruption in transitional justice; the experiences of women victims of discrimination, exclusion, and violence; the role of restorative justice in criminal accountability processes; and the contribution of transitional justice to prevention.³

3 See Sarah Kasande and Eva Kallweit, "Building Blocks for Reparations: Providing Interim Relief to Victims Through Targeted Development Assistance," ICTJ, 2020; Marianne Akumu, Sarah Kihika Kasande, Grace Acan, and Evelyn Amony, "We Cannot Survive on Promises Alone: Uganda Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence," ICTJ, 2022; Didier Gbery and Maimuna Manneh, "Stubborn for Our Gender: The Gambia Study on Opportunities for Reparations for Victims and Survivors of Sexual and Gender-Based Violence," ICTJ, 2022; Ruben Carranza, "Truth, Accountability and Asset Recovery: How Transitional Justice Can Fight Corruption," Conference Report, ICTJ, 2020; Doris H. Gray, "Who Hears My Voice Today?: Indirect Women Victims in Tunisia," ICTJ, 2018; Anna Myriam Roccatello and Gabriel Rojas, "A Mixed Approach to International Crimes: The Retributive and Restorative Justice Procedures of Colombia's Special Jurisdiction for Peace," ICTJ, 2020; María Cielo Linares, "Setting an Agenda for Sustainable Peace: Transitional Justice and Prevention in Colombia," ICTJ, 2021.

Reparations and Developmental Legacies of the Past

Legacies of the Past as Obstacles to Sustainable Development

Legacies of massive and serious human rights violations create a wide range of clear and significant obstacles to individual and group well-being and to sustainable development. At the individual level, victims and survivors of violations suffer physical, psychological, social, economic, and political harms and losses. Groups, communities, and regions are often targeted by different forms of destruction, marginalization, and exclusion and experience social and political division and fragmentation. At the more structural level, a series of root causes or drivers of violence and exclusion can reinforce these individual and collective harms and constrain societal responses to them. These include poverty, inequality, economic crises, patriarchal systems, migration, limited civic space, institutional capacity and integrity deficits, and limited political and structural transitions. Legacies of abuse and their drivers can feed into cycles of violence and neglect; therefore, breaking these cycles requires addressing both the legacies of abuse and their underlying structures.

In The Gambia, Yahya Jammeh's authoritarian regime ruled the country for 22 years (1994–2016). Arbitrary arrest, unlawful detention, killings, enforced disappearances, forced labor, torture, and SGBV occurred with impunity, with many victims experiencing multiple violations. The numerous and dire physical, mental, social, and economic consequences of these violations continue to negatively impact victims' daily lives and families. Victims have reported persistent challenges accessing health care to address chronic conditions and injuries caused by violations along with difficulties integrating back into society. For example, victims who survived murder attempts or who survived torture, serious ill-treatment in detention, and grossly harmful abuses by the dictator—such as the imposition of unscientific treatments for HIV-AIDS and the maltreatment of people accused and punished for supposedly practicing witchcraft—still suffer mental and physical health issues and a lack of social services to address them. Many victims lost their jobs and/or struggle to secure steady employment as a result of violations. Additionally, families who lost breadwinners or their work because of a breadwinner's murder, enforced disappearance, or deprivation of livelihood can barely take care of their daily needs. For them, persistent poverty is a fact of life, with few able to meet even their basic needs, including necessary health care.⁴

⁴ Didier Gbery and Maimuna Manneh, "Stubborn for Our Gender: The Gambia Study on Opportunities for Reparations for Victims and Survivors of Sexual and Gender-based Violence," ICTJ and Global Survivors Fund, 2022.

At the same time, the impact of Jammeh's repressive rule left the country's institutions weak and dysfunctional. The security sector—which is yet to be reformed—operated according to Jammeh's orders, which created a dangerous climate for any critical (or perceived-to-be-critical) voices, particularly from political opponents, civil society, human rights activists, and the media. Jammeh's control of the public sector left many communities disadvantaged and deprived of their rights, with limited access to services and resources. Corruption during Jammeh's dictatorship was rampant. According to the post-dictatorship Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises, and Offices as Regards their Dealings with former President Yahya A.J.J. Jammeh and connected matters (known as the Janneh Commission, after its chairperson, Surahata B.S. Janneh), hundreds of millions of dollars in public funds and assets were “directly wasted, misappropriated or diverted by former President Jammeh.”⁵

In Uganda, the decades-long armed conflict between the government and the Lord's Resistance Army (LRA) in Northern Uganda, which ended in 2006, greatly affected populations in the region, who suffered multiple forms of war crimes and gross human rights abuses. Violations included forced displacement, pillaging, looting and destruction of property, abduction, forced recruitment, slavery, forced marriage, sexual violence, psychological harms, mutilation, killings, torture, and cruel, inhumane, and degrading treatment. These violations have had long-term, intergenerational social and economic consequences for victims in the post-conflict period, affecting and impairing their functionality, livelihoods, schooling, physical and mental health, social skills, self-esteem, and interpersonal relations, with differential impacts on men, women, boys, and girls.

According to the 2017 study by the Secure Livelihoods Research Consortium, households with members who experienced war crimes were significantly more likely to be economically worse off than households that did not experience war crimes, with worse access to basic services.⁶ This has been compounded by the breakdown in social networks as a result of the war and its consequences, leaving fewer options for support among Ugandans who historically relied on informal social networks for support, along with limited livelihood and social protection systems from the state. Victims suffered severe psychological harms related to, among other things, interrupted life planning, intergenerational harm, trauma, memory loss, suicidal tendencies, painful memories, anxiety, depression, loss of productive capacity, and sleep deprivation.

In Northern Uganda, the long-running conflict completely decimated the social fabric and public infrastructure, including schools, health facilities, and roads, and caused substantial material losses for populations in affected areas. While the region has known relative peace and undergone significant economic and infrastructure developments since 2006, it still remains one of the poorest areas in the country, with low levels of gross domestic product and high unemployment, which has particularly affected conflict victims, youth, and unskilled populations.⁷ The Uganda National Household Survey and Poverty Index indicates that war-affected regions in Northern Uganda continue to lag behind the rest of the country in most key growth and

5 The amounts of funds and assets stolen by Jammeh are organized by type in the commission's final report. Estimates range from \$362 million to \$1 billion. More information can be found in: Gambian Ministry of Justice, “The Gambia Government White Paper on the Report of the Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as Regards their Dealings with Former President Yahya A.J.J. Jammeh and Connected Matters,” September 13, 2019, www.moj.gm/downloads; Mustapha K. Darboe, “Gambia: Jammeh's Wealth to Go To Victims,” JusticeInfo.Net, October 21, 2019; Lamin Jahateh, “Gambia Ex-President Jammeh Stole at Least \$362 Million,” *Reuters*, March 29, 2019.

6 Dan Maxwell, Dyan Mazurana, Michael Wagner, and Rachel Slater, “Livelihoods, Conflict and Recovery: Findings from the Secure Livelihoods Research Consortium,” ODI, 2017.

7 Uganda Bureau of Statistics and ICF, “Uganda Demographic and Health Survey 2016,” 2018, <https://dhsprogram.com/pubs/pdf/FR333/FR333.pdf>

development indicators, mainly due to untreated trauma, loss of livelihood and property, and long-term disability.⁸

In Tunisia, decades of corrupt authoritarian rule, human rights violations, and neoliberal economic policies that led to massive unemployment, poverty and marginalization came to a head in 2011 in the first “Arab Spring” revolution in the region. Tunisians throughout the country chanted “Jobs, freedom, and dignity” during massive protests and forced dictator Zine El Abidine Ben Ali to flee the country. Throughout the dictatorships by former President Habib Bourguiba and then Ben Ali, individual victims, including Islamist party sympathizers and left-wing activists, suffered various forms of political repression, involving assassination, detention, torture, removal from government employment, denial of access to public education, sexual harassment, police surveillance, and forced exile. Since 2011, women victims’ associations have helped to document violations of the economic, social, and cultural rights of women as direct victims and also indirect victims who were targeted because of their personal, political, and religious ties to others. Documentation of violations has been collected through testimonies given by women during civil society activities and public hearings held by the Tunisian Truth and Dignity Commission (TDC).⁹

Religious women in Tunisia who wore a veil were labeled political opponents of secularist regimes in Tunisia, regardless of their political activity. The daily life of the relatives of political prisoners were disrupted by a system of pointage (or “checking”), which required them to check-in daily with police, and by having to travel long distances to deliver supplies to detained family members. As a consequence of violations, generations of women were not able to pursue their education, have a career, or simply access a minimally decent income that would help them to live with dignity and be empowered as citizens. Moreover, political detention of male relatives often resulted in the breakdown of families and community support.¹⁰ Former political prisoners have struggled to resume normal life and secure a livelihood after their release due to a hostile social environment towards them and the physical impacts of torture.¹¹

In Tunisia, post-colonial resource extraction by France, social and economic policies prescribed by international financial institutions like the International Monetary Fund (IMF), and large-scale corruption by the Ben Ali dictatorship led to gross inequality in the country and the marginalization of the country’s interior regions, which have been recognized by the TDC as “victim regions.” The TDC concluded that these were the root causes of underdevelopment in certain regions, mostly in the southern interior. These regions have higher rates of illiteracy, maternal mortality, and unemployment and fewer doctors and hospital beds per capita.¹² The TDC developed indicators to determine this status by measuring access to services and fundamental rights, including but not limited to access to education, health care,

8 Uganda Bureau of Statistics, “Uganda National Household Survey (UNHS) 2019/2020,” 2021, 108–110, www.ubos.org/wp-content/uploads/publications/09_2021Uganda-National-Survey-Report-2019-2020.pdf. The Uganda National Household Survey of 2016/2017 found a 33 percent poverty rate in the north, which is significantly higher than the national average of 21.7 percent. Uganda Bureau of Statistics, “Uganda National Household Survey 2016/2017 Report,” 2018, xv, www.ubos.org/wp-content/uploads/publications/03_20182016_UNHS_FINAL_REPORT.pdf. See also Republic of Uganda, “State of Uganda Population Report 2018,” 2018, 33–34, <http://npcsec.go.ug/wp-content/uploads/2013/06/SUPRE-2018-.pdf>

9 Truth and Dignity Commission, “Auditions Publiques des Victims,” March 10, 2017, www.youtube.com/watch?v=XeeKo8RDGtU&t=790s

10 Gray, “Who Hears My Voice Today?,” 6.

11 Dorra Mahfoudh-Draoui, “L’impact des violations des droits humains sur la vie de couples des victimes,” Truth and Dignity Commission, 2018.

12 Truth and Dignity Commission, “The Final Comprehensive Report: Executive Summary,” translated to English by Avocats Sans Frontiers, 2019, 402–403, https://truthcommissions.humanities.mcmaster.ca/wp-content/uploads/2020/11/Tunisia-Truth-and-Dignity-Commission-Report_executive_summary_report.pdf

livelihood, and a decent standard of living.¹³ The TDC received 220 claims from regions and other collectives seeking to be recognized as victims of marginalization and exclusion and receive reparations.¹⁴

According to submissions made to the TDC and statements from family members and community leaders who participated in a series of ICTJ-organized discussions in the region, the Tataouine Governate in the south is a clear example of a region both intentionally neglected by the dictatorship and adversely affected by Tunisia's neoliberal social and economic policies implemented by both Bourguiba and Ben Ali. Tataouine's marginalization is both historic and strategic, intended to punish the region's population for their political choices under Ben Ali.¹⁵

The COVID-19 pandemic compounded Tunisia's post-dictatorship economic crisis and, like in other contexts, worsened the consequences of marginalization in the country. The economic crisis continues to make life difficult for Tunisians in general and even harder for families and regions that were targeted or adversely affected by dictatorship-era economic harms. This has unfortunately led to renewed debate over the economic viability of implementing a reparations program, particularly one for individuals rather than collective beneficiaries.

In Colombia, the decades-long internal armed conflict involving guerrilla groups, the state, and paramilitaries resulted in countless killings, enforced disappearances, kidnappings, and recruitment of minors (1964–2016). As a result, Colombia has one of the largest populations of internally displaced people in the world, at almost 8.5 million.¹⁶ Numerous factors contributed to the conflict, including agrarian issues like the concentration of land ownership in a small percentage of the population; the proliferation of drug trafficking and other illegal economies; limited political participation; and the lack of state presence and services in the regions most affected by violence.

The prolonged armed conflict has had deep economic, social, and political impacts on the lives of victims. Slow state responses to these circumstances, caused by insufficient institutional capacities and bureaucratic hurdles, have significantly eroded victims' trust in the state. In addition, the conflict's persistence exacerbated existing inequalities and underdevelopment in marginalized, often rural communities. Today, Colombia is among the highest-ranking countries globally in unequal land distribution,¹⁷ and poverty continues to disproportionately affect vulnerable groups, especially young people, women and girls, and indigenous communities, who account for over half of the more than 9.5 million victims on the nationwide registry of victims. In 2021, 50.1 percent of victims lived in conditions of poverty, which is almost eleven points higher than the national average.¹⁸

To address this situation, the 2016 Peace Agreement created the Development Plans with a Territorial Focus to be implemented in municipalities most affected by armed violence, illegal economies, and high poverty rates. The strong correlation among these factors is underscored by the fact that approximately 53 percent of the crimes committed in the internal armed conflict occurred in regions slated for the development plans, and monetary poverty affects

13 Ibid. at 444.

14 Ibid.

15 ICTJ, "Three Years after Revolution, Tunisians Seek Justice through Collective Reparation and Development," December 18, 2013.

16 See the Nationwide Registry of Victims, available in Spanish: www.unidadvictimas.gov.co/en/node/37394

17 Oxfam, "A Snapshot of Inequality: What the Latest Agricultural Census Reveals about Land Distribution in Colombia," 2017.

18 Government of Colombia, "National Bureau of Statistics," June 2, 2022, www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2021/CP-pobreza-monetaria-con-enfoque-diferencial.pdf

around 77.8 percent of the population in these municipalities.¹⁹ The 2016 Peace Agreement was widely hailed for including these and other measures aimed at resolving the structural causes of the armed conflict; however, many planned reforms have stalled due to political or budgetary constraints. Recently, cases of corruption related to the allocation of urgently needed funds for development have also emerged.

These shortcomings have contributed to ongoing violence in the country, involving groups that are driven by illegal economies or resort to them to finance armed rebellion. Underdevelopment has contributed to much of this dynamic, as armed actors compete for territorial and social control, often by providing social services that the state has failed to offer, including access to health, security, infrastructure, and the administration of justice.

Reparations as an Element of Sustainable Development

Reparations programs can potentially help to reduce obstacles to well-being and development through both their form and process. This is clear from the priorities expressed by victims, the recommendations of truth commissions, and the design of administrative programs that aim to be as comprehensive and transformative as possible. While financial compensation is often prioritized by victims, material reparations can also be provided in the form of medical and health care services, psychosocial support, livelihood support, employment opportunities, housing, land, education, and public transportation. At the collective level, material reparations for affected communities and “victim regions” can include: building and reconstructing basic infrastructure, such as hospitals, clinics, and schools; environmental programs; and other community development projects. Symbolic reparations—such as apologies, memorialization, and the exhumation and burial of victims’ remains—may likewise have a bearing on development by fostering trust, inclusion, and social cohesion. In terms of process, reparations programs can contribute to increasing levels of agency, empowerment, and rights awareness to the extent that they are participatory, consultative, and accessible. It ought to be said, however, that for reparations to be a strategic and significant part of a sustainable development policy in contexts such as Tunisia, The Gambia, and Uganda, reparations policymaking and institutional reforms must re-examine the detrimental economic and social policies prescribed by international financial institutions for authoritarian regimes. These policies, which often enabled corruption and led to marginalization, continue even when authoritarian regimes have ended.

In designing reparations programs, an awareness that compensation alone cannot repair marginalization, address inequality, and provide for long-term economic and social needs of victims is important. Thus, without excluding compensation as a form of urgent or basic reparation, other material forms of reparation should be funded and provided.

In The Gambia, a unique element of the mandate for the national Truth, Reconciliation and Reparations Commission (TRRC) was its objective to “grant reparations to victims in appropriate cases.”²⁰ During the TRRC mandate (2018–2021), the commission provided interim reparations to those requiring urgent medical care, psychosocial support, and educational support.²¹ Out of 1,500 victim statements received by the TRRC, the commission found 1,009 to

19 Agencia de Renovación del Territorio, “Caracterización Económica de los Municipios Pdet en el Marco de la Pandemia,” 2020, available in Spanish at: <https://portal.renovacionterritorio.gov.co/descargar.php?idFile=33133>

20 Government of The Gambia, TRRC Act 2017, section 13d.

21 The TRRC provided 124 victims with medical care, including transportation abroad for 7 victims, 389 victims with psychosocial support, and 69 individuals with educational support when their education had been interrupted due to violations they or a family member experienced. TRRC, *Final Report*, vol. 16, “Reparations and Reconciliation,” 2021, 6–8, www.moj.gm/downloads

be eligible for final reparations.²² In July 2021, the TRRC began distributing final reparations to victims even while the urgent interim reparations phase had not yet concluded. The TRRC distributed the monetary awards it could with the funds it had, but it was not enough to fully cover all 1,009 victims. To address the gap, the TRRC issued a recommendation to the Gambian government to provide sufficient funds to cover the remaining victims and recommended that the entity mandated to distribute reparations after the TRRC concludes operations should adopt a universal registration process ensuring that victims who were not able to register with the TRRC could still benefit from reparations at a later stage.²³ Despite its focus on compensation, the TRRC's recommendations provide for holistic measures of redress for victims and other measures to address legacies of the Jammeh dictatorship, including rehabilitation, memorialization, and guarantees of non-repetition, like the domestication or enforcement of international instruments.²⁴ All are due in large part to the approach taken by the TRRC, which has been key to informing Gambians' views and understanding of reparations.

In May 2022, the Gambian government issued the White Paper on the Report of the Truth Reconciliation and Reparations Commission, which indicated the TRRC recommendations it agreed to undertake, including to prosecute perpetrators, implement measures to prevent SGBV, ban certain alleged perpetrators from holding office, reform the security and judicial sectors, and provide transformative reparations to victims.²⁵ When the white paper was released, Attorney General and Minister of Justice Dawda A. Jallow emphasized the need to go beyond monetary compensation to give holistic forms of reparation, including health care, education, and psychosocial support.²⁶ Building on the TRRC's recommendations for reparations, Jallow announced that the government would establish mechanisms to search for the missing and return their bodies to their families and provide psychosocial services and support, compensation, free medical care in public hospitals, free education for victims' children, memorialization initiatives, and restitution.

Although the TRRC's final report is short on analysis of the consequences of the violations on victims' lives and needs, victims expressed their expectations for reparations during consultations conducted by ICTJ (upon request of the government) in various regions of the country in November 2019 and June 2022. Their expectations cover a wide range of needs related to the direct and indirect consequences of violations that they continue to suffer. In May 2023 the Gambian Ministry of Justice presented a plan for implementing the TRRC's recommendations consistent with its white paper. That plan, which was discussed during a stakeholders' conference and donors roundtable organized by the Gambian government,²⁷ includes measures

22 TRRC, *Final Report*, vol. 16, "Reparations and Reconciliation," 14.

23 Ibid, 14–15.

24 Outside the TRRC process, efforts to ratify international conventions have been underway since the end of the dictatorship with the ratification in 2018 of the International Convention for the Protection of all Persons from Enforced Disappearance and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. The Gambia had previously ratified other relevant international agreements including the Convention on Child Rights (ratified in 1990 and domesticated in 2005 through the Children Act); Convention on the Elimination of All Forms of Discrimination Against Women (ratified in 1993 and domesticated in 2010 through the Women's Act); Convention on the Rights of Persons with Disabilities (ratified in 2015 and domesticated through the Persons with Disabilities Act in 2021); and the International Covenant on Political Rights, International Covenant on Economic, Social and Cultural Rights (ratified 1978).

25 Republic of The Gambia, "Government White Paper on the Report of the Truth Reconciliation and Reparations Commission," May 25, 2022, www.moj.gm/download-file/81d650ed-dc36-11ec-8f4f-025103a708b7

26 Kerr Fatou, "Release of the Government White Paper to Report of TRRC MoJ Speech 19'18"-22'13", May 25, 2022, www.facebook.com/Kerrfatou/videos/release-of-the-government-white-paper-to-report-of-the-commission-of-the-trrc/3027835070879836/

27 Attorney General's Chambers and Ministry of Justice, "Media Advisory: Stakeholder Conference and Donor Roundtable on the Implementation of the TRRC Recommendation," May 8, 2023, www.moj.gm/news/62ba61e0-edb2-11ed-8b02-025103a708b7

to adopt legislation to create the victims' reparations entity and trust fund, conduct public outreach, and implement the TRRC's memorialization strategy.

In the beginning of 2022, the Ministry of Justice proposed the creation of a TRRC successor institution on reparations.²⁸ To further that goal, a Victims' Reparations Bill was drafted with input from victims. With apparent momentum at the government level to develop the necessary legislation, victims' expectations are high for reparations to be distributed. However, many doubted the government's will and capacity when it comes to the actual implementation of a reparation program and were concerned that the views they shared during the consultation period would not be reflected in the final bill. The Victims' Reparations Bill was finally brought before the National Assembly and approved under certificate of emergency on November 1, 2023. The recourse to the Certificate of Emergency was justified by the fact that the bill had missed the deadline for tabling in the legislature originally set by the Ministry of Justice for the end of 2022.²⁹ Moreover, the 150 million Gambian Dalasi (approximately \$2.5 million USD) promised by the government to continue the reparations program and provide transformative reparations was not set aside in the 2022 budget. It is unclear how and where the government plans to gather this amount.³⁰ In May 2023, during a donor roundtable and stakeholders conference, Jallow announced the establishment of a victims' reparations fund of \$56 million USD and released the government's implementation plan for TRRC recommendations, clarifying that \$50 million USD should be allocated to transformative forms of reparations for victims "within the framework of the reparations body," along with \$4 million USD for the forensic search for the missing and \$500,000 USD for psychosocial support.³¹

Victims' priorities for reparations clearly illustrate the close link between development needs and redress. While many participants identified monetary compensation as their highest priority, some victims, including those who participated in the discussion held by Think Young Women, highlighted the need for better access to a health clinic, economic activities, housing, and education. "We can build a clinic here and make it a memorial clinic for those who have lost their lives in our village," said a participant in one discussion. "Community reparations such as building a market would be the best because it would become an economic hub and empower us more than we would have by just getting individual monetary compensation," responded another.³² "I want free education services because the money will run out, and education is forever," said a victim in a separate consultation.³³ These priorities reinforce the findings from ICTJ's regional consultations on the design of the Victims' Reparations Bill, organized in partnership with the Gambian Ministry of Justice,³⁴ during which victims expressed a need for holistic forms of reparations, including monthly stipends, housing and livelihood support, and collective or community development projects, like building and equipping community hospitals.

In Uganda, victims' rights to remedy and reparation are anchored in several sources: the Ugandan Constitution, written law, principles of common law, and doctrines of equity.³⁵ The con-

28 Attorney General's Chambers and Ministry of Justice, "Proposed Bill to Create an Independent Successor Body to TRRC for Victim Reparations and Other Connected Matters," www.moj.gm/news/dcb094e-b3ee-11ec-8f4f-025103a708b7
29 Patience Loum, "Gambia: Justice O Clock: Victims Demand Quick Passing of Reparations Bill," All Africa, December 8, 2022.

30 Ibid.

31 Republic of The Gambia, *Plan to the Government's White Paper on the Recommendations of the Truth Reconciliation and Reparations Commission 2023–2027 (Reparations)*, 2022.

32 Think Young Women discussion with victims from Sabah Njien, North Bank Region. Victims were asked, "What type of reparation do they want, when, and why?" One respondent answered, "I want community reparations such as a health care clinic nearby." Another said, "I want compensation in the form of housing."

33 Think Young Women discussion with victims from Soma, Lower River Region. Victims were asked "What type of reparation do they want, when, and why?"

34 Regional consultations conducted in collaboration with the MoJ, June 2022.

35 The Judicature Act 1996, section 14 (2) (b).

stitution imposes an obligation on the state to protect, promote, fulfill, respect, and uphold the rights of all individuals.³⁶ When the state fails to meet that obligation, it is required to provide an effective remedy to the aggrieved party.³⁷ The 2019 Human Rights Enforcement Act, which provides for the enforcement of human rights enshrined in the constitution,³⁸ sets out remedies for victims of violations, including compensation; restitution; rehabilitation, including medical and psychological care; and satisfaction.³⁹

These rights are reinforced by the 2007 Agreement on Accountability and Reconciliation, signed between the government and the LRA in Juba, which provides for collective and individual reparations for victims, with priority given to members of vulnerable groups and gender-sensitive transitional justice processes.⁴⁰ In addition, the Agreement on Comprehensive Solutions, which is more development oriented but with potential reparative effect, recognized regional disparities in socioeconomic and infrastructural development between conflict-affected areas and the rest of the country. That requires the government to develop and implement measures to counter those imbalances and take affirmative action in favor of groups that were marginalized because of gender, age, disability, or any other factor related to history, tradition, or custom.⁴¹

To address the recovery needs of both conflict-affected regions and the rest of the country, the Ugandan government launched several development programs, such as the Northern Uganda Peace, Recovery and Development Program, which was implemented in three phases (I, II, and III); and the Northern Uganda Social Action Fund. These programs were designed to promote peace and recovery following socioeconomic approaches driven by community demand. They focused on rebuilding key sectors that were destroyed during the conflict, such as health, education, and water.

Drawing on key principles in the Agreement on Accountability and Reconciliation, the government established the International Crimes Division of the High Court of Uganda. Its Rules of Procedure provide for reparations to victims after convictions,⁴² and the court is required to take into account the views of victims when determining the type of reparations to award.⁴³

Uganda also adopted the National Transitional Justice Policy (NTJP), which provides an overarching framework for addressing justice, accountability, and reconciliation goals. It is designed to provide holistic interventions to achieve lasting peace and proposes various justice mechanisms for victims and war-affected communities.⁴⁴ The NTJP stipulates that gender considerations will be mainstreamed in all aspects of the transitional justice process and that the government will support the full involvement and participation of women in transitional justice processes.⁴⁵ It also acknowledges that reparations are integral to the recovery and reintegration of victims,⁴⁶ stipulating that “the Government shall establish and implement a reparations programme for victims affected by conflict. In doing this, the Government shall consider interim, short-term reparations.”⁴⁷

36 Constitution of the Republic of Uganda 1995, art. 20.

37 *Ibid.* at art. 50 (1)–(2).

38 The Human Rights (Enforcement) Act 2019, secs. 3, 5, 7 (1).

39 *Ibid.* at sec. 9(2)(a)–(c).

40 Government of the Republic of Uganda and the Lord's Resistance Army/Movement, “Agreement on Accountability and Reconciliation” (adopted in Juba, June 29, 2007), par. 11; “Annexure to the Agreement on Accountability and Reconciliation” (adopted February 19, 2008), par. 9(1)–10(1).

41 Agreement on Comprehensive Solutions between the Government of the Republic of Uganda and Lord's Resistance Army/Movement, Juba, Sudan, 2007, www.ucdp.uu.se/downloads/fullpeace/Uga%2020070502.pdf

42 Government of Uganda, The Judicature (High Court) (International Crimes Division) Rules 2016, Rule 48 (1).

43 *Ibid.* at 48 (3).

44 Government of Uganda, National Transitional Justice Policy 2019, 20.

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

Despite adequate tools to create a path towards healing through reparation, there is no reparations program operating in Uganda. The government is yet to enact the program's enabling legislation or establish an appropriate mechanism for awarding interim reparations. Having settled the debate over whether the state bears responsibility for repairing the harms stemming from the war,⁴⁸ the problem that remains unresolved following the Juba Agreement on Accountability (2007) and the Agreement on Comprehensive Solutions is how the obligation will be fulfilled.

According to assessments conducted by ICTJ, compensation in the form of cash payments is the preferred form of reparation for Northern Ugandan victims.⁴⁹ Having lacked assistance for over 18 years, a situation compounded by increasing economic insecurity during the COVID-19 pandemic, victims would want individual compensation to meet their daily needs.⁵⁰ Survivors also called for land restitution and housing, especially for those who have been rejected by their families and communities due to the stigma of the violations they suffered. Land ownership provides certainty and stability, although survivors noted that some victims are too physically weak and lack the resources to build a house.

Reparations could also provide victims with a sustainable livelihood, which would offer opportunities to address the damage done to their life plans. It was suggested in focus group discussions organized by ICTJ that reparations could take the form of business start-ups; collective farming initiatives by providing farming equipment, such as tractors and ox-ploughs; and supporting microfinance initiatives, like village savings and loan associations, to create a sustainable means of guaranteeing long-term livelihood and well-being.⁵¹

Physical and psychological rehabilitation is also a preferred form of reparation for many victims. Survivors reported experiencing persistent health challenges resulting from the physical and psychological harms of violations.⁵² Among survivors of sexual violence, reproductive health complications have been common, requiring specialized medical care such as reconstructive surgery and reproductive health services. Others require physical rehabilitation and fittings for artificial limbs. Injuries have made it difficult for many survivors to engage in social and economic life.

Victim communities recommended reparations in the form of scholarships and education grants for children born of war and the descendants of deceased victims as well as construction of schools in areas where massacres took place.⁵³ While some such schools have been built, school fees are too expensive and unaffordable for most victims' families.⁵⁴ Education assistance could also take the form of accelerated learning programs, like functional adult literacy programs, to enable adult victims to "read and write their names and cope in a fast-changing digital world."⁵⁵

48 However, it is relevant to note that in the Government of Uganda's written submission to the International Criminal Court regarding the reparation proceedings in the Dominic Ongwen case, it claimed that the government should be also recognized as an indirect victim of the crimes for which Ongwen was convicted: "The Government of Uganda and many other Ugandans . . . indirectly suffered harm in intervening to assist victims in distress or to prevent victimisation. The protracted war that the Ongwen case is an offshoot of, permeated the entire nation; and although Northern and Eastern Uganda bore the brunt of it no Ugandan emerged unscathed. The loss of lives and harm emanating from the Government's unavoidable diversion of human and financial resources intended for other crucial sectors, such as the educational, health, economic, social and infrastructure sectors, in order to quell insurrection, must be considered." The Government of the Republic of Uganda's Submission on Reparations, ICC-02/04-01/15, 07/02/2022, par. 14, www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_00846.PDF

49 Focus group discussion, Abok, February 5, 2020; focus group discussion with male and female victims from Acholi, Gulu, May 2021; discussions conducted by ICTJ and UVF, Pajule, 2021.

50 Focus group discussions conducted by ICTJ and UVF, Abok, Odek, and Pajule, 2021.

51 Focus group discussions conducted by ICTJ, Abok, Pajule, and Odek, 2021.

52 Focus group discussions conducted by ICTJ, Lukodi 2020 and Abok and Odek 2021.

53 The Inter-American Court of Human Rights found in *Aloeboetoe et al. v. Suriname* that education had to be guaranteed to the child heirs of the deceased, in addition to compensation.

54 Focus group discussion with male and female victims from Acholi, Gulu, May 2021.

55 Ibid.

In Tunisia, since the fall of the Ben Ali dictatorship, the government has adopted various stand-alone reparative justice measures for different categories of victims. A reparations program administered by the former Ministry of Human Rights and Transitional Justice offered financial compensation, access to some forms of medical services, access to subsidized public transportation, and opportunities for public sector employment initially to victims of the 2011 revolution and their families, then later to families of those killed or injured in the 2008 “mining basin” protests, and later apologies and specific forms of restitution to former soldiers who were tortured for allegedly plotting a coup.⁵⁶

The 2013 Transitional Justice Law includes a section on reparation and rehabilitation that acknowledges reparation as a right guaranteed by law and defines victims as those who “suffered harm as a result of a violation” as well as “every region which was marginalized or which suffered systematic exclusion.”⁵⁷ In establishing the TDC, the law mandated that it would develop a comprehensive individual and collective reparation program for victims of violations.⁵⁸ It also called for the creation of the Fund for the Dignity and Rehabilitation for Victims of Tyranny (Dignity Fund) to be in charge of implementing the program and funded by the state in 2018 with a single grant of 10 million dinars (approximately \$3 million USD).⁵⁹ The Dignity Fund was also to receive funds from donations and assets recovered from those under investigation for corruption during the dictatorship through the TDC arbitration and reconciliation process.

The TDC’s final report outlines a range of recommendations to repair the harm suffered by individuals and regions from violations. National consultations by the TDC on a comprehensive reparation program revealed that 95.62 percent of respondents requested compensation, 90.38 percent wanted truth, 88.63 percent wanted memory preservation, 81.86 percent wanted an apology and rehabilitation, 77.69 percent requested accountability, 62 percent wanted professional reintegration, 55 percent wanted medical rehabilitation, and 28.28 percent wanted psychological rehabilitation.⁶⁰ Requests for collective reparations from organizations, neighborhoods, and communities have called for restitution and protection of the civil and political rights of youth and student groups, the recognition of minorities, the restitution of property, and apologies. Marginalized regions requested basic public infrastructure; access to health services, education, and cultural resources; and the protection and restoration of the environment. There were demands from rural, marginalized regions to implement a 2017 law seeking to correct gender inequality and “positively discriminate” in favor of women.⁶¹ After grassroots organizing and mobilization by unemployed youth during and after the 2011 revolution, there were also calls to create a “social solidarity economy” that would encourage cooperatives and entrepreneurs to offer employment to young people.⁶² In June 2020, the Tunisian parliament adopted a law establishing a framework for the social solidarity economy, aiming to “promote economic and social inclusion of the disadvantaged and marginalized populations including those living in isolated, rural areas and unemployed youth.”⁶³

56 Ruben Carranza, “A Measure of Dignity: The Beginning of Reparations in Post-Revolution Tunisia,” ICTJ, May 7, 2015.

57 Government of Tunisia, Organic Law on Establishing and Organizing Transitional Justice (TJ Law), art. 10, www.ohchr.org/sites/default/files/Documents/Countries/TN/TransitionalJusticeTunisia.pdf

58 TJ Law, art. 39.

59 TJ Law, art. 41.

60 Truth and Dignity Commission, “The Final Comprehensive Report: Executive Summary,” 2019, 422.

61 See UN Development Programme, “Tunisia: Gender Justice and the Law,” 2018.

62 See International Labor Organization, “JEUN’ESS: Promotion of Social and Solidarity Economy and Creation of Decent Jobs for Tunisian Youth” project, which will run from September 1, 2019, to August 31, 2024, www.ilo.org/global/topics/cooperatives/projects/WCMS_744336/lang--en/index.htm#:~:text=It%20is%20in%20this%20context,path%20to%20the%20formal%20economy

63 See International Labour Organization, “The Tunisian Parliament Adopts a Bill on the Social and Solidarity Economy,” June 24, 2020.

While the government committed to issue a plan for implementing recommendations within a year of the publication of the TDC's final report (2019), under Article 70 of the Transitional Justice Law, no implementation plan was issued. Initial progress was made in 2020 with the nomination of the head of the Dignity Fund. However, the nation's worsening economic crisis due to the COVID-19 pandemic and rising political tensions between Islamist and secular political parties fueled arguments that reparations programs are an excessive demand from victims of the dictatorship period, most of whom are Islamists. In July 2021, the head of the Dignity Fund was dismissed, and the body dissolved.

Despite the current political and social stigma around reparations in Tunisia, victims and stakeholders in consultations held by ICTJ voiced the potential power and need for collective reparations to improve the socioeconomic empowerment and rights of women and populations in marginalized regions. Women victims believe that effective implementation of such reparations would improve the general perception of victims in the country and contribute positively to Tunisia's general development, in contrast to the claims of some politicians that reparations would be a financial drain and burden on Tunisian society.⁶⁴ Victims recognized the need to engender collective reparations, from planning to budgeting, given the country's Gender Responsive Budgeting law,⁶⁵ an initiative launched with implementation of the Development Plan 2016–2020, which established, among other initiatives, better infrastructure for psychosocial care in which women could feel safe to come forward.

In Tataouine, many considered collective memory to have a central role in advancing transformative reparations. The regime's systematic repression of the region after the 1956 Mount Agri massacre led to the emergence of stories, proverbs, and testimonies about the massacre and its aftermath as well as experiences of injustice and discrimination. Stakeholders proposed the organization of an official national funeral and a memorial to honor the victims and a tourism plan to allow visits to be organized for students and interested persons. The TDC also made recommendations on the need to continue the process of collecting and identifying victims' remains.

The primary reparations framework in Colombia is outlined in Law 1448 of 2011, also known as the Victims and Land Restitution Law,⁶⁶ which envisages reparation measures mainly centered around land restitution and monetary compensation as well as satisfaction and rehabilitation measures. Under the law, the government established institutions such as the National System of Attention and Reparation for Victims, the Land Restitution Unit, and the Victims' Unit. While the law's enactment constituted an important step towards redressing victims, its implementation faces a number of challenges. Most notably, the nationwide registry of victims currently contains more than 9.5 million victims, which amounts to approximately 18.2 percent of the country's population.⁶⁷ This generates logistical, administrative, and financial impediments to providing integral reparation. By February 2023, only 13 percent of registered individual victims had received monetary compensation, and less than 10 percent of collective victims had been repaired through the full implementation of collective reparation plans. In addition, conflict-related violence is still ongoing and producing victims. Moreover, even when reparations are awarded, they cannot always be implemented fully due to security constraints.

64 This position emerged clearly and publicly during protests that occurred on July 25, 2021.

65 Findings from ICTJ workshops in Sidi Bouzid, June 24, 2022. More information about the Gender Responsive Budgeting Law can be found at Cities Alliance, "Gender-sensitive Local Budgeting in Tunisia," 2021, www.citiesalliance.org/resources/publications/publications/gender-sensitive-local-budgeting-tunisia

66 Government of Colombia, Ley 1448 "por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones," approved on June 10, 2011.

67 Government of Colombia, "Registro Único de Víctimas" (*Unified Registry of Victims*), www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394

Given the lessons learned from the administrative reparation process, the 2016 Peace Agreement sought to address reparations with a different approach, including through restorative sanctions and reparative works implemented in tandem with structural changes needed to achieve lasting peace. Reparations are enshrined in the 2016 Peace Agreement as a guiding principle of the chapter on victims' rights: "Victims have the right to be compensated for the injury and loss suffered because of the conflict. Restoring victims' rights and changing their lives for the better, in an end-of-conflict scenario, is a fundamental aspect of building a stable and long-lasting peace."⁶⁸ Reparations are also explicitly included in a separate section of the chapter on victims that addresses comprehensive reparation measures for peacebuilding, focusing on collective reparation plans and strengthening the existing framework created by Law 1448.

The 2016 Peace Agreement does not view reparations exclusively in terms of compensation, rehabilitation, satisfaction, and restitution, but as part of a restorative justice paradigm. A guiding principle of the JEP is the application of restorative justice, which

preferably seeks the restoration of the damage caused and reparations for victims affected by the conflict, particularly to end their situation of social exclusion generated by the victimization. Restorative justice is primarily concerned with the needs and the dignity of the victims and is applied using a holistic approach that guarantees justice, truth and guarantees of non-recurrence of what has occurred.⁶⁹

Under this measure, perpetrators may be eligible for a noncustodial sentence if they fully acknowledge responsibility for violations and contribute to the clarification of truth and to reparations.

The 2016 Peace Agreement stipulates that "sanctions are required to have the greatest possible restorative and reparative function in relation to the harm caused."⁷⁰ It envisages restorative projects to be carried out in conflict-affected rural or urban areas, including through programs to build or improve infrastructure and demining activities, thus contributing to local socioeconomic development. In addition, a number of reparative measures in the agreement are linked to commitments in the chapters on Comprehensive Rural Reform, Political Participation, and the Substitution of Illicit Crops, which are meant to address the root causes of the conflict. The negotiating parties understood that measures related to strengthening the political participation of marginalized groups and the development of rural areas most affected by the conflict needed to be reparative in themselves.⁷¹ At the same time, many of the restorative projects imposed by the JEP include programs that directly relate to the country's development goals and aim to transform the structural inequalities that led to and/or perpetuated the conflict. These include rural development programs, illicit crop substitution programs, environmental recovery programs for areas affected by illicit crop cultivation, and programs in marginalized communities to improve access to basic services, such as housing, education, electricity, and drinking water.

68 Final Peace Agreement, 133, www.peaceagreements.org/viewmasterdocument/1845#:~:text=This%20Final%20Agreement%20to%20End,as%20oper%20its%20international%20standing

69 Ibid. at 154.

70 Ibid. at 174.

71 Examples include the creation of 16 special congressional positions reserved for victims' representatives from regions most affected by the armed conflict, which the 2016 Peace Agreement states are reparative because they address victims' historical exclusion and marginalization; and Development Plans with a Territorial Focus, to promote socioeconomic development in the municipalities most affected by the armed conflict.

Strategies to Operationalize Reparations Programs

Collective Action Among Victims, Survivors, and Civil Society

Collective action is a basic strategy for advocating for the operationalization of reparations programs to meaningfully address the needs of victims and survivors and help to reduce barriers to well-being and development that result from massive human rights violations. In the context of reparations, collective action can include victims and survivors advocating as part of a group of victims or within networks with civil society. Recognizing the power of collective voices, ICTJ strategically invests in local partners' capacity and fosters exchanges to establish or strengthen networks of victims and civil society. Increased collective action can constitute an element of sustainable development in itself, given its role in increasing agency, empowerment, inclusion, and social cohesion. In addition, to the extent that collective action makes the operationalization of reparations programs more likely, including by exerting political pressure on decision makers to establish a reparation program or interim measures and to make them more victim centered, it contributes to overcoming barriers to development. Moreover, when alliances and coalitions are formed across civil society actors with a range of mandates, collective action can increase the likelihood that reparations programs will contribute to changing underlying structures of marginalization.

This is true in The Gambia, where a reparations plan exists but has yet to be operationalized. In this context, civil society plays a central role in representing victims' priorities and advocating for the operationalization of national reparations, a role to which ICTJ directly contributes by supporting CSOs, establishing the first civil society coalition dedicated to reparations, and working closely with grassroots organizations outside the capital. While national consultations were held prior to the TRRC's establishment and during its operation, the TRRC engaged in a variety of outreach activities; yet, it struggled to fully overcome the absence of a tradition of civic engagement in The Gambia and a pervasive culture of fear and stigma around certain violations, especially SGBV. As a result, it was not able to facilitate participation by all victims, and it is likely that many victims were not involved in and did not register with the TRRC. As such, their experiences and reparative needs are not reflected in the TRRC's final report and recommendations. Victims have said that barriers to their direct and public participation in the TRRC has negatively impacted their ability to access reparation.⁷²

72 Gbery and Manneh, "Stubborn for Our Gender," 5.

In its final report, the TRRC recognized that many victims did not submit written testimonies or participate in the public hearings and recommended that measures be taken to ensure their cases are considered in reparations programs following the TRRC's closure.⁷³ Given deficits in victim outreach during the TRRC process that led to low participation rates among certain victim groups, victims' organizations have selected victim representatives in communities to mobilize other victims and facilitate information sharing with victims' communities. However, victims' sense of agency remains minimal, with few undertaking advocacy roles to influence the design of the reparations process. Legacies of the dictatorship—such as low levels of education and literacy and limited understanding of and exposure to democratic governance and the role of state institutions—curtails victims' ability to effectively mobilize and promote their agenda. CSOs therefore play a crucial role in empowering victims through networking, capacity building, and amplifying their voices using a range of platforms and methods.

Consultations: Consultations are being used across the country by victim-centered organizations to document past violations and the ongoing needs of victims who did not register with the TRRC. One example is the work done by Women's Association for Victims' Empowerment (WAVE), a group of women activists who promote and support the participation of women to become change agents in their journeys towards healing, reconciliation, reparations, accountability, and justice and to engage the Ndigal sect of Kerr Mot Ali, a marginalized community with traditional homeland in the Central River Region.⁷⁴ The sect has experienced gross violations of their rights. They were expelled from The Gambia by Jammeh in 2009 because they practice Islam differently. Members of the exiled community continue to live in Senegal and face ongoing marginalization. They also face restrictions on their movements, including not being able to enter The Gambia despite being born in the country, and they struggle to access health care, education, arable land, and jobs. While several Ndigal community members registered with the TRRC, WAVE's efforts have documented over 21 victims of SGBV who did not register with the TRRC due to shame, stigma, and other concerns. WAVE and other CSOs conducting similar work are playing a critical documentation role while the establishment of the TRRC successor institution and reparations body is pending.

CSOs also engage victims through consultations, to collect their opinions on the transitional justice process, assess their current needs, and use this data as a baseline to understand victims' priorities. Think Young Women, an organization working on the development and realization of the rights of young women and girls in The Gambia, uses consultations to encourage victims from across The Gambia's six regions to articulate their needs, express their expectations for the future reparations process, and discuss united messaging to support coordinated advocacy on issues ranging from monetary compensation and restitution to apologies, institutional reform, and access to services. While this can be an extremely effective approach, CSOs, especially those formed prior to 2018 and that lack a victim-centered mandate, often fall short in their communication strategies. In some instances, victims do not understand the purpose of the consultations or how to meaningfully provide their input. Further complicating matters, CSOs often cannot sustain their engagement with victims and thus cannot loop back to victims to update them on any progress or setbacks. To close these communication and engagement gaps, CSOs have begun establishing networks using WhatsApp to keep in touch with victims.

While the wide use of consultations by CSOs and state actors is a positive development, overuse without feedback mechanisms or proper communication and sustained engagement strate-

73 The TRRC's final report recommends a universal registration of victims to establish the full extent of victimhood in the Gambia. TRRC, *Final Report*, vol. 16, "Reparations and Reconciliation," 14.

74 Foroyaa, "The Troubles of Some Indigenes of Kerr Mot Ali Continue Unabated," December 19, 2022.

gies risks victim fatigue. Fatigue among victims could limit their effective representation and participation in future transitional justice initiatives, including their will to advance the reparations process. The creation of victims' networks, therefore, potentially serves a dual purpose to mitigate this risk. On the one hand, these networks may help CSOs to conduct their work in a victim-centered way, and on the other hand, the networks may simultaneously help to build victims' capacity and agency. Ultimately, given the position of victims' networks in the community, ideally they would be able to continue engagements on their own to influence the reparations process and better regulate victim fatigue.

Victim/Community Networks and Local Structures: CSOs rely on community networks to mobilize participants from different target groups. This helps to ensure that CSOs reach the right individuals and strongly ground their work in victims' specific needs and demands. Where these networks did not exist, CSOs have worked to help to establish them. This often involves working with influential community leaders, such as traditional leaders and community elders, because some community members will not participate in an activity without them. While power structures in a community can limit open dialogue and discussion, especially around sensitive topics when leaders are present, engaging influential community members—and where needed sensitizing them to human rights and gender issues—can both enhance greater community participation and, in some instances, promote more local ownership, resulting in local solutions that tend to be more sustainable and impactful. As WAVE reported:

The changed format for the Orientation Program had a better impact as it involved more people from the community and afforded us an opportunity to discuss the issues at hand with the Supreme Leader and other community elders, both male and female. This also allowed for better engagement, involvement, and local ownership of the planned activities. It also equipped the WAVE team with deeper insights into the issues affecting the community who lamented their situation and [offered] suggestions on how best to address the protracted community issues.⁷⁵

Information Sharing and Education: CSOs are the first point of contact for victims when they need information on the state of the reparations process in The Gambia, where decades of dictatorship with no tradition of civic engagement and democratic process have contributed to a severe disconnect and communication gap between citizens and the state. CSOs fill this gap in various ways, including by holding community sensitization initiatives, where information on key milestones of the reparations process is shared with victims. Think Young Women, for example, has conducted significant efforts throughout The Gambia to raise awareness about the contents of the government's reparations white paper, the TRRC's recommendations, the roles and responsibilities of state institutions, and victims' rights. It has helped to mobilize victims to feel empowered to engage their National Assembly Members to hold them accountable for implementing the TRRC recommendations and raise their voices to ensure the transitional justice process works for victims.

Think Young Women has found that many victims may not understand that not every victim is entitled to monetary reparation and there is a common misconception that monetary reparation will be distributed anytime that victims are invited to a meeting with a state institution. Its efforts have included fostering discussions with victims across the six regions to show "that reparation does not end with money" and to empower victims to see that "it is up to [them] to

75 WAVE, "Interim Report," on file with ICTJ.

say what type of reparation best suits them.”⁷⁶ This experience underlines the critical role that CSOs play in deepening victims' understanding of reparations, to manage expectations, unlock victims' effectiveness, and advance the process.

Direct Engagement with Government

While collective action among victims and civil society can constitute an element of development in itself, strategies to push for the operationalization of a reparations program often include direct engagement with the relevant government institutions. This can include advocacy, lobbying, bringing victims and community members together with decision makers, mobilizing and training victims to take a leading role in the process, and raising awareness among legislators and policymakers. The government targets of this work include not only the bodies in charge of transitional justice policies, like the Ministry of Justice, but also a range of other ministries and departments involved in the implementation of comprehensive reparations, including the Ministries of Finance, Welfare, Land, Health, and Education, and legislative bodies such as parliaments and national assemblies.

In Uganda, survivor-led advocacy initiatives have engaged the government in different ways. Survivors have used the advocacy skills they have gained through trainings with CSOs, supported by ICTJ, to advocate for their right to a remedy with policymaking organs at the local and national levels, including with the speaker of the parliament, ensuring that reparations remains a prominent feature in the national discourse, despite the lapse of time since atrocities were committed. Survivors' voices were critical, for example, in maintaining the momentum of the reparations process, for instance, by petitioning Parliament in 2014, which led to the adoption in 2019 of the NTJP, providing for administrative reparations. Another petition to the Parliament in 2019 reignited the conversation about victims' needs for urgent interim assistance measures and led the Office of the Prime Minister to work with civil society to identify survivors and provide them with interim support through recovery and reconstruction programs. While this process was disrupted by the COVID-19 pandemic, survivors continue to lobby members of parliament and local leaders for measures to redress the harms that they endured during the conflict.

In Colombia, the Victims and Land Restitution Law created national, regional, and local participatory bodies comprised of CSOs and victims' groups. Victims have used these spaces to influence the design and implementation of reparations programs. Over the years, victims have also frequently organized to propose legal reforms in alliance with members of congress and advocate for extending the law until 2031 (a demand that was upheld by the Constitutional Court in 2019). Similarly, many victims and CSOs lobbied for the inclusion of the truth commission's recommendations on the National Development Plan—with many recommendations to create measures to transform the socioeconomic conditions of marginalized communities. While this effort was ultimately unsuccessful due to a lack of political support in congress, it underscored civil society and victims' consensus around the need for structural reforms.

In addition, ICTJ has supported strategic alliances among Colombian CSOs to bring together victims and jointly present their cases to the transitional justice mechanisms. Such alliances have been crucial to ensure broader access to the JEP, given that its case documentation standards often exceed the technical capacities of smaller organizations. Since the JEP does not investigate crimes on a case-by-case basis, but rather focuses on identifying macro-criminal patterns

76 Think Young Women, “Interim Report,” on file with ICTJ.

of violence, many victims have organized to collectively participate in JEP proceedings and put forward their reparations demands. This strategy has served to create support networks for victims and encourage them to report their cases, often for the first time. For example, ICTJ partner organizations that documented SGBV before the JEP had reported that many victims who previously refrained from seeking redress due to fear of retaliation or stigmatization felt safer doing so alongside other victims and with the support of CSOs. Victim participation has been an important component of the JEP's restorative and dialogue-based approach. Since it began operations in 2018, it has received approximately 830 reports from CSOs,⁷⁷ and over 8,400 victims have been represented in its judicial proceedings.⁷⁸

In The Gambia, civil society plays a key role in bringing together victims and government decision makers so that victims can voice their expectations and needs, to influence the reparations process. To make their voices heard, most victims rely on consultative activities organized by CSOs or the government to relay information to policymakers. For instance, during regional consultations on the Victims' Reparations Bill organized by ICTJ in collaboration with the Ministry of Justice,⁷⁹ victims underscored their priorities for a future reparations process, which to a degree is reflected in the Victims' Reparations Bill. Most notably, victims' input reflects the need to improve the criteria for selecting commissioners, adding a second registration process, enhancing standards of evidence, and establishing an appeals mechanism. When WAVE meets policymakers, it invites victims' representatives from marginalized victim communities, such as Kerr Mot Ali and those harmed by Jammeh's "witch hunts," to attend and participate.⁸⁰ While the inability of some victims to directly engage with decision makers limits their potential impact, these interactions do raise awareness of victims' situations and rights and help policymakers to frame victims' demands for reparations as part of the larger process of pursuing peace and justice.

Moreover, these connections can mobilize victims to take on more of a leadership role. Victim-focused organizations like WAVE are using these engagements to help identify opportunities for victim engagement to promote their leadership and strengthen their lobbying capacities. In December 2022, for example, WAVE arranged for victims to address the Standing Committee on Human Rights and Constitutional Matters when CSOs and the National Human Rights Commission engaged National Assembly Members on the TRRC recommendations and the transitional justice process. At the local level, participants in Think Young Women's activities identified the Village Development Committees, located in every village, as opportunities to harness support for operationalizing reparations, given their function as links between the community and governance structures.⁸¹ However, engagement with committees in this capacity remains in the early stages.

Until recently, the role of National Assembly members in the transitional justice process has been overlooked, with the Ministry of Justice seen as the primary state actor by CSOs and victims. This view is shifting, however, as the transitional justice process enters a new phase. Prior to this, the Constitutional Review Commission was the only transitional justice process that underscored the importance of engaging the National Assembly. Yet, the National Assembly can

77 For annual statistics published by the JEP (last updated June 2022), see JEP, "Informe Estadístico No.1-2022," 34, www.jep.gov.co/InformesReportesEstadisticos/Infome%20estad%CC%81stico%201%20semestre%20de%202022.pdf

78 JEP, "Monthly Statistics Bulletin," September 22, 2023, www.jep.gov.co/jepcifras/JEP-en-Cifras-septiembre-22-2023.pdf

79 ICTJ Consultations, June 2022.

80 From 2008–2009, Jammeh leveled allegations of witchcraft against innocent citizens, including the elderly. Some died by being forced to drink a poisonous herb. Banna Sabally, "FACTSHEET: What You Should Know About Yayha Jammeh's Witch-Hunting Exercise," FactCheckGambia, August 7, 2022.

81 Government of The Gambia, The Local Government Act of The Gambia 2002, as amended in 2015, www.thegambiatimes.com/the-local-government-act-of-the-gambia-2002

also hold the government directly accountable for the delivery of the reparations process. For example, in November 2022, at the request of the Standing Committee on Human Rights and Constitutional Matters in the National Assembly, the Minister of Justice shared updates and answered questions from National Assembly members on the post-TRRC implementation process and the reparation process.⁸²

While the National Assembly's role in monitoring the government can sometimes be limited by inadequate knowledge or information on matters relating to the transitional justice process, particularly reparations programs, certain victim-focused CSOs have taken up the initiative to engage it and raise awareness, especially about the TRRC recommendations that need to be implemented. While victims have expressed little faith in the National Assembly to respond to their needs, Think Young Women has underscored to victims their right to engage the institution and their powers to hold members accountable. Victims who have been engaged in the process through CSOs since the beginning of the transitional justice process show the impact of engaging in legislative lobbying. Their meetings and participation in workshops with National Assembly members supported the passage of the country's Prevention of Torture Act (2023). This same strategy has been used to ensure that the National Assembly enacted the Victims' Reparation Bill. The ICTJ-supported CSO Coalition on Reparations and Gender, for example, leveraged a forum on the reparation bill to mobilize victims and arrange for them to meet elected members who they felt could support the bill when it goes before the National Assembly.⁸³

The government has increasingly used a consultative and victim-centered approach that gives space to victims to share their views on the design of reparation measures. The Ministry of Justice generally works with the support of CSOs, including ICTJ, to ensure that the process remains consultative and reflective of victims' needs. These consultations help to keep transitional justice issues on the national agenda and provide victims with a greater understanding of the process, which can encourage victims' participation on a larger scale. The recent enactment of the Victims' Reparations Bill that is generally reflective of victims' demands can be considered as a consequence of these engagements. While state actors are improving, a victim-centered approach has not yet been fully mainstreamed. A mere five years into The Gambia's transition to democracy, civic engagement by the government and democratic practice is still being consolidated.

82 Yusef Taylor, "Justice Minister Responds to Parliamentary Question on TRRC Implementation," Gainako, December 8, 2022.

83 ICTJ, Information-sharing Session on the Victims' Bill, November 2022.

Complementary Pathways to Reparation and Victim-Centered Development Policies

Direct Support to Victims and Affected Communities

In contexts where a formal reparation program has not been implemented or is not expected to be implemented in the near future, civil society actors can step in, working on their own initiative to provide direct support to victims and affected communities. ICTJ has developed strategic and long-term partnerships with local organizations, empowering their work as well as progressively and sustainably building their capacity to deliver interventions in local communities. The ongoing nature of ICTJ's partnerships enables local groups, who know the needs of their communities best, to seize emerging opportunities and design and implement innovative programming. These initiatives can take a range of forms—including assistance in the areas of collective healing, child tracing, financial support, livelihoods, housing, land, education, health care, psychosocial support, skills training, legal aid, arts, and reintegration—all of which have a direct bearing on development. This type of support has been shown to be particularly valuable for vulnerable and marginalized victim groups, including victims of SGBV and children born of war. However, given that this type of initiative often operates at the community level, where patriarchal systems and views may be prominent, efforts such as community sensitization may be needed to minimize or overcome stigmatization associated with participation. While this form of support can help to partially fill the gap left by the absence of a reparations program and inadequate development programs, however, it does not involve state acknowledgment of wrongdoing and therefore does not fulfill the obligation to repair. While it can offer valuable lessons for future reparations programs, it may not return victims to the dignified position within communities the way that reparations programs can.

In The Gambia, CSOs with direct connection to victim communities have provided or facilitated some forms of direct assistance to victims, especially mental health and psychosocial support. For example, WAVE mobilized funds for victims to receive medical treatment. At an ICTJ-organized consultative workshop, one victim from Kerr Mot Ali discussed how WAVE paid his medical bills: “I am grateful to WAVE, which supported me in my healing journey. Considering that I used to have problems urinating to now doing it with ease is truly a blessing. However, I have not fully recovered and would like the government to work on reparations, so I can get the necessary medical attention.”⁸⁴

84 ICTJ consultative workshop, Banjul, March 31, 2023.

CSOs also support victims' networks and organize consultations to help to identify alternative approaches to address the urgent needs of victims. For example, WAVE's work with the Women's Support Group in Kerr Mot Ali introduced the idea of mental health and psychosocial support for victims. In response, the community identified 20 individuals who would benefit from a mental health psychosocial session and called for this to be an ongoing element of WAVE's engagement. The Women's Support Group also provided a safe space for 60 female members to discuss their experiences and identify local initiatives of support, focusing on children who had never had access to a medical doctor or formal education and women whose identity cards had been confiscated by the police.

In Northern Uganda, victims' groups and CSOs have been at the forefront of advocating for reparations and measures for redress. However, pending the government's establishment of a comprehensive reparations program, they have also spearheaded initiatives at the community level to provide support and interim relief to victims. These initiatives offer valuable lessons to inform the design and implementation of survivor-centered reparations programs.

Survivors have formed groups that serve as platforms for peer-to-peer support, providing a safe space for sharing experiences, solidarity, and collective healing. As one survivor noted, "Prior to joining the victims' group, I was in a really bad place mentally, but after joining the group and members started sharing, I realized that I am not alone. I am better now."⁸⁵ Survivor groups have also contributed to improving survivors' economic situation by providing them with financial support, income-generating opportunities, and skills development. For example, WAN members are supported to make crafts and bags that they can sell collectively to generate income to sustain themselves and their children.

Survivors have also received psychosocial support, skills training, and economic and medical support through CSOs during the process of resettlement and reintegration. While many organizations have assisted female SGBV survivors, a few have provided medical and psychosocial support to male survivors who can face discrimination when they access government health facilities.⁸⁶ Organizations like the Justice and Reconciliation Project (JRP) have supported survivors to form groups, document their experiences through storytelling, and create opportunities for peer-to-peer support and healing. CSOs have also supported broader reconciliation efforts and reintegration of victims through community dialogue, healing ceremonies, and awareness programs. Some have supported documentation, remembrance, and memorialization efforts as well.⁸⁷

Religious groups and missions have supported survivors in the process of resettling after captivity. These groups and individual donors have provided psychosocial and financial support to survivors. Religious leaders play a crucial role in facilitating collective and individual healing through various means, such as guidance, counseling, prayers, and memorialization. Many CSOs collaborate with or seek assistance from religious leaders, who advocate for and lobby on issues that affect victims, standing with victims to ensure that they do not feel alone in their suffering.⁸⁸

A particular area of direct support in Northern Uganda is child tracing. To address the identity challenges faced by children born of war, WAN initiated a project that entails a process of locat-

85 Focus group discussion with female victims from West Nile, Gulu, May 2021.

86 These include the African Youth Initiative Network, JRP and the Refugee Law Project.

87 The Refugee Law Project established the National Memory and Peace Documentation Centre, an archive of memories and experiences of conflict to provide a holistic record of history, provide a platform for healing and dialogue, and educate future generations. The JRP has also documented several incidents of mass atrocities in Northern Uganda.

88 Prayer holds significant importance, as exemplified by the annual gathering each May 19th to remember the Lukodi Massacre. Similar prayers in Atiak aid in the memorialization and healing process. The organization known as Acholi Religious Leaders Peace Initiative has actively advocated for the needs of victims and survivors of the conflict.

ing a child's paternal clan, which is often unknown due to the circumstances of their birth.⁸⁹ The aim is to locate and forge a relationship with the child's paternal family to secure recognition, identity and citizenship rights, land, inheritance, and assistance for the child. These efforts are aimed at protecting the best interests and welfare of children born of war through a community peacebuilding process.⁹⁰ The process involves local leaders, paternal and maternal clans, elders, and civil society actors. In cases where the family accepts the children but lacks financial means, Watye ki Gen supports the family by providing one million Ugandan shillings (approximately \$250) to purchase a cow. The organization collaborates with World Vision, a global Christian humanitarian organization, for this support.

The child-tracing process is not without challenges. In some cases, the children are rejected by the paternal family because they assume the child might possess the same spirits (or *cen* in Acholi) that made the father commit crimes. This can be a traumatizing event for the child and requires community safeguards at each stage to prevent further traumatization.⁹¹ The process also risks legitimizing men's superior status in society and entrenching gender inequality by elevating the identity and social standing of the male perpetrator of violence over that of the mother. Child tracing demonstrates how well-intended initiatives that may respond to cultural and social needs risks entrenching a patriarchal system. It is therefore important for reparatory efforts to reflect the principle that reparation should be transformative, as articulated in the Nairobi Declaration,⁹² to ensure that reparations help to improve the overall living conditions of women, rather than reinforce unjust systems.

Survivor groups have also provided other types of support and opportunity for the reintegration of children born of war and their families. This includes a fundraising initiative aimed at providing scholarships to children born in captivity and offering guidance to schools on tackling the stigma against them. Watye ki Gen, which effectively fundraised resources to acquire land and construct affordable housing for 30 of the most vulnerable children born of war, reports that 17 mothers and their children born of war have received support to continue their education and have successfully reintegrated into their communities.⁹³ The impact of these efforts extends beyond individual beneficiaries. Survivor groups are actively working with schools to address the stigma often associated with children born in captivity. By providing guidance and education to schools, they aim to create inclusive and supportive environments where these children can thrive without fear of discrimination or prejudice.

Creative arts, such as music, dance, and drama, also play a significant role in fostering the reintegration of victims and addressing the issue of stigma. Organizations like WAN and Golden Women's Vision Uganda have harnessed the transformative power of art to raise awareness about the experiences of victims of conflict-related sexual violence and children born of war, promote acceptance, facilitate reintegration, and end stigma. The creative arts offer an effective approach to initiate dialogue, challenge stereotypes, and increase awareness of the detrimental impact of conflict-related sexual violence. Through art, these groups can create a powerful platform to convey the stories and struggles of survivors, shedding light on their experiences and the stigma they face.

89 Tinashe Mutsonziwa, Ketty Anyeko, Erin Baines, Grace Can, and Evelyn Amony, "Child Tracing in Post-conflict Northern Uganda: A Social Project to Unite Children Born of War with their Paternal Clans," Women's Advocacy Program and The School of Public Policy and Global Affairs, University of British Columbia, 2018.

90 Ibid.

91 Ibid.

92 Nairobi Declaration on the Right of Women and Girls to a Remedy and Reparation, International Meeting on Women's and Girls' Right to a Remedy and Reparation, Paris: International Federation for Human Rights, 2007.

93 Angela Lakor, Executive Director Watye Ki Gen, Key informant interview, Gulu, August 2022.

Among the challenges and lessons learned in providing support to victims is that many still fear disclosing their sexual abuse to their families and communities because of the resulting stigma that could lead to their rejection and ostracization. Some mothers have not informed their children about the circumstances of their birth. One survivor noted, “Some people’s partners and families do not know what happened to them, so any reparations program should be mindful of attitudes, prejudices, and assumptions and be able to also support those who do not want to identify themselves as victims.”⁹⁴ Any reparation process, therefore, must take this into account and ensure victims’ anonymity.

There is also a risk of jealousy and revictimization by family and community members if victims receive benefits that others do not. One respondent reported, “People are not happy to see support given to returnees. They allege that abductees participated in atrocities and don't deserve anything. Even when we want to participate in a program like this, we have to sneak away.”⁹⁵ An effective approach to the sensitization of communities on reintegration is to involve some of the most vulnerable members of the community in business skills training alongside formerly abducted individuals while also providing them with financial support, with community participants selected in collaboration with local council authorities and traditional leaders. The JRP, for example, has held community dialogues and awareness campaigns to promote public support for formerly abducted individuals, while community members were invited to participate in capacity building training focused on financial management skills, income generation, and other relevant areas.

Victim-Sensitive Development Policies

In addition to providing direct support, another strategy outside of the framework of an official administrative reparations program is to advocate for development policies and programs to become more oriented to the needs of victims and affected communities at both the national and local levels. In most cases, the government’s development priorities in transitional periods will focus on general infrastructure reconstruction and economic development, not the specific obstacles to well-being faced by victims and communities as a result of violence and repression. Opportunities may exist, however, to develop synergies between these outcomes. Development plans, for example, in areas such as poverty reduction, land, education, and health can facilitate or reinforce the operationalization and impact of reparations programs. Moreover, development programs that are not labelled as “reparations” can nevertheless prioritize victims and affected communities, addressing their needs and potentially providing building blocks for future reparation. This may be an underutilized avenue of advocacy, because victims and civil society often do not see development programs through a transitional justice lens or know about them, while governments often ignore the reparative potential of development programs. But this approach also raises the risk of conflating reparation with development.

In The Gambia, the transitional justice and reconciliation agenda is embedded in the development priorities established after the dictatorship period. The National Development Plan, 2018–2021, the first development plan following Jammeh’s rule, articulated a vision for a “new Gambia” that respects good governance; economic, social, and political rights; accountability; transparency; social cohesion; reconciliation; and empowered women and youth.⁹⁶ It also underlined that respect for human rights would be improved through the newly formed entities of

94 Focus group discussion with male and female victims from Lango region, May 2021.

95 Ibid.

96 National Development Plan (2018–2021), December 2017, <https://gambia.un.org/en/98394-national-development-plan-2018-2021>

the TRRC, the National Human Rights Commission, and the Anticorruption Commission.⁹⁷ While the mid-term evaluation of the National Development Plan highlighted establishing the TRRC as a key milestone toward achieving good governance, respect for human rights, rule of law, and empowering citizens (Strategic Priority 1), it did not acknowledge the post-TRRC phase as crucial to advancing these goals.⁹⁸

With the end of the first development plan, the Gambian government set out to develop two new plans, the Green Recovery Focused National Development Plan, 2023–2027 (RF-NDP) and the Long-Term Development Vision (Vision 2050).⁹⁹ The RF-NDP, which came out of consultations held in 120 wards and local government authorities across The Gambia,¹⁰⁰ draws on the TRRC's recommendations, especially regarding prosecutions, transformative reparation, and institutional reform. While the design of the RF-NDP was led by an intersectoral committee that included the Ministry of Justice (which leads the coordination of the reparations process), it is unclear how interconnected the goals of the RF-NDP and the government TRRC white paper will be during implementation and whether the eventual priorities will address victims' reparative needs.

Development programs should be seen as key ways to reinforce effective reparation and ensure victims can benefit from reparation. The National Development Plan identifies as key priorities health, education, security sector reform (SSR), and access to justice, which can all be linked to reparation per the TRRC's recommendations and the government white paper. Each theme speaks to a need for reparation articulated by victims in connection with the harms they suffered: access to health care, educational support for their children, and livelihood support for lost earnings.¹⁰¹ The TRRC, for example, recommends that certain groups of victims receive free medical care for their conditions, while others are entitled to educational scholarships.¹⁰² However, these reparations will not be effective or actualized if the necessary infrastructure (mainly, medical centers and schools), are located too far away or remain ill equipped. That requires the assessment of a range of responsible government actors beyond the Ministry of Justice, including the Ministry of Finance and Economic Affairs; the Ministry of Basic and Secondary Education; and the Ministry of Gender, Children and Social Welfare.

In practice, however, the transitional justice process in The Gambia was disconnected from the National Development Plan. Development plans fall under The Gambia's Ministry of Finance and Economic Affairs, while the transitional justice process is coordinated by the Ministry of Justice. And although the plan and RF-NDP were developed consultatively, the process was not victim centered. CSOs with general human rights mandates were invited to participate, but the few victim-focused CSOs operating in The Gambia were, by extension, excluded. Therefore, CSOs and victims tend not to consult the plan or The Gambia's Ministry of Finance and Economic Affairs to advance their needs. Moreover, for many CSOs, connecting development and reparation is premature. Capacity building and passing the Victims' Reparations Bill have been their priorities. Local CSOs and victims' groups, therefore, generally address these issues separately and pay less attention to the content of development policy documents (including the National Development Plan, RF-NDP, and social protection policies).

97 Ibid at 17.

98 National Development Plan Mid-Term Evaluation, 25–27.

99 The Gambia, Ministry of Finance and Economic Affairs, *Formulation of New Long Term Development Plan (Vision Plan)*, <https://mofea.gm/formulation-of-new-long-term-development-plan-vision>

100 Republic of The Gambia, Ministry of Finance and Economic Affairs, *Letter to the UN Resident Coordinator*, November 21, 2022, on file with ICTJ.

101 These priorities were also reiterated during Think Young Women's activities with victims and WAVE's project with the Kerr Mot Ali community.

102 TRRC, *Final Report*, vol. 16, "Reparations and Reconciliation," 15.

Nevertheless, some initiatives organically connect addressing victims' needs and development. When WAVE facilitated the first-ever official meeting between government actors and representatives of the Ndiga community, for example, among the issues raised was ensuring children's access to education beyond religious training programs. Since the meeting, 19 students have been enrolled in school, something that has not been possible in the 14 years that the community has lived in exile, and a conversation has begun on how to increase the community's access to health care.

In Uganda, development agendas have been at the forefront of government priorities. Prior to adopting the UN Sustainable Development Goals (SDG) in 2015, the government adopted its Vision 2040 in 2013, seeking to develop the country under the principles of prosperity and modernization.¹⁰³ In 2016, it bolstered the enactment of the National SDG Coordination Framework, an institutional effort to implement and monitor the country's 2030 Agenda.¹⁰⁴ More recently, the government and the United Nations Development Programme developed the UN Sustainable Development Cooperation Framework (UNSDCF) 2021–2025 for Uganda, a guiding document for the implementation of the strategic priorities of the 2030 Agenda consonant with the National Development Program for 2020/21–2024/25 jointly.¹⁰⁵

Under the National Development Program, the government aims to achieve good governance, promote the rule of law, and strengthen transitional justice and informal justice processes. These objectives are to be pursued through the implementation of the NTJP, which includes provisions for reparations. Moreover, the UNSDCF emphasizes transformative and inclusive governance, with a particular focus on peace, justice, and security. Although the program and UNSDCF do not explicitly mention reparatory measures, both frameworks prioritize access to justice, which encompasses the provision of reparations.

The government continues to prioritize development and recovery programs in Northern Uganda to rebuild key sectors, such as health, education, and water, which were destroyed during the conflict. Programs such as the Northern Uganda Peace, Recovery and Development Program, implemented in three phases (I, II, and III), and the Northern Uganda Social Action Fund have prioritized infrastructural development and economic empowerment programs. They were not designed to respond to community challenges such as post-conflict trauma, medical and recovery needs of victims of SGBV crimes, or the stigma faced by children born in captivity and their mothers. As such, although much has been done in the area of development, there have been no tangible results or transformations in the lives of victims.¹⁰⁶

In light of these national and regional development priorities and the delay in implementing the NTJP and reparations program, victims and CSOs have advocated for the utilization of available government local development programs to address urgent issues affecting victims. Organizations such as the JRP and Gulu Women Economic Development and Globalisation (GWEDG) have encouraged community groups to request support from local government while they simultaneously lobbied local governments to adopt an affirmative action approach in favor of victims in implementing local development programs. This entails allocating a quota or percentage of support specifically for these groups.

103 Government of Uganda, "Uganda Vision 2040," www.gou.go.ug/content/uganda-vision-2040#:~:text=Uganda%20Vision%202040%20provides%20development,approved%20by%20Cabinet%20in%202007

104 Office of the Prime Minister–Uganda, "Sustainable Development Goals," <https://sdgs.opm.go.ug/>

105 United Nations–Uganda and Government of Uganda, "United Nations Sustainable Development Cooperation Framework 2021–2025," 2020, <https://unsdg.un.org/sites/default/files/2020-11/Uganda-UNSDCF-2021-2025.pdf>

106 Sarah Kasande Kihika and Eva Kallweit, "Building Blocks for Reparations: Providing Interim Relief to Victims Through Targeted Development Assistance," ICTJ, 2020.

Explaining this approach, a representative of GWEDG stated, “When we access some of these grants, it can help repair the damage suffered by victims. Therefore, we urge local leaders and sub-county technocrats to implement affirmative action by allocating two grants out of ten to victims who have endured hardship.”¹⁰⁷ The JRP has engaged in dialogues with local councils, advocating for the approval of a quota of government funds to assist victims' communities during district council meetings and resolutions. In these dialogues, it has already raised awareness among local government officials about the importance of providing grants to support the local population.

In some instances, however, these advocacy efforts have faced obstacles as technocrats assert their adherence to local or central government policies. Some also lack the knowledge of victim-centered approaches to service delivery in conflict-affected areas. To address this, local groups and organizations held training sessions and dialogues for local government officials, to increase their awareness of victims' needs and experiences and how these could be addressed within local government programs. ICTJ and JRP have convened meetings with local government stakeholders to highlight opportunities for local governments to contribute to reparations for victims independently. These interactions are conducted in collaboration with victims' groups that have been empowered to access grant opportunities at the local government level.

107 Key informant interview with representative of GWEDG, August 2022.

Operational Challenges

In the difficult contexts following violent conflict and repression, CSOs face a series of significant challenges in the operationalization of their efforts to advocate for and shape reparations programs, provide support directly, and make development policy more victim centered. This includes having limited data about victims and their harms and needs, which hinders the effectiveness and reach of reparations. Another challenge is limited coordination, which can be due to a lack of capacity and experience in civic engagement, especially if organizations with differing mandates and objectives compete for support and opportunity. Lack of coordination among government institutions may exacerbate the problem, reducing the impact of CSO's direct engagement with government. In addition, local actors, especially those at the grassroots level, face challenges in accessing funding due to limited capacity, procedural barriers, and divergence from donor priorities. Finally, civic space is often limited by restrictions, fear of reprisals, and government interference, which speaks to the need for broader reform.

Data

In both The Gambia and Uganda, limited data about victims presents a challenge for reparations programs. In The Gambia, better data collection and management of victims' details would improve transparency and accountability of the process, but also shape the reparations program in terms of formulating priority areas and strategy. If the data collected lacks certain gender considerations, for example, the result would be a program that is not gender sensitive. A 2019 ICTJ report titled "Women's Experiences of Dictatorship in The Gambia," based on "talking circles" organized by local women's groups and mothers' clubs to document their experiences during the dictatorship, is a good example of gender-sensitive data gathering that can inform reparations policymaking.¹⁰⁸ Because its focus goes beyond sexual violence to document gender-based violations of women's social and economic rights under the dictatorship, it is also a good example of how data-driven reparations policymaking can, in turn, inform development policy. CSOs, especially victim-focused organizations, have highlighted the limited availability of relevant data going back to the TRRC's period of operations, when poor documentation of victims' records was flagged, possibly due to the absence of a comprehensive documentation strategy. In Uganda, there is limited data on the number of victims and the extent of harm they suffered, though this information is needed to provide a baseline for the establishment of targeted reparations programs. Local governments do not have the names of victims, includ-

108 ICTJ, "Women's Experiences of Dictatorship in the Gambia," ICTJ, 2019.

ing missing persons, or information on how people suffered during the conflict.¹⁰⁹ The lack of information is attributed mainly to the limited documentation efforts and, to a lesser extent, the fact that some victims are uncomfortable disclosing their experiences to state officials.

Coordination

In The Gambia, a vibrant civil society is still developing, with many CSOs in their first years of operation, with only limited capacity, expertise, and resources. As a result, these organizations often prioritize work that builds capacity, raises awareness, and identifies or establishes fundamental democratic pathways. However, they are not always able to satisfy victims' demands for advocacy support because of competing priorities within their own organization's objectives and long-term plans. This is particularly true of CSOs formed without a mission related to transitional justice. Nonetheless, they are still often better equipped to engage on reparations and other transitional justice elements than CSOs formed during the dictatorship, because victim-centered and transitional justice approaches are more readily integrated into their operations.

Yet, despite the new civil society's commitment to the transitional justice agenda, they still face the same resource, capacity, and other structural challenges that civil societies face elsewhere. For instance, rather than work together, they tend to conduct isolated initiatives and thus risk duplicating and limiting the impact of their interventions. Although this situation is unsurprising, ultimately the lack of coordination results in missed opportunities to learn from and strategize with each other and proactively initiate joint advocacy work. While some coordination structures exist,¹¹⁰ competition over resources and their limited capacity for coordination renders the structures defunct. As such, CSOs require technical support to build their capacity and improve communication and engagement strategies among local actors.

Similar coordination and communication gaps can exist between and among government actors and their constituents, with similar ramifications for efforts to implement reparations. In Colombia, for example, the JEP's macro processes were not designed to address the multiple reparation demands that continue to exist at the individual level, though fulfilling them will likely depend on effective coordination with state institutions, like the Victims' Unit. In The Gambia, where several government entities are mandated to play crucial roles in the process, it is unclear if there is any coordination. Transitional justice remains siloed, despite the government white paper's calling on multiple ministries to coordinate implementation of the TRRC's recommendations on reforms, development, and reparations. The Gambian Ministry of Justice is the only government entity seen to be coordinating the reparations process and, therefore, the sole entity targeted on reparations by CSOs. Discussions linking reparations to the RF-NDP, which is within the purview of the Ministry of Finance and Economic Affairs, is largely absent, although the government called for the integration of recommendations from the TRRC's Reparations chapter into national development programs, for instance, to provide medical care to victims.¹¹¹ Consequently, connections that would promote and support the operationalization of holistic reparation are not being made.

This lack of coordination among government actors has direct implications for victims, the consistency of the government's approach to its obligations, and the perpetuation of the com-

109 Lira validation meeting, July 25, 2019.

110 Coordination structures include a platform established by the Ministry of Justice for victim-led organizations, a civil society platform created by the American Bar Association, the Transitional Justice Working Group, and a civil society group Coalition on Reparations and Gender established by ICTJ.

111 The Gambia, "White Paper on TRCC," 150, par. 527.

mon objection that there are insufficient resources for reparations. Despite the government's public statements of commitment, the disconnect ultimately decreases Gambians' confidence and trust in the government to deliver on its promises. For example, although the government issued its TRRC Implementation Plan (2023–2027), it has yet to clarify where the money to pay for it will come from, including the additional \$1 million USD that is to be allocated to the TRRC to complete the distribution of monetary reparations. This uncertainty is made worse by the lack of clarity on the extent of the Ministry of Finance and Economic Affairs' engagement on the Victims' Reparations Bill. These ambiguities present a dilemma for victims who prioritize monetary compensation over services like education or health care due to a lack of trust in the government's commitment to paying for or providing such services now or over the long-term. As delays and poor coordination and communication continue, victims' motivation to engage in efforts around reparations and civil society's ability to manage expectations will likely degrade.

In the face of these challenges, efforts are underway to improve coordination and establish coalitions and alliances among CSOs. Initiatives by ICTJ to bring together CSOs and victim-focused organizations to discuss the reparations process and strategize on the best approaches have proven to be effective. The CSO Coalition on Gender and Reparations, established by ICTJ, for example, designed a strategic workplan that includes a mapping of state agencies with responsibilities concerning reparations, to be followed by bilateral meetings with identified stakeholders to discuss their respective roles in the process. In addition, civil society is also showing greater solidarity and complementarity in the implementation of its activities and now sometimes conducts programs jointly. For instance, the CSO FANKANTA invited WAVE to provide psychosocial support during an activity, and the two have jointly trained staff, especially in the areas of mental health and psychosocial support. Another example is the ad hoc coalition established between WAVE and the women's rights CSO YAKAAR (meaning "hope" in Wolof), which monitored and shared information about the reparations program executed by the TRRC beginning in July 2021, before it closed its operations. With regard to the design of victims' reparations bills, a joint coordination platform between the Ministry of Justice and victim-focused CSOs allowed for increased information-sharing from CSOs to victims. It also allowed CSOs to observe the process and engage the Ministry of Justice to ensure that the process will be victim- and gender-responsive and that victims' expectations are managed.

Funding

Despite playing a direct and vital role in promoting healing, reconciliation, and facilitating the reintegration of victims into their communities, local survivor groups in Uganda face significant challenges when it comes to accessing funding opportunities. The current funding model predominantly favors national and international organizations that already have well-established systems and meet the required funding criteria. For instance, securing funding from the European Union requires the ability to provide 10 percent co-funding, which poses a significant challenge for grassroots organizations. Unfortunately, this model tends to exclude survivor groups working at the grassroots level that are at the forefront of driving community transformation and advocating for justice. Donors typically opt to fund larger organizations that then fund local organizations, often through subgrants. For example, Watye Ki Gen received a substantial three-year grant from World Vision, the largest grant it had received to date, and has obtained subgrants from ICTJ to support its research and documentation work.

Grassroots organizations also face challenges accessing funding due to systemic barriers, such as limited capacity, complex application processes, inaccessible funding avenues, and stringent

funding conditions. Many grassroots organizations lack the capacity and systems to manage substantial financial resources. Additionally, they often struggle with navigating complex, bureaucratic application processes, limiting their ability to secure funding. Moreover, in Uganda the recent suspension of the Democratic Governance Facility, a basket fund that provided funding to grassroots groups working on transitional justice, compelled numerous CSOs to establish bilateral arrangements with donors, such as embassies and foundations. However, these alternative avenues may not be accessible to grassroots groups. While many donors offer short-term grants tied to specific projects, these grants often do not include funds that can be allocated to cover core costs, such as rent and building upkeep, that grassroots organizations desperately need to build their capacity and grow their operations.

Another significant issue arises from the divergence between donor priorities and the objectives of frontline grassroots organizations in the realm of transitional justice. For example, the work of women's survivor groups to combat the stigma and rejection faced by children born of war often goes unfunded. Similarly, other grassroots organizations undertaking initiatives aimed at livelihood and economic empowerment that enable survivors to build resilience and address their immediate needs before actively participating in discussions and advocating for justice may struggle to secure funding support because they do not often fall neatly into donors' strategies for transitional justice.

Civic Space

In The Gambia, decades of repression and restrictions on civic engagement and the rights to freedom of expression, freedom of association, and peaceful assembly impact almost every element of local actors' work and citizen-state relations more broadly. Well-established practices in democratic states around civic engagement and participation and holding the state accountable remain relatively new in The Gambia. The country's restrictive Public Order Act,¹¹² which has not been repealed, is still used sometimes to prohibit demonstrations, even after Jammeh's departure.

In Uganda, the past 10 years have seen an increase in the curtailment of civic space through the enactment of laws and policies that limit fundamental freedoms. The imposition of draconian laws such as the Public Order Management Act,¹¹³ which regulates public meetings, and the Non-Governmental Organizations Act of 2016,¹¹⁴ which regulates and monitors CSOs, and their complex compliance requirements continue to hinder effective civil society organizing.

Victims are particularly impacted by these restrictions, as their attempts to hold public gatherings without police approval are frequently disrupted. Police officials often impose arduous conditions on organizations seeking to conduct consultations or organize public events. Failure to comply with these requirements often results in the suspension or termination of their activities. Further, organizations and groups advocating for redress and accountability frequently face intimidation and harassment from state officials. As a result, many organizations self-censor to prevent their registration documents from being revoked. This environment of fear and pressure severely limits the ability of victims' groups to operate freely and actively pursue the goals of justice and accountability. To help counter those challenges, ICTJ is providing capacity support to local organizations and victims' groups on how they can comply with legal requirements while pursuing their work.

¹¹² The Republic of the Gambia, Public Order Act, Act No. 7 of 1961, amended by Act No. 29 of 1963, Act No. 5 of 2009, <https://security-legislation.gm/document/public-order-act/>

¹¹³ The Republic of Uganda, The Public Order Management Act, 2013, www.refworld.org/pdfid/5200a77c4.pdf

¹¹⁴ The Republic of Uganda, The Non-Governmental Organizations Act, 2016, <https://mia.go.ug/resources/acts/non-governmental-organisations-act-2016>

Another challenge is governmental interference in CSO operations. Some government operatives, for example, pressure CSOs to modify their programs' implementation strategies, target certain beneficiaries, and even alter their messaging to align with government interests. This interference not only undermines the organization's mandate and objectives but also compromises its overall work. Consequently, the organization runs the risk of becoming partisan, leading to the departure of beneficiaries.

The JRP, for example, has encountered instances where its attempts to document a massacre were halted and only allowed to proceed after it had adopted a different approach that included involving government officials in the data collection process. State officials also frequently attend meetings and sometimes transform them into politically driven events. To mitigate these challenges, JRP has developed strategies to keep local officials well-informed about all of the organization's activities, aiming to minimize interference from external parties.

Accountability and Reparation

A broad understanding of accountability includes reparation, allowing for numerous potential synergies between criminal justice processes and reparations and, in turn, development. At a general level, to the extent that criminal justice processes are participatory and accessible, they can complement reparation initiatives by empowering and increasing the agency of victims and affected communities. In criminal justice processes, civil society actors can play a role by providing legal aid and psychosocial support to victims, particularly those who are to testify in court, the latter being particularly important in cases of SGBV, given the likelihood of stigma. At the more informal level, victim-led documentation and storytelling can increase agency while providing material for potential future criminal investigations and trials. In some contexts, especially rural areas, customary or traditional justice and reconciliation processes can include elements of acknowledgement and repair in the form of dialogue and ritual. While these processes can present challenges, including gender and youth discrimination and community conflict, their potential contributions to areas such as reintegration of former combatants and access to land make their relevance to development clear. Finally, criminal accountability efforts to address corruption and economic crimes can be reparatory, not only for the participating victims, but also because of their potential for generating funds to pay for reparations programs through asset recovery and exposing exclusionary and inequitable economic systems. In practice, however, the benefits of such efforts often remain unrealized, in part because they are not accompanied by a full-scale political transition or systemic changes.

Participatory, Accessible, and Supportive Legal Processes

In The Gambia, domestic prosecutions of crimes committed during the dictatorship recommended by the TRRC have not begun yet, although the Chief Justice has advocated for the establishment of a Special Criminal Court within the judiciary and the Ministry of Justice has explored different options, such as setting up a hybrid or internationalized court or a Special Prosecutor's Office. However, if and when domestic criminal prosecutions begin, their potential reparative impact is likely to be limited. Within The Gambia's common law legal system, victim participation is restricted to providing testimony and serving as a witness. Victims are not entitled to reparation resulting from any judgment. Currently, the reparative potential of the judicial process may be undermined due to the absence of witness and victim protection mechanisms, limited support services, and insufficient psychosocial support. The government is, however, carrying out a number of legal reforms to increase protections for victims' rights

and expand legal options to pursue accountability for human rights violations committed under the Jammeh dictatorship.¹¹⁵

In this context, local actors are trying to increase victims' access to justice and ensure that accountability processes are consistent with "do-no-harm principles" and increase the potential to bring some sense of repair to victims. During ordinary legal proceedings, for example, local actors are providing psychosocial support to victims. These initiatives, which are mostly related to SGBV judicial cases, aim to prevent traumatic stress for victims before, during, and after court hearings. Victims, in particular victims of SGBV, are in dire need of psychosocial support throughout criminal proceedings, but these services remain limited for several reasons, including inadequate knowledge on how to support victims and prevent the recurrence of trauma, lack of resources, and inadequate collaboration between the various actors involved—the police, social workers, health workers, and civil society.

Due to the culture of silence and stigma around the issue of SGBV, victims have very few options for recourse.¹¹⁶ In most cases, victims do not come forward because of the risk of stigmatization, blaming, and shaming that can have a negative effect on their mental and physical health and repercussions for their safe integration into society. Some CSOs, including the Network Against Gender Based Violence (NGBV), a development-oriented nonprofit organization working to eradicate gender-based violence and promote and protect women and children's rights in The Gambia, provide referral assistance and information to victims to facilitate their access to justice and redress, while others provide mental health and psychosocial support to victims to contribute to successful prosecutions and trials. Drawing a clear link between victims' support and justice, victims told ICTJ that "psychosocial support is very important, not just for the victim but also to help the outcomes of the case."¹¹⁷ This support can help to build victims' confidence and feeling of security and, thus, their capacity to contribute as witnesses. According to members of the judiciary and legal community, several SGBV cases have been dismissed by the courts because victim witnesses refused to testify for fear of reprisals or stigmatization or lack of trust in the system.

Other local actors provide legal aid to victims, like the Female Lawyer Association in The Gambia, which supports victims of SGBV during prosecution processes,¹¹⁸ and conduct advocacy initiatives to improve the legal and policy framework. These initiatives focus on engaging victims in legal proceedings, training judicial actors, and advocacy. For instance, some advocate for the adoption of a do-no-harm approach, integration of psychosocial support into criminal proceedings, and reform of the justice system and consideration of reparations awarded directly to victims, rather than the state. However, very few organizations are engaged in this work. Typically, victim-led and community-based organizations remain sidelined from the legal process, often because of a lack of knowledge about how legal proceedings work. Nevertheless, when state support is limited, civil society and victims' representatives have an important role to play in ensuring that a do-no-harm approach is taken to prepare and accompany victims and witnesses through the different phases of the legal proceedings. Through the provision of moral and legal support, these local actors help to make participation in criminal proceedings more bearable for victims, and on many occasions more effective. Outside of the legal processes,

115 This includes passing the Prevention and Prohibition of Torture Act 2023 and Mutual Legal Assistance in Criminal Matters 2023, while the Criminal Procedure Bill 2022 and the Criminal Offences Bill 2022 remain at the committee stage in the National Assembly. A witness and victims protection policy developed by the National Human Rights Commission also offers a basis for a national policy.

116 ICTJ mapping on legal and psychosocial responses to SGBV cases, 2023.

117 Focus group discussion in Basse, The Gambia.

118 The Female Lawyer Association in The Gambia (FLAG) is one of the CSOs supporting victims of SGBV during prosecution processes.

victim-focused organizations, like Think Young Women, raise awareness among victims about the TRRC's recommendations on prosecution and the different paths to criminal accountability, both in domestic courts and under universal jurisdiction.¹¹⁹

In Uganda, the trial of Thomas Kwoyelo, a former LRA commander, is the only ongoing domestic prosecution of war crimes and crimes against humanity. After more than 10 years, the trial has not moved out of the evidentiary stages, creating serious fair trial concerns and no opportunity for victim participation or redress. At the International Criminal Court (ICC), the case of Dominic Ongwen, another former LRA commander, for war crimes and crimes against humanity is currently in the reparations phase. Reparative measures will be adopted to address the consequences of the crimes identified in the Trial Chamber's judgment. Following the upholding of his conviction, the trial chamber is expected to issue a reparations order.

Notably, the reparations process at the ICC has demonstrated how to make court processes accessible to victims and local organizations. Following the conviction of Ongwen, the Trial Chamber issued an order inviting individuals or organizations with local expertise to make submissions on specific reparation-related issues. Although the order was published on the ICC website, several local organizations did not have access to it, and those who did were unfamiliar with the process for submitting a request for leave to file amicus submissions. ICTJ's Kampala office received multiple guidance requests on the matter. During a subsequent ICC-NGO roundtable meeting, ICTJ informed the ICC's Victims Participation and Reparations Section of these challenges and recommended that it organize an information session, which it did on June 2, 2021. Approximately 30 partners attended the session, which provided practical guidance on the steps involved in filing applications. More than 20 local organizations and groups then successfully applied to the ICC to file submissions on reparation, the highest number of local groups admitted as amicus in proceedings before the ICC.

Informal Accountability Processes

Beyond criminal justice measures, informal accountability processes in Uganda include documentation, storytelling, and traditional reconciliation practices. Survivor groups and CSOs are recording and preserving vital information about past atrocities through storytelling and victim-led documentation initiatives, including factual evidence and firsthand accounts, generating information that will likely be a valuable resource in future accountability efforts. Engaging with victims and allowing them to share their stories also empowers them to have a voice and ensure that their experiences are accurately captured and preserved. These narratives serve as powerful testimonies that can raise awareness and contribute to a deeper understanding of the human impact of past atrocities. Further, victim-led documentation initiatives foster healing and resilience within affected communities. By encouraging survivors to share their stories, the initiatives validate experiences and help victims to reclaim their agency. The process can be cathartic and empowering, offering a sense of closure and validation.

Cultural and religious institutions also play an important role in advancing accountability, redress, and reconciliation. The Agreement on Accountability and Reconciliation, which emerged from the Juba peace talks between the Ugandan government and the LRA, specifically highlighted the potential use and value of traditional systems.¹²⁰ Since then, considerable efforts have been made to promote such approaches, many of which contain elements of acknowledge-

119 Think Young Women, *Interim Report*, on file with ICTJ.

120 Agreement on Accountability and Reconciliation between the Government of Uganda and the Lord's Resistance Army (LRA), Juba (2007).

ment, truth seeking, memorialization, restitution, and compensation, aligning with a broad understanding of accountability. Traditional justice processes have also been incorporated in the transitional justice policy. For many people, particularly those living in rural areas, traditional practices continue to have great meaning, and some communities arguably have more trust and confidence in them than in state measures. They, therefore, offer lessons for establishing acceptance of approaches to reparations, trust, and dialogue at the community level.

Traditional mechanisms encompass various ceremonies, like *mato-oput* (“drinking of the bitter root”), a collective reconciliation process involving truth telling, compensation, and reconciliation rituals. According to the Ker Kwaro Acholi, the cultural institution of the Acholi people, the compensation awarded through traditional justice processes depends on the nature of the act, the weapon used, and whether the act was intentional.¹²¹ In cases where a killing was intentional, a higher compensation is deemed appropriate; however, it must be affordable to the perpetrator to facilitate reconciliation. Forms of compensation include money, livestock, and property. In some instances involving death, the perpetrator's family will name one of their children after the deceased to preserve the victim's name and memory. Following the compensation process, reconciliation rituals, like *mato-oput*, are undertaken. Additionally, truth-telling elements can play a crucial role in promoting reconciliation and peace at the community and grassroots levels.

There are a number of important issues to be considered with regard to traditional approaches. Customary or traditional mechanisms were historically used to resolve a relatively limited range of disputes occurring either within and between families or among ethnic groups that shared a common cultural background and belief system. Because their effectiveness in addressing situations of mass violations is limited, these mechanisms are used for isolated incidents of murder, assaults, land grabbing, and other crimes, not crimes of a larger magnitude, such as war crimes and crime against humanity. Even if they were used to address serious crimes, they would likely offer only limited opportunity for redress, given that compensation and restitution come not from the state but from the perpetrator and their family, who have likely also been left impoverished by the conflict. Instead, traditional justice processes primarily include cleansing rituals for the purposes of reintegrating perpetrators and providing a platform for them to acknowledge their wrongdoings, which precedes their acceptance back into communities.

Given these limitations, victims themselves must be willing to use such practices. Traditional approaches do not have meaning for all; they need to be applied with particular sensitivity and care when the victim and perpetrator come from different ethnic backgrounds or have differing belief systems. The issue of whether such processes can ensure the meaningful inclusion of the voices of women and youth has also been questioned. And attempts to codify systems and too closely incorporate them into state-led and owned structures may risk undermining their value and meaning if they are not handled with great care.

Traditional justice institutions encounter other challenges, including the manipulation of outcomes through financial means and the evolving nature of conflict within post-conflict communities. For instance, there is a notable rise in land conflicts within communities and a shift in the nature of the conflicts from inter-clan disputes to conflicts between parents and their children, resulting in widespread land division and fragmentation and a transition from communal to individual property ownership. In response to this evolving situation, the Ker Kal Kwaro Acholi developed an educational booklet aimed at bridging the justice gap and promoting a deeper understanding of cultural norms and ethics.

121 Ibid.

Asset Recovery and Accountability for Corruption and Economic Crimes

Accountability efforts that target economic crimes can lead to specific synergies with reparation. In The Gambia, accountability for economic crimes was a high priority from the early stages of the political transition. The Janneh Commission disclosed that former dictator Jammeh was accountable for the mismanagement of public assets, economic crimes, and embezzlement of funds. He also illegally deprived individuals and communities of their assets, seizing the land of hundreds of people for his own benefit. The commission recommended restitution for victims of many illegally seized properties and reimbursement of stolen monies.¹²² According to the commission, Jammeh misappropriated and diverted over \$330 million USD.

The Janneh Commission, however, did not benefit from the same popularization and attention that the TRRC received. While this could be explained by the fact that the commission operated early on in the transition, its mandate and importance was nonetheless poorly communicated to the public. Consequently, very few local actors followed the Janneh Commission's work or incorporated asset recovery into their advocacy work as a strategy for increasing victims' access to reparation. As a result, most CSOs and victim-led organizations and their representatives think that there is a need to engage more on the issue. As such, The Gambia's Victims' Reparations Bill includes a clause providing for the allocation of money from any assets recovered to victims' reparations funds.¹²³ The TRRC and the Ministry of Justice also pledged an additional \$50 million Gambian Dalasi (approximately \$750,000 USD) to be provided from the sale of Jammeh's assets, in order to complete the distribution of monetary reparations that began during the TRRC's mandate.¹²⁴ Both initiatives remain pending.

Tunisia's transitional justice process shows why truth seeking must uncover both corruption and human rights abuses when they are committed under the same dictatorship. It also offers cautionary examples of how making reconciliation a factor in pursuing accountability for corruption can lead to abuse and public distrust and why funding reparations with recovered ill-gotten assets should be ensured sooner rather than later in the process.

The public and political attention and importance placed on fighting corruption and recovering assets in Tunisia's transitional justice processes resulted in a number of different, sometimes overlapping agencies and initiatives. The Investigation Commission on Bribery and Corruption was an ad hoc body and the first fact-finding commission created in Tunisia right after the 2011 revolution to investigate corruption under the Ben Ali dictatorship. Its work led to over 300 complaints being filed in court that are still under investigation as well as the creation of a constitutional body called the National Anti-Corruption Authority (in French, Instance Nationale de Lutte Contre la Corruption or INLUCC). The INLUCC, before it was dissolved by Tunisian President Kais Saied in 2021, investigated complaints of post-dictatorship corruption along with complaints carried over from the ad-hoc commission that investigated Ben Ali-era corruption. This latter set of cases were turned over by the INLUCC to the TDC, though the commission's arbitration and reconciliation committee ended up focusing more on reconciliation than accountability in cases involving large-scale corruption by individuals linked to Ben Ali.

Nevertheless, the INLUCC represented an institutional and systematic step toward dismantling what the TDC called a network of corruption under Ben Ali that had survived the dicta-

122 Janneh Commission, "White Paper," 7–19.

123 "The National Assembly of The Gambia Passes the Victims' Reparations Bill 2023," *Freedom Newspaper*, November 2, 2023.

124 TRRC, *Final Report*, vol. 16, "Reparations and Reconciliation," 4.

torship. However, to operate effectively, INLUCC needed unequivocal political support that was never given by subsequent governments, including those led by Islamists and the remnants of Ben Ali's party. Saied blamed widespread corruption for the persistent economic crisis and political deadlock in Tunisia and used it to justify the consolidation of his presidential powers in July 2021. Consistent with this rationale, he shut down a number of independent government institutions, including the INLUCC, and dismissed judges for financial and moral corruption.¹²⁵ The next month, Saied granted himself emergency powers under Article 80 of the Tunisia Constitution.

Beyond fighting corruption, Tunisia has had several institutions and commissions since 2011 tasked with recovering stolen assets. Right after the revolution, a Confiscation Committee was established with the mission to freeze, confiscate, and recover stolen assets both inside and outside Tunisia. This committee was instrumental in recovering Ben Ali assets in Tunisia, Lebanon,¹²⁶ and Switzerland.¹²⁷ But the 2014 election of former official Beji Caid Essebsi as president led to the committee's dissolution, with its functions distributed among various agencies. While Essebsi's attempt to legislate an amnesty for corrupt Ben Ali officials largely failed, it nevertheless weakened asset recovery efforts.¹²⁸

An institution still involved in asset recovery is the State Litigation Agency, which is in charge of representing the state in disputes over its assets. Because it is not a constitutional body, the agency, which is part of the Ministry of State Domains and Real Estate Affairs, has struggled with maintaining the level of independence needed in asset recovery efforts. Complicating matters, it does not have exclusive investigatory decision-making power, nor can it directly solicit information from relevant international stakeholders. (That task is exclusive to the Financial Analysis Committee within the Central Bank, which collaborates directly with prosecutors.) It represented the state through the TDC's arbitration and reconciliation process and represents the state in post-TDC litigation resulting from some of the TDC's arbitration decisions.

The 2013 Transitional Justice Law that created the TDC also entrusted the State Litigation Agency with truth seeking, investigatory, arbitration, and reconciliation powers over corruption cases for purposes of asset recovery through the TDC's arbitration and reconciliation committee. When the TDC's mandate expired in 2018 and it ran out of time to conclude many of its corruption-related investigations (in part because of internal disagreements and a lack of a clear strategy for establishing accountability in lieu of arbitration or reconciliation¹²⁹) the commission simply transferred the files of incomplete investigations to the Specialized Chambers. Of the investigations that were completed for criminal cases filed by the TDC, the Chambers has not reached any judgment on them since its first corruption-related hearing in 2018. The eight arbitration decisions issued by the TDC before its mandate ended should have been the basis for providing 745 million TND (approximately \$235 million USD) to the state from admitted perpetrators of corruption, but they instead ended up being the subject of ongoing accusations of corruption regarding conflicts of interest of the TDC commissioners responsible for those decisions.¹³⁰

125 Sarah Yerkes and Maha Alhomoud, "One Year Later, Tunisia's President Has Reversed Nearly a Decade of Democratic Gains," Carnegie Endowment for International Peace, July 22, 2022.

126 *BBC News*, "Tunisia Recovers Money Stolen by Ex President Ben Ali," April 11, 2013.

127 *Swissinfo*, "First Batch of Ben Ali Funds Returned to Tunisia," June 2, 2016.

128 Civil Forum for Asset Recovery, "The Tunisian Job: How to Recover 13 Billion Dollars Stolen by the Ben Ali Family?," August 11, 2016; see also ICTJ, "ICTJ Calls Again for Withdrawal of Flawed 'Economic Reconciliation' Draft Law in Tunisia," May 12, 2017.

129 Mariam Salehi, "Tunisia's Transitional Justice Program Highlights the Danger of Overpromising," London School of Economics, March 19, 2021.

130 Olfa Belhassine, "Tunisia: Government Accused of Missing Truth Commission Opportunities," *JusticeInfo.Net*, January 18, 2019; Olfa Belhassine, "In Tunisia, the 'Falsified' Report that Threatens Transitional Justice," *JusticeInfo.Net*, March 23, 2023.

In 2020, the Saied government issued a decree creating a committee within the Office of the President tasked with recovering assets held abroad.¹³¹ The committee includes practically all the relevant state actors, including the State Litigation Agency, the Central Bank, and the Financial Administrative Court,¹³² although the president's ability to appoint and dismiss committee members raises questions about the body's independence. With the multitude of efforts, there is obviously a need for coordination, if not a single asset recovery institution. Saied's asset recovery committee, however, consists of the same agencies that were already involved in earlier asset recovery efforts. In those earlier efforts, state agencies did not engage in political or public diplomacy efforts with CSOs or activists abroad, including in Switzerland and other European countries, where Ben Ali assets are known to be hidden or frozen.

One consequence of relying mainly on legal arguments for asset recovery in foreign countries is that those countries will often use the lack of progress before domestic courts as an excuse to either withhold the return of assets or unfreeze funds and even let perpetrators of corruption retake control of them. Saied's asset recovery committee, for example, was unable to prevent Swiss authorities in 2021 from unfreezing Ben Ali assets based on lack of progress of proceedings before the Specialized Chambers,¹³³ although it is handling what are already complex and politically contested cases. The only reason that this unfreezing was not carried out is that Tunisian institutions, presumably through the State Litigation Agency, took steps toward initial cooperation between Tunisian prosecutorial authorities and Swiss judicial authorities as the basis for new freeze orders.¹³⁴ These new freezes however will require Tunisia to move forward with the Specialized Chambers cases or possibly civil forfeiture judgments that Swiss law recognizes.

In March 2022, Saied issued Decree 13-2022, which provides for penal settlement (also referred to as "penal reconciliation" or "financial reconciliation") under which individuals with cases involving crimes such as corruption, bribery, and the misappropriation of public assets can apply for financial reconciliation by repaying or investing the disputed amounts in regional development. He promoted this policy as a solution to problems of marginalization and the country's difficult economic and social situation: "The condition for benefiting is to repay or invest the disputed amounts in regional development, with regions being prioritized according to their poverty rate."¹³⁵ The precedent for Decree 13-2022 originated in Essebsi's attempt in 2015 to pass an amnesty for corruption and economic crimes in exchange for closed-door confessions and the return of ill-gotten gains,¹³⁶ with the declared aim of addressing marginalized and deprived communities and fostering reconciliation.

Despite over three years of strong resistance from across the country's political and civil society community, the draft law—the Administrative Reconciliation Law—was passed in 2017, although the final version does not amnesty high-level officials.¹³⁷ While several officials from

131 Manel Derbali, "Stolen Assets Held Overseas: Kais Saied Takes on the Case," *Nawaat*, November 26, 2020.

132 The Financial Judiciary Pole, which acts under the authority of Tunisia's Higher Judicial Council, was created in 2012 by ministerial memorandum to investigate, prosecute, and adjudicate corruption cases. However, it was not until 2016 that it was empowered as a judicial body with the passage of Basic Law 57. Sarah Yerkes and Marwan Muasher, "Tunisia's Corruption Contagion: A Transition at Risk," Carnegie Endowment for International Peace, October 25, 2017.

133 Swissinfo, "Freeze on Ben Ali Swiss Funds Expires, as Tunisia Drags its Feet," January 19, 2021.

134 Switzerland Federal Department of Foreign Affairs, "Expiration of the Asset Freeze in the Context of Tunisia," January 18, 2021.

135 Olfa Belhassine, "Tunisia: A Reconciliation Law that Goes Against Transitional Justice," *JusticeInfo.Net*, April 8, 2022.

136 Lana Salman and Laryssa Chomiak, "Refusing to Forgive: Tunisia's Maneesh M'sameh Campaign," Middle East Research and Information Project, Winter 2016.

137 Ihsan Mejdi, "Manich Msamah: Resistance in Times of Consensus," *Nawaat*, August 2, 2017; ICTJ, "ICTJ Denounces the Passage of Tunisia's New 'Administrative Reconciliation' Law that Grants Amnesties to Public Officials for Corruption," September 14, 2017; Simon Speakman Cordall, "Amnesty of the Corrupt: Tunisia's Move to Heal Old Wounds Branded a Sham," *The Guardian*, October 27, 2017.

the Ben Ali regime benefitted from it, no official information has been made public about the specific numbers, names, or the content of the files. The same opacity applies to the Penal Settlement Committee. Since it started its proceedings, it is only via the media that people know about potential candidates for penal reconciliation, like Imed Trabelsi, a nephew of Ben Ali's wife.¹³⁸ Unlike the Administrative Reconciliation Law, which excluded senior officials, anyone can apply for financial reconciliation under Decree 13-2022.

Despite these policies and efforts, 10 years after Tunisia's revolution, the state has not managed to recover more significant assets held overseas, nor has the financial reconciliation programs produced positive results, like funding for marginalized regions or fewer instances of corruption.

The reasons are various and point to the challenges in Tunisia's existing political structures that tie development to reparation. In consultations with ICTJ, civil society and other stakeholders pointed to the multiplicity of institutions and texts related to asset recovery as a fundamental problem, highlighting both: 1) the need to unify this complex process in order to achieve even a minimum level of results; and 2) the need to enforce the law against corruption and protect whistleblowers in order to enable these funds to be effectively allocated to development projects and collective reparations. Their view is that the 2022 penal reconciliation approach does not contribute to accountability, reveal the truth, or support non-recurrence because it is limited to recovering funds and does not serve to dismantle the systems that led to corruption.¹³⁹ Further, they question whether the recovered funds will be used effectively.¹⁴⁰ While revenues from the process are supposed to be invested in regional development based on resident proposals, it is unclear that their proposals would be "compatible with the real development requirements of the regions and the executive administration point of view."¹⁴¹ Bureaucracy and centralized decision making may be determining factors in whether such projects effectively respond to inhabitants' proposals.

It is also important to note that, like the original proposed 2015 amnesty law, Saied's 2022 penal reconciliation policy does not respect the principles of the transitional justice process,¹⁴² nor is it linked to the TDC's findings on what marginalization means, which is based in large part on indicators and submissions from communities and neighborhoods that fall within those indicators or have documented a basis for claiming marginalization. Moreover, the TDC, again using submissions and correlating testimonies made in its public hearings on the grievances that led to the revolution, pointed to the role played by France as a colonial and post-colonial power and international financial institutions, such as the World Bank and the IMF, in development policies that led to or exacerbated marginalization in the country. Saied's policy does not suggest the need for institutional reforms to reject those development models, let alone recognize the TDC's demand to France, the World Bank, and the IMF to contribute to reparations for the marginalization they enabled. While Saied's government has rejected the IMF's conditions for a new bailout, which included lifting subsidies on food and gas that allowed the poorest Tunisians to deal with the economic crisis,¹⁴³ his position does not reject the development paradigm that led to the economic crisis. Stakeholders consulted by ICTJ recognized the entrenched nature of Tunisia's economic system and the necessary power of the Tunisian people's collective voice in reforming

138 "Imed Trabelsi propose 33 millions de dinars dans le cadre de la réconciliation pénale," *Directinfo*, June 9, 2023.

139 ICTJ workshop, Tunis, June 22, 2022.

140 *Ibid.*

141 Judge Mohamed Ayadi, "Reading in the Penal Reconciliation Mechanism," *El Maghreb*, December 17, 2022 (in Arabic).

142 Participant, ICTJ workshop, Tunis, June 22, 2022.

143 *Reuters*, "Tunisia Tells IMF Conditions for Financial Support Risk Unrest," June 22, 2023.

it, noting that without collective action, it will be impossible to reform a system funded and supported by international financial institutions that benefits a small portion of the population.¹⁴⁴

To effectively use recovered assets to fund reparations programs for marginalized regions, those who live in marginalized regions must be heard. In ICTJ's fieldwork in the under-served regions of Gafsa, Sidi Bouzid, Tataouine, and Jendouba and interactions in workshops involving victims and community leaders seeking reparations, the urgency of receiving compensation or accessing livelihood, food, and other basic needs can sometimes leave little time and space to discuss the root causes of repression and transforming development models. Nonetheless, through CSOs working in marginalized regions, there has been a more organized discussion of alternative development paradigms. These discussions, however, have become difficult in the constricted space after Saied's 2019 self-coup. As Nada Trigui, of the Tunisian Observatory for the Economy, notes:

Despite the policy space that the revolution brought in, IMF agreements were not submitted to parliament for review neither for approval. [While] the post-2011 parliament still represented a constant constitutional and lively space to question loans and budgets, put pressure on the government and contest its policy choices and request accountability . . . since the political turn of July 25th, 2021 the room to request accountability has further shrunk, and so did the access to information.¹⁴⁵

This points to a minimum set of circumstances for the use of recovered assets for reparations and marginalized regions to be meaningful and sustainable: (1) there must be community participation from the marginalized regions, with help from experts in Tunisian civil society who understand alternative development paradigms; and (2) there must be a recognition by the Saied regime that the TDC's findings and recommendations on reparations and dealing with marginalization are a basic starting point for reparations and development policymaking.

In The Gambia and Tunisia, funding reparations programs from asset recovery is not only relevant but also adopted policy. There is no reason why the same approach cannot be applied in post-conflict or even ongoing conflict situations, which has been done in other contexts. For example, in Peru the ill-gotten assets of former authoritarian leader Alberto Fujimori and his enablers were confiscated and then used to fund reparations for victims of the armed conflict that led to massive human rights violations. The ICC is empowered to use assets frozen or confiscated after conviction of the accused to fund reparations for victims of crimes. Thus, in Uganda, there is no legal or policy reason why ill-gotten assets obtained through corruption by authoritarian leaders and their families cannot be applied to reparations. As a matter of fact, there is precedent specifically relevant to Uganda, the ruling of the International Court of Justice in the 2022 *Democratic Republic of the Congo vs Uganda* case, which orders Uganda to pay reparations to Congolese victims, taking into account the assets unlawfully obtained by Ugandan government forces when it occupied the Democratic Republic of the Congo.¹⁴⁶

Restorative Sanctions

In Colombia, the restorative justice paradigm adopted by the JEP illustrates clear synergies between accountability, reparation, and development. The JEP seeks to guarantee victim

¹⁴⁴ ICTJ workshop, Tunis, June 22, 2022.

¹⁴⁵ Nada Trigui, "Wrestling for Debt: Monitoring the Loan Negotiations with the IMF in a Highly-indebted Tunisia," Tunisia Observatory of the Economy, November 11, 2022, 8–9.

¹⁴⁶ *UN News*, "UN's Top Court Orders Uganda to Pay \$325 Million to DR Congo," February 9, 2022.

participation throughout its proceedings and provide them with the opportunity to convey their demands to the perpetrators. The approach operates on the premise that the participative and dialogic process that precedes the sentence has a reparative effect on victims, unlike the proceedings of an ordinary trial. At the same time, it promotes the effective reintegration of the perpetrator into society, thereby contributing to guarantees of non-recurrence. Restorative sanctions present an opportunity for a perpetrator to both assume responsibility and transition to civilian life by demonstrating in practice a commitment to the community. The fact that restorative sanctions and reparative works are the result of a judicial (albeit “extraordinary”) process underlines the idea that retribution and reparation can effectively be combined, making restorative sanctions a well-suited mechanism to complement administrative reparation efforts. Preliminary studies on stakeholder perceptions of these sanctions indicate that, because they are imposed by a criminal tribunal, they are more likely to be perceived as punishment and therefore as legitimate.¹⁴⁷

The Legislative Act that created the JEP states that sanctions “should have the greatest possible restorative and reparative function in relation to the damage caused.”¹⁴⁸ Perpetrators who fully acknowledge responsibility and offer exhaustive truth may be eligible for a noncustodial sentence of five to eight years, which carries both a restrictive and restorative component. The latter entails reparative works that the perpetrators themselves may propose to the JEP following a dialogue with the victims. Any reparative work presented must be detailed, individual or collective, and contain precise obligations, objectives, phases, schedules, and implementation locations.¹⁴⁹ To repair the social fabric, such works should: address victims’ requests for reparation; contemplate a consultation mechanism with the victims residing in areas where they will be implemented; contemplate victim participation; be compatible with the reincorporation of former combatants into civilian life; and impact direct and indirect victims of the crimes, including communities and regions affected by the violence.¹⁵⁰

The JEP’s Chamber for Acknowledgment of Truth, Responsibility, and the Determination of Facts and Conduct (Acknowledgment Chamber) has handed down three decisions, known as resolutions of conclusions. These decisions identify the patterns of macro-criminality, name those who have accepted responsibility, and propose a sanction in the form of reparative works—one in macro case 01 (involving hostage-taking committed by the FARC-EP) and two in macro case 03 (involving extrajudicial killings committed by public security forces). The proposed reparative works have included, among other actions, the following: a program for the search for missing persons, restoration of the damage caused by antipersonnel mines, local and rural radio programs to restore the good name of indigenous communities in northern Colombia that were disproportionately targeted in extrajudicial killings and continue to suffer stigmatization, educational campaigns for the development and endorsement of military principles and ethics, and reforestation and the recovery of water sources in areas where the environment has been affected by the conflict. The reparative nature of these proposals has been subject to debate, however, with a number of victims questioning their validity on the basis of multiple arguments.

147 Beatriz E. Mayans-Hermida, Barbora Holá, and Catrien Bijleveld, “Between Impunity and Justice? Exploring Stakeholders’ Perceptions of Colombia’s Special Sanctions (*Sanciones Propias*) for International Crimes,” *International Journal of Transitional Justice* 17, No. 2 (2023), 192–211.

148 Government of Colombia, Legislative Act 1 of 2017, art. 13.

149 Government of Colombia, Law 1957 of 2019 (Statutory Law of the JEP), art. 141.

150 See the JEP’s guidelines on reparative works, JEP, “Lineamientos en materia de sanción propia y Trabajos, Obras y Actividades con contenido Reparador,” available in Spanish at: www.jep.gov.co/Sala-de-Prensa/SiteAssets/Paginas/Conozca-Los-lineamientos-en-materia-de-sancion-C3%B3n-propia-y-Trabajos%2C-Obras-y-Actividades-con-contenido-Reparador---Restaurador/28042020%20VF%20Lineamientos%20Toars%20y%20SP.pdf

Victims argue that because there is no causal link between the reparative work and the damage caused, the requirement of “coherence” between the crimes and the sanction imposed has not been met. They also contend that some of the proposed initiatives are merely part of the original proffer that former combatants must make when acknowledging the truth of the accusations and accepting responsibility for their crimes to be considered for reduced sanctions. In their view, therefore, these proposed initiatives should not be eligible for consideration as separate reparative works. Finally, few of the proposals appear to relate to the development goals set out in the 2016 peace agreement, in part because government resources and institutional capacities have not been aligned to guarantee the necessary logistical and financial preconditions. Some victim representatives have argued that this reduces the reparative impact of the sanctions, limiting them to symbolic, less meaningful work. This is particularly relevant given that reparative sanctions related to development and community work appear to some victims to be more burdensome for the perpetrator and therefore more effective.¹⁵¹

The Chamber has responded to these concerns, stating that coherence does not mean that each project must strictly and directly relate to the harm caused, given that perpetrators are typically ordered to execute several projects, choosing to evaluate their reparative impact and relationship to the damage collectively, rather than individually. It appears to have adopted the view that, unlike the administrative reparations ordered by the Victims' Unit, restorative sanctions do not require a direct link to the harm caused because the JEP's mandate focuses on restoring the country's social fabric in the long run and identifying macro-criminal patterns, not individual damages.¹⁵²

While no restorative sanctions have been executed thus far, a number of challenges are likely to arise. First, given the binding nature of the peace agreement, the Colombian state must ensure the institutional and logistical infrastructure needed for effective implementation of reparations. This includes guaranteeing the conditions for the execution of reparative works, especially those related to socioeconomic development measures. However, due to financial constraints, these works will have to be more closely tied to other commitments of the peace agreement, like Comprehensive Rural Reform, and align with budgets allocated to already-existing plans or policies, like the National Development Plan. More effective interinstitutional coordination is also needed. State entities at all levels must strengthen and articulate their efforts to ensure the availability of resources for the adequate implementation and monitoring of reparative works. To address these challenges, the JEP and other institutions of the state and government recently launched a working group that includes the Victims' Unit, the National Agency for Reincorporation, the National Planning Department, and the Unit for the Implementation of the Final Peace Agreement, as well as the UN Verification Mission.

Second, linking reparations to the harm caused may prove to be a logistical and legal challenge. Many perpetrators are likely to be charged in multiple macro cases relating to a wide range of criminal patterns. Indictments handed down for these cases will therefore necessarily include reparative works where execution must be compatible with restorative programs already imposed on the perpetrator. In addition, reparation that directly responds to the damage may require implementation in places where victims reside, and the presence of perpetrators in af-

¹⁵¹ Mayans-Hermida, Holá, and Bijleveld, “Between Impunity and Justice.”

¹⁵² For example, in its first resolution of conclusions for macro case 01, the JEP approved a reparative project related to the environmental restoration of the Sumapaz National Park, a large paramo ecosystem. While many victims argued that this project had no connection to the harm caused by the FARC's hostage-taking policy, the Acknowledgment Chamber held that the project benefitted affected communities more generally, especially in a region like Sumapaz, which continues to be stigmatized for its strong FARC presence during the armed conflict. See Acknowledgment Chamber, Special Jurisdiction for Peace, Resolution of conclusions 02 of 2022, November 24, 2022, https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/Resoluci%C3%B3n_SRVR-02_24-noviembre-2022.pdf

affected communities may not always be viewed favorably. Communities must be consulted and prepared accordingly. The ways in which such challenges are addressed in practice will have to be assessed once restorative sanctions begin implementation.

Synergies Between Reform and Reparation

The reparative and developmental impact of reparations programs, support to victims, and victim-centered or victim-sensitive accountability efforts is likely to be limited if they are not embedded in broader processes of reform that seek to prevent the recurrence of violations and marginalization, dismantle exclusionary and corrupt institutions and systems, and build more just and inclusive societies. Such broader processes include:

- *constitutional reform*, which can both be conducted via an inclusive process and set up more inclusive legal and administrative frameworks aimed at, among other goals, preventing recurrence of past injustices;
- *SSR*, which is often understood both conceptually and practically as a key element of development that contains substantive components of accountability and repair; and
- *institutional reform*, which has important bearing on access to justice and the enjoyment of economic, social, and cultural rights in a range of sectors, including the judicial, health care, and education systems.

It is also just as important that it is recognized by transitional justice advocates and understood by reparations policymakers that the institutions that need reform should include the economic, social, debt policy, and budget policymaking institutions of state, including finance, budget, and banking regulators.

The need for systemic change is often clear at the subnational and national levels, but it is important not to ignore the transnational element of exclusive and abusive systems, including the role of international financial institutions and donor governments in maintaining unjust development models. Finally, the need to embed reparation and other justice efforts within broader reforms is clearly demonstrated in the area of gender justice and equality, where violence, discrimination, and marginalization are integrally connected, requiring change at the political, social, economic, and cultural levels, of which gender-sensitive collective reparation may be a part. While the scope and complexity of these structural problems highlight the need for sustained, long-term, multilevel interventions, these different areas of potential reform offer valuable opportunities for local actors.

Constitutional and Institutional Reform

In The Gambia, reforms meant to address the legacy of dictatorship have included the Constitutional Review Commission, SSR, and other institutional reforms. The Constitutional Review Commission was established by a 2017 act of parliament to draft a new constitution to replace

the 1997 Constitution that had governed the country for the majority of Jammeh's authoritarian regime and guided the process of its promulgation.¹⁵³ It undertook a highly consultative process in The Gambia and abroad. Local actors, including civil society and victims, submitted position papers to the commission outlining their feedback, concerns, and recommendations on an advanced draft of the constitution. After two years of consultations in The Gambia, a survey by Afrobarometer, an independent pan-African research network, showed that "the draft Constitution largely aligns with citizens' preferences on . . . popular support for presidential term limits, a quota system for women's representation in the National Assembly, and political independence for members of the national electoral commission."¹⁵⁴

The draft constitution contained many legal and administrative reforms meant to contribute to guarantees of nonrecurrence, like term limits on the president and other executive bodies, which aim to reinforce the country's democratic institutions and respect for human rights, ensure citizens' security, and prevent the return of dictatorship. If implemented, it would contribute to closure and satisfaction among victims and thereby contribute to moral repair. It would also align The Gambia with its national, international, and regional commitments on human rights and sustainable development. However, the draft was not passed by the National Assembly due to political disagreements over certain clauses, primarily the retroactivity of presidential term limits.¹⁵⁵ Despite attempts to bring the parties together to find a path forward for a new constitution, the process remains stalled. The popularity of the constitutional reform process raised many expectations among citizens and victims.

The SSR process is considered one of the key areas of the National Development Plan 2018–2021. However, because this process is considerably less effective and inclusive than other streams of the country's transitional justice process, Gambians have expressed doubt as to the government's commitment to it. Reinforcing those doubts is the fact that many alleged perpetrators and enablers of human rights violations mentioned in the TRRC's final report still hold senior government positions. For instance, the recently appointed National Assembly speaker and deputy speaker, nominated by Barrow, are known to be fervent Jammeh supporters. Additionally, the TRRC recommended that several senior officers from the Army and administration be removed from their positions and banned from holding public office.¹⁵⁶

The TRRC also recommended widespread institutional reforms. These include reforms in the health and education sectors, to advance economic, social, and cultural rights, and the judicial system, to enable prosecutions of serious violations of human rights and improve victims' access and participation. Most of these reforms can be considered forms of reparation, because they contribute to guaranteeing non-repetition and providing some moral satisfaction to victims. For example, the constitutional reform process should strengthen people's rights, democracy, peacebuilding, and sustainable development. Reform of the justice system should improve victims' access to justice and redress, while building confidence in the judiciary and the state. Reforms in the education system should make education accessible to all and incorporate victims' and the country's experience during the dictatorship in school curricula. Some administrative measures—such as banning civil servants and senior officers who were involved in the commission of serious crimes, vetting in the recruitment process, and other SSR—are intended to prevent future human rights abuses against civilians by security forces.

153 Law Hub Gambia, Constitutional Review Commission (CRC), www.lawhubgambia.com/constitutional-review-commission

154 IRI, "New Poll: Gambians Support a New Constitution," May 28, 2020; and Thomas Isbell and Sait Matty Jaw, "AD338: The Gambia's Draft Constitution Reflects Citizens' Preference for Term Limits, Gender Quota," *Afrobarometer*, January 27, 2020.

155 The retroactive presidential term limit would prevent President Adama Barrow from running for president again after his 2022–2027 term.

156 Republic of the Gambia, White Paper.

Victims believe that reforms can have a reparative effect. As expressed by one participant in ICTJ-organized focus group discussions, “The word ‘institutional reform’ is a kind of reparation. Acknowledgment and apologies from the government are a form of reparation. Civil education, SSR, health care sector reform all contribute to giving some redress to victims.”¹⁵⁷ During a discussion with victims held by Think Young Women on the types of reparation they want, several underlined the need for a new constitution and SSR to ensure future violations are prevented.¹⁵⁸ However, despite these views, current engagement in the institutional reform process among local actors, including CSOs and victims’ groups, remains limited. This could be in part due to timing, as most CSOs in The Gambia were formed after the SSR process began, and implementation of reforms recommended by the TRRC is only in its nascent stages. As it is, civil society tends to engage on either reforms *or* reparations. But this might also be due to the focus of donors, UN agencies, and relatively well-funded rule of law CSOs on reforms in the security sector and judicial sectors, which disproportionately rely on law-oriented and criminal justice advocates, to the exclusion of most reparations-seeking victims. As such, sufficient consideration is not always given to how reforms can reinforce reparations, including how reforms in institutions that shape or implement health care, livelihood, land, and other policies or reforms that allow communities to know about and participate in government budgeting can sustain the impact of material reparations.

That said, local actors have leveraged narrow windows of opportunity to voice their concerns and needs to make institutional reforms reparative through two main pathways. The first is representation in umbrella organizations, including the Association of Non-Governmental Organizations in The Gambia (TANGO), an organization whose members are active on the Transitional Justice Steering Committee established by the Ministry of Justice. While TANGO’s position has enabled victims and civil society to raise views and concerns during internal and external meetings, they have expressed frustration over a lack of consultation prior to those meetings, which limited their access to information on meeting topics and prevented their participation in decision making. Local actors believe representatives should conduct appropriate consultations before and after meetings and decide or strategize on the way forward. Such an approach should help to manage victims’ expectations while taking their opinions into consideration. A strong umbrella body should help to coordinate among victims and CSOs to achieve a common goal.¹⁵⁹ As the civic space has become more democratic and smaller CSOs have emerged in the past few years, umbrella organizations are extremely relevant.

The second approach to engaging in reforms, which is increasing in use and effectiveness, is through victims’ networks and outreach. Victims underline that CSOs and victims’ networks serve as linkages between victims and the government and that they would rather talk to CSOs than the government. This privileged position allows CSOs and victims’ networks to critically intervene in reform processes and advance a bottom-up approach. The networks conduct advocacy and outreach activities through mediums such as radio programs and community and town hall meetings to make victims aware of the relevance of reforms to reparations and enhance their interest and commitment. CSOs have embarked on advocacy, including workshops to sensitize the National Assembly’s Committee on Human Rights and prepare the ground for the 2023 enactment of the Prevention of Torture Act.¹⁶⁰

As with other areas of engagement with government discussed above, local actors working on institutional reform tend to engage with institutions that are leading specific reforms that are

157 ICTJ, consultative workshop, Banjul, March 31, 2023.

158 Think Young Women, “Interim Report,” on file with ICTJ.

159 Focus group discussions, March 2023.

160 Edrissa Jallow, “Parliament Approves Anti-Torture Bill and Mutual Assistance Criminal Matters Bill,” GAINAKO, March 31, 2023.

within the CSO's areas of focus. For example, common and priority targets are the Ministry of Justice (MoJ), Ministry of the Interior, Ministry of Gender, Children, and Social Welfare, and Ministry of Land, while other actors such as the Ministry of Education, Ministry of Health, the Judiciary, the Military, and the Office of the President are usually outside local actors' scope of engagement. This is simply because priority targets are more visible, accessible, and active on issues pertaining to the transitional justice context, while the second group may be seen as more relevant during the post-TRRC and implementation phases.

Going forward, the TRRC's recommendations create an opportunity for civil society to push for necessary reforms. The government has taken a progressively participatory and victim-centered approach following the TRRC's submission of its final report and technical partners' advice regarding respect for international principles and standards. To this end, the Ministry of Justice established several platforms and channels of communication with victims' networks and CSOs,¹⁶¹ including the MoJ-local CSO platform on TRRC recommendations, the MoJ-victims-led organizations' platform, and the MoJ-international partners' platform. There is a need to support CSOs and local actors to engage more in reform processes through the provision of technical and financial assistance.

Other opportunities include regional and domestic policies to leverage synergies between reparations and reforms. This includes the African Union Transitional Justice Policy, which defines institutional reform as a key benchmark and standard for successful transitional justice processes.¹⁶² The policy is, however, not widely disseminated, and a majority of victims and CSO representatives either ignore its existence or its contents, so do not refer to it in their daily work and engagement with decision makers. Few organizations have conducted sensitization activities on the African Union policy.¹⁶³ Domestically, the transitional justice strategy developed from 2017–2018 presents another opportunity, as it links the truth-seeking and reparations process led by the TRRC and the SSR process led by the Office of the President. However, the SSR process was later disassociated from the truth-seeking and reparations strategy, and a separate strategic document was developed for the SSR process alone, which has failed to be victim centered. These processes, however, should also be seen as opportunities to not just link current institutional reform initiatives in The Gambia to the operationalization of reparations and its role in preventing the recurrence of violations and abuses; they should be seen as steps toward broadening the narrow notion of what policies and which institutions require reform and how far reforms have to be pursued to prevent the recurrence of abuses.

In Tunisia, as indicated above, the limits of the government's approach, with the emphasis on "reconciliation"—or the relegitimization of corrupt individuals and entities—as a way of addressing accountability for economic crimes highlights the need for broader, more radical reforms that would dismantle the corrupt political and economic system, reveal the truth about the causes of marginalization, promote guarantees of non-repetition, and change the country's neoliberal development model. In ICTJ-organized consultations, CSO partners spoke about the role of political allegiances and personalized networks that promote corruption in the distribution of projects, funds, and jobs and the absence of political will to dismantle these systems.¹⁶⁴ The COVID-19 pandemic laid bare the fragile situation of the Tunisian economy and its incapacity to fully respond to the basic needs of Tunisians, exposing the limited reforms and progress made to date to address some of the core grievances of the revolution. In workshops,

161 Attorney General's Chambers and Ministry of Justice, "MOJ-CSO's Platform on TRRC Recommendations Launched," April 7, 2022, www.moj.gm/news/984bo156-b659-11ec-8f4f-025103a708b7

162 African Union Transitional Justice Policy, 11, sec. 53; 14, sec. 69; 19, sec. 95.

163 Gender Platform on Transitional Justice, "Victims Center."

164 Sami Zemni, "Tunisia Marginalized Redefine the Political," Middle East Research and Information Project, Spring 2021.

experts and participants brought up examples of failed economic policies that should be re-examined as part of “a repair and transform” approach.¹⁶⁵ That approach involves designing and implementing reparations for victims and regions in ways that can then become the basis for economic policymaking that transforms not just the lives of victims, but also their communities and regions. Ensuring access to food, reversing corruption-driven and poverty-causing privatization schemes, and reducing the dependence of Tunisians on the informal sector for livelihoods are among the key economic policies mentioned.

Grievances involving unemployment, corruption, and marginalization in Tunisia suggest that the institutions in need of reform cannot be limited to the political, legislative, judicial, and security sectors. While the Saied regime has invoked the paralysis of political institutions to justify his self-coup, these institutions in fact previously overcame similar paralysis to pass the 2014 Constitution that established democratic institutions, which Saied dismantled in a 2022 referendum, and the transitional justice law, the outcomes of which he has ignored.

Institutional reform in Tunisia must include the budget, economic policy, and debt policymaking institutions that negotiate with and implement the very same neoliberal economic policies prescribed by the international financial institutions that Ben Ali implemented and Saied continues to follow. These reforms can make reparation possible, particularly for marginalized regions. Instead of paying, and borrowing more to pay, Tunisia's sovereign debt, for example, the government can instead insist that funding for marginalized regions must be prioritized over debt servicing. This is not unprecedented. In Ghana, for example, reparations were funded in part by debt forgiveness that freed up public funds.¹⁶⁶

Discussions of what institutions to reform and who is accountable for reparation in Tunisia should not be limited to the domestic level. Global financial institutions, including development actors, played a significant role during the dictatorships and transitional period influencing public policy, promoting a discriminatory development model, and facilitating a growing national debt. Their role and responsibility has been recognized in Tunisia. In 2019 the TDC sent memoranda to France and jointly the World Bank and IMF calling on them to apologize and pay reparations to Tunisian victims,¹⁶⁷ contending that they have a “share of responsibility” in colonial violence and social violence linked to structural adjustment policies.¹⁶⁸

Basing its findings on investigations, testimonies of survivors of the liberation war, and archived documents, the TDC asked France to: acknowledge the facts; officially apologize; pay compensation to individual victims, victim regions, and the Tunisian State; return Tunisian archives from 1881 to 1963; and cancel Tunisia's bilateral debt, “given that it is an illegitimate debt.”¹⁶⁹ The memorandum to the IMF and World Bank refers to another historical period, the 1970s to January 2011, during which the two financial institutions are accused of pushing the Tunisian government to freeze wages, reduce subsidies on basic consumer goods, and freeze recruitment in the civil service. These policies led to several social crises, including conflicts with the trade union movement in 1978, the Bread Revolt from December 1983–January 1984, the mining region uprising in 2008, and the 2011 Revolution—events that resulted in serious human rights violations, including death, injury, torture, rape, and imprisonment following unfair trials.¹⁷⁰ While

165 ICTJ, Workshop, Tataouine, 29 June 2022.

166 Nahla Valji, “Ghana's National Reconciliation Commission: A Comparative Assessment,” ICTJ, 2006, 24.

167 TDC, Memorandum to France, July 16, 2019, www.ivd.tn/wp-content/uploads/2019/07/M%C3%A9mo_France.pdf; TDC, Memorandum to the World Bank and the IMF, July 16, 2019, www.ivd.tn/wp-content/uploads/2019/07/Memo_BM_FMI-1.pdf

168 Olfa Belhassine, “Tunisia's Truth Commission vs France, the IMF and World Bank,” Committee for the Abolition of Illegitimate Debt, September 8, 2019.

169 Ibid.

170 Ibid.

these memoranda have not yet garnered a response, they outline clearly how the neoliberal logic of international financial institutions contributes significantly to marginalization.

Gender Justice and Reform

In The Gambia, the TRRC exposed SGBV committed by the Jammeh regime going beyond sexual violence, abuse, rape, torture, assault, and harassment, to include a description of gendered experiences of violations under the dictatorship such as witch hunts, forced labor, and Jammeh's state-sanctioned compulsory treatment of HIV-positive individuals. The TRRC recommendations on SGBV are grounded in an analysis of the inconsistent application of laws, cultural and social structures, and role of state institutions that enabled SGBV and perpetuated broader gender discrimination in the country. As a result, the recommendations outline a set of reforms and steps for Gambians to not only address the past and provide redress to victims, but to address and prevent ongoing and widespread SGBV and bring the country in alignment with its legal frameworks and policies outlining a commitment to gender equality and women's rights. For example, the TRRC identified the need to support and invest in social services to support women in need as well as undergo gender sensitization in all government institutions, with a specific focus on putting in place gender-sensitive structures and funding for police forces to handle SGBV cases and interact with victims.¹⁷¹

However, due to how pervasive gender inequality is in The Gambia, the TRRC was not able to consider all gendered experiences of repression despite its expansive approach. While the TRRC acknowledged the impact of customary law on gender discrimination, specifically on women and girls' access to justice, land, and inheritance,¹⁷² examining the gendered socioeconomic consequences of land confiscation under the dictatorship was not under its mandate. Not investigating this violation through a gendered lens of dictatorship-era human rights abuses is a missed opportunity to recommend reparations to women whose family land was confiscated by Jammeh and to recommend needed reforms to the land tenure system to unlock economic empowerment avenues for women. For example, some land has never been returned to families and women identified that without land they and their children are more vulnerable to poverty and food insecurity. While women recommended land be returned to wives and children where the male landowner has passed away, a patriarchal and traditional community-based system of land distribution and inheritance in The Gambia makes it difficult for women, widows, or divorced women to own land.¹⁷³ This is despite the country's constitution providing equal treatment and opportunities regardless of gender.¹⁷⁴

Moreover, the distribution of inheritance is at times referred to the Curator's Office to handle, but depending on religion, more often Gambians refer to Sharia law and the Cadi Court which in the constitution has "jurisdiction to apply the Sharia in matters of marriage, divorce, and inheritance where the parties or other persons interested are Muslims."¹⁷⁵ This institutional structure impacted the TRRC's administration of compensation to family members of deceased victims. While the TRRC worked with the Curator's Office in this instance, it exposes the risk customary law and discriminatory systems present to women's access to future reparations programs.

171 TRRC, *Final Report*, vol. 10, "Sexual and Gender-Based Violence," 53–54.

172 *Ibid.* 48.

173 ICTJ, "Women's Experiences of Dictatorship in the Gambia: A Submission by Women from Sintet, Janjanbureh, and Basse to the Truth, Reconciliation and Reparations Commission," 2019, 15, 17, www.ictj.org/sites/default/files/ICTJ-WomenExperiencesGambia%20FINAL%5B5140%5D.pdf

174 Constitution of the Republic of The Gambia, 1997 (2002 revision), ch. 4, s. 28(1)(2).

175 Constitution of the Republic of The Gambia, 1997 (2002 revision), ch. 7, s. 137(4).

The TRRC's report and recommendations and the government's commitment to human rights and the rule of law continue to support attempts to mainstream gender, but there is a need to move from policy to concrete actions and results. The necessary legal reforms and consistent enforcement of relevant laws requires societal change and understanding of women's rights within the legal framework to be sustainable and meaningful. Gambians should understand and feel ownership over the process to mainstream gender considerations and women's rights throughout society. Given how deeply entrenched a culture of silence and stigma as well as a patriarchal and hierarchical social structure is in The Gambia, without robust and wide-reaching reforms touching on political, social, and cultural institutions, women will likely continue to experience challenges accessing justice and reparations in The Gambia.

Following the 2011 revolution, Tunisia enacted domestic legal reforms to protect women's rights. This included several public laws to guarantee women's rights and gender parity in government, like the 2014 Constitution,¹⁷⁶ and Organic Law 58 of 2017 on the Elimination of Violence Against Women in Tunisia.¹⁷⁷ Law 58 expands definitions of violence against women to include economic, political, sexual, and psychological violence.¹⁷⁸ Despite these reforms and legal protections, patriarchal values and social norms continue to restrict women from economic opportunities and limit their participation in politics and the public sphere more generally. For example, in Tunisia, only 14 percent of rural women own their land,¹⁷⁹ while denial of equal or any portion of inheritance remains the biggest obstacle that rural Tunisian women face in securing their own capital, housing, and livelihood.¹⁸⁰ Pervasive traditional gender roles present a persistent obstacle for women, including pressure by family members, especially male members, to preserve family names, social shaming of women who ask for their inheritance, and devaluation of women's agricultural skills and labor.¹⁸¹

Changes are required at the political, social, economic, and cultural levels for reparations to be impactful. During ICTJ-organized consultations in Gafsa and Sidi Bouzid, this view was reinforced by stakeholders who commented that the economic emancipation of women victims is a precondition for reparations to meaningfully impact women's lives and help them to achieve full independence. As one CSO highlighted: "Economic emancipation is the keystone and the link between the abused woman and the phase of reconstruction and healing from the consequences of the violence on her."¹⁸²

Examples put forward by stakeholders to support the economic emancipation of Tunisian women included: building their capacities and helping them to access a flexible system of loans to implement relevant projects in affected communities, having the mechanisms and support to acquire arable land, and having a means by which to combat discrimination against women. The demands for reparation and reform reflect expectations for a development model

176 The 2014 Constitution includes article 21, ensuring equal rights between men and women; article 34, guaranteeing women's representation in politics; and article 46, ensuring protection and development of women's rights as well as gender parity in elected assemblies, www.constituteproject.org/constitution/Tunisia_2014

177 Government of Tunisia, Organic Law 58 of 2017 on the Elimination of Violence Against Women in Tunisia.

178 Ibid. Article 3 defines economic violence as "any act or omission that exploits women or deprives them of economic resources, regardless of its origin . . ." and political violence as "any act or practice based on gender discrimination, the purpose of which is to deprive or prevent women from exercising any political, partisan or associative activity or any fundamental right or freedom."

179 Observation, "Égalité dans l'héritage & autonomie économique des femme," November 2014, www.observaction.info/wp-content/uploads/2016/05/Egalit%C3%A9-dans-l-h%C3%A9ritage.pdf

180 Maryline Dumas and Mathieu Galtier, "Tunisie : l'héritage, une question épineuse pour les femmes," *Middle East Eye*, October 3, 2018.

181 Kalthoum Kennou, Ismahan Ben Taleb, and Soumaya Sandli, Friedrich Ebert Foundation, "To Guarantee the Right of Women to Access Inheritance in Rural Areas," with the support of the Friedrich Ebert Foundation, December 2020.

182 Participant, ICTJ workshop, Gafsa, June 27, 2022.

that would help to guarantee women's equality, with a specific emphasis on access to land and employment and, thus, equal rehabilitation and satisfaction in terms of reparation.

The TDC's final report raised the situation of rural women in its reparations chapter,¹⁸³ setting out a number of recommendations focused on social and economic change, such as raising awareness, combatting illiteracy, and facilitating access to loans and psychosocial care. However, despite the fact that the report clearly referred to Law 58 as a government measure to reduce the exclusion of women,¹⁸⁴ there was no mention of inheritance rights as a means for women to access land and property or analysis of the disconnect between the issue of inheritance and equality provisions in the 2014 Constitution. The failure to include this analysis or related recommendations is a missed opportunity to identify a key way to socially and economically empower women and, by extension, their regions. In 2022, Saied "blocked any initiative to address the obstacles women face to get the partial inheritance to which they are entitled under domestic law, or to improve women's access to socio-economic rights and protections."¹⁸⁵

Beyond economic empowerment, the TDC also pointed to the negative impact of women's limited presence, or in some cases absence, in key decision-making positions. In ICTJ-organized consultations, stakeholders exhibited an impressive awareness of how this affected the meaningful participation of women in the transitional justice process and women's ongoing access to economic and social rights via reparation. In Gafsa, stakeholders remarked on the poor representation of women in politics and its impact,¹⁸⁶ in particular on how underrepresentation contributes to the invisibility of women's issues, including the political, economic, and domestic violence to which women are subjected.

Unfortunately, despite these views, the lack of women in decision-making positions has only worsened with the issuance of Decree No. 2022-55 of 2022, which eliminated gender parity in elected assemblies, dealing a significant blow to one of the major accomplishments in enhancing women's political participation since the revolution.¹⁸⁷ As a result, only 25 women were elected to the new 161-seat parliament in 2022, representing approximately 16 percent of the seats, as compared to the 2014 legislative elections, in which 68 female parliamentarians were elected out of 217 seats,¹⁸⁸ or 31 percent of the total. That year, Tunisia had the highest female representation in parliament of all countries in the Middle East and North Africa region.¹⁸⁹

At the level of the executive, Saied's appointment of a female head of government, former Prime Minister Najla Bouden, in October 2021 was not accompanied by measures to ensure more equality and inclusivity of women in the public sphere. In fact, Bouden repealed policies protecting gender equality and restricted resources for the implementation of Law 58 during her time in office.¹⁹⁰ This demonstrates that while increasing the number of women in political positions is important, the women who assume these roles need to support gender equality and not seek to reinforce existing unequal power dynamics in the political system.

183 Truth and Dignity Commission, "The Final Comprehensive Report, Executive Summary," 2019, 462.

184 Ibid at 460.

185 Kenza Ben Azzouz, "President Saied Derides the Economic and Social Rights of Tunisian Women," *Nawaat*, September 1, 2022.

186 ICTJ, workshop, Gafsa, June 27, 2022.

187 Salsabil Challali, "Tunisia Tramples Gender Parity Ahead of Parliamentary Elections," Human Rights Watch, November 2, 2022; The Carter Center, "Legislative and Presidential Elections in Tunisia: Final Report," 2014.

188 Ibid.

189 Inter-Parliamentary Union, "Women in National Parliaments: World Classification," February 1, 2019, <http://archive.ipu.org/wmn-e/classif.htm>

190 Ikram Ben Said, "Confronting an Assault on Democracy in Tunisia," Carnegie Endowment for International Peace, March 14, 2023.

Political violence leading to women's underrepresentation in politics is intimately linked to domestic violence. For women stakeholders, the violations that the political regime committed against women because of their gender are in continuity with the male dominance of women in the private sphere. As one social worker in a hearing center for women victims in the region of Sidi Bouzid highlighted: "Women are subjected to violence regardless of their financial and social situation. A woman judge is abused the day after she rules in a case of violence against women, a woman doctor is abused the day after she gives a medical certificate to another woman who was abused." While another shared, "As a woman, no matter what you do, you will always be a victim of harassment, stigmatization, and intimidation."¹⁹¹ Women in Sidi Bouzid underlined the need to change men and women's conservative views of women's role in society. Meanwhile, women activists in Tunisia have identified immediate measures to protect women from violence, such as the need to put in place an enforcement plan, set a budget for that plan, and activate protection measures of Law 58 regarding the three types of violence—political, economic, and domestic—to promote women's economic and political participation.¹⁹²

A reform-centered focus of reparations for women in Tunisia reflects the situation of Tunisian women under the dictatorship, whereby women victims were not limited to those who suffered political oppression and direct violations but also included women who suffered marginalization as a result of their gender and region of residence. As a result, for reparations to be fully effective for women victims, they must contribute to reducing women's marginalization in Tunisian society, an outcome that will require institutional, political, economic, and social reforms.

To contribute to social and cultural change on how women are viewed in society, stakeholders in ICTJ-organized consultations identified legislative and institutional reforms in the education sector as an important area. Specifically, women called for access to education,¹⁹³ in addition to inclusion of equality between men and women in school curriculum and gender-based cultural activities, as ways to help limit violence against women in all its forms and facilitate women's access to rights.¹⁹⁴ Women insist on the need for a widespread legal culture among women and young people to help ensure guarantees of non-repetition. They also called for research and studies on political violence against women in Tunisia, with concrete recommendations to counter ongoing violence, to be endorsed by the government.

191 ICTJ Workshop, Women Participants, Sidi Bouzid, June 24, 2022.

192 Tahrir Institute for Middle East Policy, "Q&A with Ikram Ben Said: Women in Tunisia," May 2, 2022.

193 ICTJ Workshop, Sidi Bouzid, June 24, 2022.

194 ICTJ Workshop, Tatouine, June 29, 2022.

Conclusion

In countries and communities that have experienced massive and serious human rights violations, transitional justice can help to address the obstacles to well-being and sustainable development that result from the harms, losses, and marginalization caused and reinforced by those violations. As one element of transitional justice, reparations can contribute by providing both material and symbolic support at the individual and collective levels and increasing agency, fostering trust, and facilitating inclusion.

This contribution can be reinforced by the reparative element of complementary criminal accountability and reform measures, especially ones that target economic crimes and help to dismantle abusive, corrupt, and discriminatory systems. This includes the reform of unjust development paradigms, which themselves must be considered among the causes and legacies of past violations. Reparative justice can, in theory, not only contribute to development but also play an important role in making it more inclusive and sustainable.

In practice, however, governments that are obligated to provide reparations often fail to prioritize the design and implementation of victim-centered programs. Those that are implemented are rarely embedded in broader processes of change, with the result that the underlying drivers of marginalization, violence, and abuse persist, making the recurrence of massive violations more likely. While the role that reparations and transitional justice can play in sustainable development is acknowledged in international policy, this has yet to be translated into the type of external support that would most benefit local actors in pushing forward the reparations agenda.

This study aims to help to advance the reparations agenda in practice by examining strategies used by local actors to facilitate the operationalization of reparations for victimized and marginalized communities, while highlighting the synergies between these efforts and sustainable development. Based on the work of ICTJ and its partners in a range of contexts, it provides valuable empirical evidence about the work of local actors and the challenges they face. Viewing this work through the lens of sustainable development allows us to draw connections between the micro level and the macro level—that is, between the needs of individual victims, the activity of survivor groups and other civil society actors, the policies and programs of local and national governments, and the institutions and structures that make up systems of governance and development.

With these connections in mind, the study's findings address effective approaches to ensuring that victims and communities receive reparations and support, including through collective action, engagement with government, and grassroots initiatives; the integration of victims' needs

and priorities into development policies and models; and the reparative elements of complementary criminal accountability and reform measures that are participatory, address corruption and marginalization, and contribute to gender justice and equality. It is hoped that these comparative findings are useful to local actors and external supporters working in different contexts to build more just and inclusive societies.

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