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**Review Conference of the Rome Statute**

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**Confronting Impunity: The role of Truth Commissions in Building  
Reconciliation and National Unity<sup>1</sup>**

1. Nelson Mandela noted in 1995 that, “as all... countries recover from the trauma and wounds of the past, they have had to devise mechanisms not only for handling past human rights violations, but also to ensure that the dignity of victims, survivors and relatives is restored. In the context of this relentless search for appropriate equilibria, profound questions of policy and law have emerged... They have arisen out of the question of how a country in transition should respond to allegations of gross human rights violations by individuals of either the predecessor or extant authority.”<sup>2</sup>

**A. Executive Summary**

2. The term ‘Transitional Justice’ has evolved since the debate began in the early 1980’s on the approach new states should take in dealing with those who have committed past abuses to encompass ‘the full range of process and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation’ as set out by the former Secretary-General to the UN Kofi Annan. Transitional Justice mechanisms include both judicial, such as prosecutions and non-judicial mechanisms, such as Truth Commissions. This paper will focus on the complementary role that Truth Commissions can play in confronting impunity and building national reconciliation as well as on ‘Peace and Justice’.

3. The complexity of the ‘Peace vs. Justice’ Debate is addressed on the basis that there can be no real peace without justice recognising that it is about keeping alive the possibility of justice and about finding the right combination and the right sequence in each situation. There are no easy answers to this complex dilemma. Ultimately, the strategy chosen depends on the political realities and social needs of a given post-conflict society.

4. Given the intrastate nature of most conflicts today, there is an increasing focus on reconciliation and nation-building as a post-conflict measure as there is a greater need for post-conflict states to find ways in which former enemies, perpetrators and victims can live together, side by side without fear. Attitudes and behaviours do not change from genocidal to collegial just because of a declaration of peace. Since coexistence is necessary, the need for reconciliation is profound and the challenge of designing and supporting reconciliation

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<sup>2</sup>Neil Kritz, ed., Nelson Mandela, Foreword: Transitional Justice-How Emerging Democracies Reckon with Former Regimes, vol.1 (Washington DC., United States Institute of Peace Press, 1995.1995).

processes is a crucial question for national and international post-conflict development initiatives.

5. The unique contribution of a Truth Commission is that it has the potential if properly conceived and if properly constituted, of giving a voice to the voiceless and empowering those who for years have been persecuted and made invisible. National ownership and the participation of citizens are crucial if a Truth Commission is to be seen as legitimate and should have a special focus on women, children and child soldiers as well as other marginalized groups.

6. In conclusion, post-conflict societies face at least five goals: transitional justice, distributive justice, prosperity, participation, and peace. Although conceptually separate, these goals are linked. In righting past injustice, transitional justice speaks to a conception of development rooted in social transformation, not just a technocratic endeavour.

7. The Latin American and African experiences illustrate the need for a holistic transitional justice approach. The struggle for peace and justice cannot be achieved by the establishment of a truth commission or criminal justice option alone. A holistic transitional justice approach must have democratic approval and must address the root causes of the conflict, taking into account the democratic deficit that existed before and during the conflict. Any process must seek to restore civic trust by citizens in the institutions of government, with every citizen having the belief that the institutions of the state will work for them, irrespective of their political affiliation, race, religion, gender, tribe or ethnic persuasion or difference. If there is to be lasting peace, uppermost in the minds of those who make decisions on peace and justice is the need to incorporate justice for victims into any peace and justice mechanism.

## **B. Introduction**

8. In June this year, more than 111 State Parties will attend the historic 10-year Review Conference on the International Criminal Court (ICC) and its founding treaty, the Rome Statute<sup>3</sup>. The Review Conference is the first global meeting on the Rome Statute since its adoption in 1998 and will reflect on the work of the Court, its impact on victims and its contribution to international justice and peace. The Review Conference will also address the issue of the Crime of Aggression within the Rome Statute.

9. The establishment of the ICC marks a turning point in the struggle against impunity and a shift towards a policy of accountability for international crimes as well as dealing with victims' interests. The ICC Review conference will discuss four topics provided by the stocktaking committee.

10. The Review Conference provides the opportunity to reconceptualise the relationship between peace and justice in a way that allows the Court to benefit from transitional justice mechanisms thus increasing the potential to complement rather than contradict the objective of building a durable peace. Thus this paper will focus on the complementary role that Truth Commissions can play in confronting impunity and building national reconciliation as well as on 'Peace and Justice'.

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<sup>3</sup> The Rome Statute of the ICC, July 17, 1998, UN Doc. A/Conf.183/9, reprinted in 37 I.L.M. 999 (1998).

### C. Transitional Justice<sup>4</sup>

11. In countries undergoing the radical shift from repression to democracy, how the new state deals with those who committed past abuses represents the first real test for the establishment of democracy and rule of law, as the response will define the principles which will distinguish the new democratic government from the old regime.

12. Questions confronting the new regime include the following:

- a) The fundamental question is of course how the right to justice will impact on the need for peace in any society. This is the ‘Peace vs. Justice conundrum. The issue only arises if the offending party is still in a position to seriously threaten the peace in the country. The right to justice for victims of gross violation of human rights should always be the default position.
- b) How should the new state deal with questions of complementarity, assuming that domestic courts, international tribunals and the ICC all have legitimate claims to jurisdiction over the same crimes?
- c) What difference do Truth Commissions make to the rebuilding of society? Are trials and Truth Commissions necessary for the victims? Are victims a monolithic group? Is a common narrative necessary?
- d) How does the Truth and Reconciliation Commission (TRC) process promote reconciliation? What is the role of the Truth Commission? What are the roles of the State and civil society in effecting reconciliation?
- e) What impact does and should the truth and reconciliation process have on future governance and rule of law?

13. The term ‘transitional justice’ was first used by Neil Kritz in 1995, in a three-volume study entitled *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. The Kritz study mapped how a number of post-conflict states had responded to these questions and the various mechanisms that were used.<sup>5</sup> During the 1990’s, the discourse broadened to include a range of legal responses and mechanisms as scholars and practitioners grappled with this expanding field and how to define it. In 2002, Ruti Teitel’s definition of “transitional justice” as a broader label to describe the ‘*conception of justice in periods of political transition*’ seemed to be the most appropriate.<sup>6</sup>

14. By 2004, the UN Secretary-General Kofi Annan formalized the UN’s normative commitment to transitional justice in his seminal report on the topic.<sup>7</sup> He defined transitional justice as comprising “*the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation*”.<sup>8</sup> These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (and none at

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<sup>4</sup> For a comprehensive account of the genealogy of this field, see Juan Méndez, *The International Justice*, Vol 3, 2009, 157-162 doi: 10.1093/ijtj/ijp009 and Ruti Teitel *The International Justice*, Vol 2, 2008, 1-4, doi: 10.1093/ijtj/ijm041.

<sup>5</sup> Ibid. Neil Kritz.

<sup>6</sup> Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000).

<sup>7</sup> Report of the Secretary- General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, UN Doc S/2004/616(3 August 2004).

<sup>8</sup> Ibid. para.Para. 8.

all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting, lustration and dismissals, or a combination thereof.<sup>9</sup>

15. Transitional Justice Processes serve multiple goals: nation building, truth recovery, reconciliation and the restoration of the rule of law. Together they create a new paradigm for how societies in transition from tyranny to democracy confront massive and systematic abuses of past human rights. Transitional Justice has evolved and is no longer primarily concerned with how to deal with those who have committed past abuses, but, instead is part of the broader debate on how to build a meaningful democracy and sustainable peace.

#### **D. Peace vs. Justice Debate**

16. The early 1980's witnessed a number of Latin American societies make the transition from military dictatorship to civilian rule. In a number of instances, they established Truth Commissions and also instituted some prosecutions.<sup>10</sup> At the time, some experts argued that newly restored democratic states had the responsibility to promote and protect human rights within its purview and this included ensuring accountability with respect to past human rights violations. Others argued that given the fragility of the new democracies, they would not be able to withstand the pressure of the still-powerful military establishments and that an insistence on this path would destabilize the democratic government. These debates however were not limited to Latin America and later re-emerged in Africa where many argued that a focus on justice first would jeopardize peace.

17. The situation is compounded by the fact that increasingly over the last decade, conflicts are intra-state struggles, rather than state versus state wars. In Africa, conflicts have also taken on a regional dimension, given the covert and overt support of neighbouring states.<sup>11</sup> Civilians have increasingly become the targets of terror and atrocities as well as displacement and deprivation. Rebel militias use "hit and run" tactics and attacks against civilians and kidnap children to undermine the dominant power rather than attempt to hold territory. In these circumstances, a military solution to such conflicts is unlikely. It is more probable that a current armed conflict will end with a peace deal, not unconditional surrender, despite the international community's rejection of impunity in principle. As a result, leaders of rebel groups who may be regarded as international criminals may gain a seat at the negotiating table rather than in the dock of a criminal court, whether domestic or international.<sup>12</sup>

18. Post-conflict societies thus face unique and daunting dilemmas: "Although peace and justice are perceived to be natural allies in peacetime, their relationship is fraught in the aftermath of conflict with contradictions. Material and political obstacles are frequently encountered in seeking to restore both peace and justice simultaneously."<sup>13</sup> At the same time, neglecting justice issues runs the risk of recreating the previous system of impunity and thus undermining the peace building process.

19. This perennial debate between peace and justice was succinctly summarized by former UN Secretary-General Kofi Annan:

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<sup>9</sup> Ibid. Para. 8.

<sup>10</sup> The Dilemmas of Transitional Justice-Neil Kritz, Transitional Justice, Vol 1 General Considerations. United States Institute for Peace(USIP).

<sup>11</sup> Sierra Leone, Liberia and the Democratic Republic of the Congo are cases in point.

<sup>12</sup> War Lords in Sierra Leone, Liberia and the Democratic Republic of Congo all participated in the Peace Talks.

<sup>13</sup> Rama Mani, "Balancing Peace with Justice in the Aftermath of Violent Conflict," *Development* 48, no. 3 (2005), 28.

*"Ending the climate of impunity is vital to restoring public confidence and building international support to implement peace agreements. At the same time, we should remember that the process of achieving justice for victims may take many years, and it must not come at the expense of the more immediate need to establish the rule of law on the ground. [...]"*

*We also know that there cannot be real peace without justice. Yet the relentless pursuit of justice may sometimes be an obstacle to peace. If we insist, at all times, and in all places, on punishing those who are guilty of extreme violations of human rights, it may be difficult, or even impossible, to stop the bloodshed and save innocent civilians. If we always and everywhere insist on uncompromising standards of justice, a delicate peace may not survive.*

*But equally, if we ignore the demands of justice simply to secure agreement, the foundations of that agreement will be fragile, and we will set bad precedents. There are no easy answers to such moral, legal and philosophical dilemmas."<sup>14</sup>*

20. However there is an emerging consensus that suggests that sensible peace building strategies should combine elements of both peace and justice, whether by sequencing peace and justice activities (as in the case of some Latin American countries, such as Argentina and Chile, where justice/accountability issues were addressed decades after democratic transitions), or by undertaking peace and justice activities simultaneously (as in the case of Rwanda, Sierra Leone, Uganda, Timor Leste). "Justice and peace" therefore, should not be seen as conflicting or contradictory forces. Rather, properly pursued, they promote and sustain one another.

21. The question should not be: whether to pursue justice and accountability, but rather when and how."<sup>15</sup> In reality it is about keeping alive the possibility of justice and accountability and finding the right combination and the right sequence in each specific context.

22. The UN expert on combating impunity, Diane Orentlicher<sup>16</sup> has affirmed this position:

*"International legal norms affirming that atrocious crimes ought to be punished have provided a powerful antidote to impunity. While there are of course times when those same norms cannot be enforced, it has seemed preferable to say 'not yet' than to reframe global norms in terms that suggest prosecuting atrocious crimes is nothing more than an option. For if we were to move entirely away from the language of legal obligation, we would take from those operating on the frontlines of their countries struggle for decency one of the most potent weapons in their arsenal."<sup>17</sup>*

23. The strategy ultimately depends on the political realities and social needs of a given post-conflict society. Among the political factors that play a decisive role in that process, two are especially important: a) the nature of the transition from conflict (or political repression) to peace; and b) post-conflict power relations. The socio-economic needs of local populations are also critical because they are the ones who will have to rebuild their lives in that society.

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<sup>14</sup> Press Release, Secretary General, "Secretary-General Expresses Hope for New Security Council Commitment to Place Justice, Rule of Law at Heart of Efforts to Rebuild War-Torn Countries," "Countries", UN Doc. SG/SM/8892, SC/7881, 25 September 2003.

<sup>15</sup> *Report of the Secretary General on The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, UN Doc. S/2004/616 (August 23, 2004), 8, para. 21 [hereafter the "Rule of Law Report"].

<sup>16</sup> UN Independent Expert on Combating Impunity.

<sup>17</sup> Diane Orentlicher, Independent Expert, *International Journal for Transitional Justice* 2007 1(1):10-22; UN Independent Expert on Combating Impunity (2004-05) fn9, Pg 22.

While universal principles of justice and accountability are important, the perspectives and aspirations of the local population are equally so.

## **E. Reconciliation and Nation building**

24. There is an increasing focus on reconciliation and nation-building as a post-conflict measure for the prevention of further conflict.<sup>18</sup> One reason for the increased focus on reconciliation may be that because of the intrastate nature of conflict, there is a greater need for post-conflict states to find ways in which former enemies, perpetrators and victims can live together, side by side without fear, given that attitudes and behaviours do not change from genocidal to collegial at the moment of a declaration of peace. Since coexistence is necessary, the need for reconciliation is profound and the challenge of designing and supporting reconciliation processes is a crucial question for national and international post-conflict development initiatives.

25. After the work of the Truth and Reconciliation Commission in South Africa, reconciliation – through Truth Commissions, official apologies, memorials, etc – has become an almost routine element of post-conflict peace building rhetoric and practice. Peru, Sierra Leone, Ghana, Timor Leste, Liberia and Rwanda, to name but a few countries in the world, have all embarked upon processes of reconciliation in the new millennium. At the same time, defining “*reconciliation*” and “*nation building*” in a post-conflict state is crucial as these terms have been used by some post-conflict states to justify impunity.

26. Reconciliation in the context of transitional justice poses a number of challenges. A first challenge stems again from the South African experience with the strong linkage between reconciliation on the one hand and forgiveness for the crimes of the past on the other hand. In the South African context, forgiveness was expected foremost from those who suffered the consequences of the crime of Apartheid in its many forms and placed a heavy burden on victims as it posited the notion that the prospect of reconciliation in the country largely depended on their ability to forgive the perpetrators of heinous crimes.

27. A second challenge relates to the ideological use of the ‘reconciliation’ discourse which suggests that reconciliation means erasing of the past, that is, before the violent conflicts erupted and the human rights violations took place. This kind of retrospective approach is questionable particularly in situations of long-lasting divisions in society, for example, between indigenous peoples and new settlers, where going back to the past would mean ignoring the very basis of the existing inequalities which exist specifically and were created pro-actively through the violation of the rights of indigenous peoples.

28. In this regard, the Peruvian example has shown that there is a way out of this deadlock by emphasising the importance of reconciliation for the future.

29. A further question is whether reconciliation is actually an outcome that can be reached and measured, or merely a process that can and should be started without any certainty as to when it will end in the long run. In examining how different Truth Commissions have dealt with reconciliation, the Peruvian Truth Commission’s conceptual understanding of reconciliation as “*a process of reestablishment and recasting fundamental*

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<sup>18</sup> In 2005, 31 intrastate conflicts were recorded in the Uppsala Conflict Data Program while no interstate conflicts were active (Harbom, Högbladh, and Wallensteen 2006). During the years 1989–2004, the number of intrastate conflicts ranged from 27 to 50 per year, whereas interstate conflicts varied in quantity from zero to two. The Uppsala Conflict Data Program continually and systematically collects worldwide data on armed conflict. Coding rules and definitions can be found at [www.ucdp.uu.se](http://www.ucdp.uu.se).

*ties among Peruvians; ties that were destroyed or that deteriorated in the conflict experienced over the past two decades” as perhaps the most appropriate for a transitional society.*<sup>19</sup>

30. The Peruvian Report posits that reconciliation has three dimensions: (1) the political dimension, that involves reconciliation between the State and society, and between political parties, the State and society; (2) the social dimension, that encompasses the reconciliation of civil society institutions and public spaces with society as a whole, with special attention to the position of marginalized ethnic groups; and (3) the interpersonal dimension, that involves members of communities or institutions who found themselves in conflict. Following this logic, the Commission is not blind to the possibility of reconciliation between individual persons and groups, but nevertheless conceives reconciliation foremost as a fundamental restructuring of society in the political and social fields. Much more than in South Africa, this Peruvian idea of reconciliation is of a substantive nature and relates to concrete fields of interaction and intervention.

31. However, the question remains: is reconciliation along these lines really something different from social change in a society characterised by a very unequal distribution of resources; political, social, economic and cultural?

## **F. Truth Commissions**

32. In the last two decades, the world has witnessed a number of Truth Commissions being established in post-conflict societies across the world.<sup>20</sup> The earlier Truth Commissions were profoundly influenced by the Latin American experiences of military dictatorship.<sup>21</sup> Truth Commissions have evolved over the years in terms of mandate, scope and powers, taking account of the particular transitional context in an effort to establish a normative framework.

33. There is broad consensus now that Truth Commissions are investigatory bodies that have usually been created as part of a country’s political transition to examine human right rights violations.<sup>22</sup> Truth Commissions have often been sponsored and backed by international bodies such as the United Nations.<sup>23</sup> Furthermore, Truth Commissions are usually established “during or immediately after a political transition in a country” based on an underlying assumption that they have the potential to build reconciliation and peace in a post-conflict society.

34. The unique contribution of a Truth Commission is that it has the potential if properly conceived and if properly constituted, of giving a voice to the voiceless, empowering those who for years have been persecuted by abusers and whose pain and suffering have never been recognised or acknowledged by the state.<sup>24</sup> Truth Commissions are able to convert knowledge into an acknowledgment of wrongdoing thus reclaiming for victims the dignity they lost during the years of abuse.<sup>25</sup> National ownership and the participation of citizens are crucial if a Truth Commission is to be seen as legitimate. Truth Commissions that have a special focus

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<sup>19</sup> Peruvian TRC, Report, 346.

<sup>20</sup> Since 1974, at least 25 such commissions have been established around the world.

<sup>21</sup> For details of the Latin American commissions see e.g. USIP, *Truth Commissions Digital Collection*, <http://www.usip.org/library/truth.html> and P. Hayner, *Unspeakable Truths, Facing the Challenges of Truth Commissions*, Routledge, London, 2002.

<sup>22</sup> Truth Commission in South Africa.

<sup>23</sup> The Truth and Reconciliation Commission in Sierra Leone was established with the assistance of the UN and the Office of the High Commissioner for Human Rights.

<sup>24</sup> Yasmin Sooka, *The Politics of Transitional Justice—Peace versus Justice*, *The Dilemma of Transitional Justice in Africa*, 32-33.

<sup>25</sup> *Ibid* 33.

on women, children and child soldiers as well as other marginalized groups have been perceived to be the most successful.<sup>26</sup>

## G. Challenges

35. By 1995, more than 15 Truth Commissions had been established in the world largely modelled on the Latin American experiences where the transitions were largely from military dictatorship to civilian rule. The mandates of these commissions were primarily concerned with civil and political violations and did not focus on economic crimes' and 'socio-economic rights' and questions of the 'political economy'. The mandate of the South African Truth Commission followed this trajectory.<sup>27</sup> While it had to examine the antecedents of the conflict it did not consider the structural nature of apartheid and the systemic nature of its policies that led to exclusion and oppression on the basis of race, thus obscuring the link between racialized power and racialized privilege.<sup>28</sup>

36. While Truth Commissions are powerful forums for initiating conversations about the past and past injustices as well as redress and reconciliation it is rather surprising that the mandates of most Truth Commissions have usually been poorly conceived with gender often being excluded<sup>29</sup>. Vasuki Nesiah notes that even though their mandates were formally gender-neutral, Commissions in Guatemala, South Africa and Peru interpreted their mandates liberally using the language of torture and ill treatment as the legal channels to address sexual violence.<sup>30</sup> In Haiti, Sierra Leone and East Timor/Timor Leste, a focus on gender and sexual violence was explicitly incorporated into the mandates of the commission.<sup>31</sup> An analysis of more general developments in the mandates of Truth Commissions indicates a positive trend, whereby the 'gender-neutral' stance of the early Latin American commissions of Argentina and Chile can be contrasted with the comprehensive understanding of harms demonstrated by the recent Truth Commissions in Timor Leste and Peru.<sup>32</sup> A recent World Bank study echoes this positive finding, noting the incremental improvements made by the decision of the South African Truth and Reconciliation Commission to hold gender hearings, the establishment of a gender unit in the Peruvian Truth and Reconciliation Commission and, the integral role played by the United Nations Development Fund for Women (UNIFEM) in providing technical advice, training and other support to staff and those who testified before the Sierra Leone Truth and Reconciliation Commission<sup>33</sup>.

## H. Conclusion

37. Post-conflict societies face at least five goals: transitional justice, distributive justice, prosperity, participation, and peace. Although conceptually separate, these goals are linked. Both distributive and corrective justice influence the prospects for peace. The former because grievances can re-ignite conflict, the latter because a peace deal may require the correction of past injustices. The likelihood of peace is also determined by the scale and nature of citizen participation. Prosperity makes it easier to achieve the other goals by generating more resources and reducing the need for difficult trade-offs between goals. In righting past injustice, transitional justice speaks to a conception of development rooted in social transformation, not just a technocratic endeavour. In speaking of 'full' citizenship, transitional

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<sup>26</sup> Ibid 33.

<sup>27</sup> Thus a key weakness of the Commission was its limited mandate linked to an examination of civil and political crimes, so murder, torture, disappearances and abductions as well as extra-judicial killings.

<sup>28</sup> Mahmood Mamdani, "A diminished Truth"- After the TRC-Reflections on Truth and Reconciliation in South Africa- Wilmot James and Linda Van de Vijver(eds)2001.

<sup>29</sup> Chile, Argentina, South Africa being cases in point.

<sup>30</sup> Vasuki Nesiah, Gender and Truth Commission Mandates.

<sup>31</sup> Nesiah Ibid.

<sup>32</sup> Nesiah Ibid.

<sup>33</sup> World Bank, *Gender, Justice and Truth Commissions* (Washington DC: World Bank, 2006), 29, <http://www.ictj.org/static/Gender/0602.GenderTRC.eng.pdf>.



justice reinforces the notion that the poor have agency and are not passive actors whom the development process acts upon, but people who can engage in the struggle to end their own oppression and poverty.

38. Until recently, the concept of justice underpinning transitional justice activities has related exclusively to accountability and redress for violations of civil and political rights. It has not focussed on redress for historical inequality and violations of economic, social and cultural rights that often pre-date and/or run concurrently with and follow episodes of political violence.

39. Peace-building efforts in many post-conflict states have demonstrated that if economic and social inequalities go unaddressed and the grievances of the poor and marginalized go unheard, we are left with only uncertain guarantees of non-repetition as we will be dealing with the symptoms while leaving the underlying illness to fester.

40. This is an opportune moment to explore how the field of ‘transitional justice’ can address what anthropologist and physician Paul Farmer terms “structural violence”, referring to the entrenched socio-economic conditions that cause poverty, exclusion and inequality.

41. Truth Commissions have also suffered a crisis of legitimacy as many states have ignored their recommendations and have failed to implement reparations policies for victims. While it is crucial that victims have a forum in which to tell their story, if the recommendations put forward by these Commissions are ignored, then disillusionment and cynicism will result, ensue, not reconciliation. An example of this was in Haiti, where all of the recommendations of the National Truth and Justice Commission were ignored. It was deemed sufficient that such a process had taken place. This led to profound disillusionment among the population who had expected far more from the Commission in terms of follow-up. The reality of course is that there will always be a discrepancy between expectations and the actual outcomes in many of the transitional justice processes in post-conflict societies.

42. The Latin American and African experiences illustrate the need for a holistic transitional justice approach. The struggle for peace and justice cannot be achieved by the establishment of a truth commission or criminal justice option alone. A holistic transitional justice approach must have democratic approval and must address the root causes of the conflict, taking into account the democratic deficit that existed before and during the conflict. Any process must seek to restore civic trust by citizens in the institutions of government, with every citizen having the belief that the institutions of the state will work for them, irrespective of their political affiliation, race, religion, gender, tribe or ethnic persuasion or difference. If there is to be lasting peace, uppermost in the minds of those who make decisions on peace and justice is the need to incorporate justice for victims into any peace and justice mechanism.