

Transitional Justice and Internal Displacement
Input from the International Center for Transitional Justice (ICTJ)
to the Special Rapporteur on the Human Rights of Internally Displaced Persons
July 2023

ICTJ recommends that the Special Rapporteur on the human rights of internally displaced persons prioritize transitional justice as a crucial cross-cutting issue related to the selected themes of generalized violence, peace processes and peacebuilding, and sustainable reintegration into communities. Transitional justice refers to the ways that societies respond to the causes and consequences of serious and massive human rights violations. These responses can help to prevent the recurrence of abuse and violence, and therefore contribute to the broader sustainable peace and development agendas, by addressing the harms and grievances of victims and communities, fostering their inclusion at the individual and collective levels, and facilitating the reform of relevant institutions and structures.

The **integral relationship of displacement to human rights** makes it an important concern of transitional justice. Displacement is linked to human rights violations in multiple ways. Serious violations such as mass killing, arbitrary arrest, torture, and rape often drive widespread displacement, while those such as the destruction of homes and property are often aimed at preventing people from returning home. Forced displacement can be a deliberate strategy, constituting a war crime or a crime against humanity. Moreover, displacement often leaves people vulnerable to a range of additional violations, since it removes the protection otherwise provided by homes, livelihoods, communities, and institutions.¹

Given the centrality of displacement to violent conflict and repression, as well its links to human rights, **a comprehensive response to displacement must include transitional justice. A victim-centered and inclusive approach to transitional justice can address the harms suffered by displaced populations, highlight the human-rights related drivers and consequences of displacement, ensure the participation of displaced persons in relevant processes, and contribute to their sustainable reintegration.**

Recent policy discourse has recognized the value of transitional justice in addressing internal displacement. Most recently, for example, the **2021 Report of the UN Secretary-General's High-Level Panel on Internal Displacement** recommended that states should address displacement in peace processes and “promote compensation, restitution, transitional justice and social cohesion initiatives as part of the recovery process.”² The report argued that while transitional justice is “essential for sustainably resolving conflicts and to prevent the emergence or resurgence of new conflicts in the future,” it remains insufficiently utilized or prioritized in displacement contexts.³

¹ Roger Duthie and Paul Seils, “The Case for Action on Transitional Justice and Displacement,” ICTJ, 2016.

² *Shining a Light on Internal Displacement: A Vision for the Future. Report of the UN Secretary-General's High-Level Panel on Internal Displacement, 2021, Executive Summary, 3.*

³ *Shining a Light on Internal Displacement, Full Report, 16.*

Similarly, the **2018 Report of the Special Rapporteur on the human rights of internally displaced persons** recommended that states and the international community “ensure that the full potential of transitional justice to contribute to preventing and resolving internal displacement is maximized. Responses to internal displacement in post-conflict contexts should more consistently incorporate transitional justice mechanisms, and transitional justice measures should fully include internally displaced persons in their processes.”⁴ These reports build on previous recognition of the need to address justice in the UN Inter-Agency Standing Committee’s Framework on Durable Solutions for IDPs, the African Union Convention for the Protection and Assistance of IDPs in Africa, and the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons.

In line with this discourse, **ICTJ works to ensure that the perspectives of displaced persons are included in the agenda in contexts of both ongoing generalized violence and peacebuilding situations.** In **South Sudan**, for example, we have conducted consultations with displaced populations in internal displacement camps and in Kenya and Uganda and submitted the findings to the process to establish the Commission of Truth, Reconciliation and Healing. In **Sudan**, we have contributed to the training of more than a thousand potential beneficiaries of transitional justice, including internally displaced persons, in multiple regions. In **Ukraine**, we have advocated that displaced persons and refugees be included in the provision of urgent assistance and future reparations programs.⁵ We have also conducted **research** on the concerns and priorities of refugees from the **Central African Republic** and **Syria**, which has contributed to a better understanding of their suffering and the importance they give to inclusion and dignity.⁶

Previous research by ICTJ and the Brookings Institution (on countries such as Colombia, Liberia, Peru, Timor Leste, Turkey, and the former Yugoslavia) provides a **conceptual and empirical basis** for current policy discussions and practice.⁷ This research demonstrated how different transitional justice processes can address displacement. **Restitution of housing, land, and property**, for example, is inherently connected to displacement, while **reparations programs** can provide benefits to victims of violations that led to displacement, for the harms suffered while displaced, or for being a victim of displacement itself. **Truth telling efforts** in many countries have examined the role of displacement in conflict, as well as the suffering and stigma

⁴ UN General Assembly, “Report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary”, A/73/173, July 2018, par. 65.

⁵ Kelli Muddell and Anna Myriam Roccatello, “Reflections on Victim-Centered Accountability in Ukraine,” ICTJ Briefing, February 2023.

⁶ Enrica Picco, “‘I Am 100% Central African:’ Identity and Inclusion in the Experience of Central African Muslim Refugees in Chad and Cameroon,” ICTJ, 2018; Rim El Gantri and Karim El Mufti, “Not Without Dignity: Views of Syrian Refugees in Lebanon on Displacement, Conditions of Return, and Coexistence,” ICTJ, 2017; Cilina Nasser and Zeina Jallad Charpentier, “An Uncertain Homecoming Views of Syrian Refugees in Jordan on Return, Justice, and Coexistence,” ICTJ, 2019.

⁷ ICTJ Research Unit and Brookings-LSE Project on Internal Displacement, “Transitional Justice and Displacement: Challenges and Recommendations,” 2012; Roger Duthie, ed., *Transitional Justice and Displacement* (New York: Social Science Research Council, 2012). Case studies from this research project available at:

<https://www.ictj.org/our-work/research/transitional-justice-and-displacement>

endured by the displaced, and made recommendations. **Accountability processes** can target perpetrators of violations that cause displacement and forced displacement as a crime. **Humanitarian, development, and peacebuilding actors** can collaborate in such efforts by providing technical assistance on reparations, helping to establish people's status as victims, supporting truth-telling and reconciliation processes, and assisting in the participation of displaced persons.

This research suggests that **one of the most important long-term contributions** that transitional justice can make to **resolving displacement** is in **facilitating integration or reintegration**, which is often significantly hindered by the legacies of past abuses. At a general level, transitional justice can facilitate **political (re)integration** of formerly displaced persons by reaffirming basic norms that were systematically violated, strengthening their rights as citizens, and ensuring the inclusion of their voices in narratives that frame how societies move forward. Accountability and reform can facilitate (re)integration generally by improving the **safety and security** of formerly displaced persons, and make it more durable by helping to **prevent recurrence** of the abuses that led to displacement.

Truth-telling efforts can contribute to **social (re)integration** by reducing tensions between those who stayed in their communities and those who were displaced, validating their different experiences, and by bringing low-level offenders among the displaced together with communities to determine what steps may lead to their (re)integration. Reparations and restitution can facilitate **economic (re)integration** and the rebuilding of sustainable livelihoods by increasing access to shelter and land and supporting construction of homes and businesses. Reparations and restitution may be especially crucial to the well-being of households headed by **female returnees**. A **gendered perspective** on justice for displacement is important overall for those displaced who have suffered gender-based violations and for ensuring that transitional justice mechanisms respond to the often-marginalized concerns of displaced women.

Challenges such as **resource and capacity constraints** result from the scope and complexity of displacement. These include assessing the needs of the displaced, distributing appropriate benefits, and determining who qualifies as a victim, as many displaced are not registered as such. Victims may also face obstacles to **participation, access, and mobilization** because they lack information, identity and property title documents, resources, and organizational capacity. **Political challenges** can arise when accountability efforts are seen to be in tension with the neutrality, access, and safety of humanitarian actors, or to create disincentives for those involved in abuses among the displaced to return home, while advocates for the return of land and other rights in some cases face targeted harassment and violence. Integrated responses to the violations of the human rights of internally displaced persons must be designed with such challenges in mind.