

# SECRETARY-GENERAL'S PEACEBUILDING FUND

## THEMATIC REVIEW

### PBF-supported projects on Transitional Justice



United Nations  
Peacebuilding

APR 28th, 2020

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# THEMATIC REVIEW PBF-SUPPORTED PROJECTS ON TRANSITIONAL JUSTICE

## ACKNOWLEDGEMENTS:

The author wants to thank all the staff in PBF Secretariats and recipient organisations across the 13 participating countries as well as headquarter based staff of the UN Secretariat and agencies, funds and programs for generously sharing their time and reflections on their engagement in support of transitional justice efforts. He is also extremely grateful to Kyusun Rose Chung for her excellent collaboration and the data collection and analysis regarding Sri Lanka, The Gambia and Yemen.

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# KEY ABBREVIATIONS USED IN THIS DOCUMENT

<b>CDVR</b>	Commission Dialogue, Vérité et Réconciliation
<b>CEH</b>	Comisión para el Esclarecimiento Histórico
<b>CEV</b>	Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición
<b>CNDR</b>	Commission Nationale de Dialogue et de Réconciliation
<b>CONARIV</b>	Commission Nationale pour la Réconciliation et l'Indemnisation des Victimes
<b>CPRN</b>	Commission Provisoire de Réflexion pour la Réconciliation Nationale
<b>CPRN</b>	Commission Provisoire de Réflexion pour la Réconciliation Nationale
<b>CRSV</b>	Conflict-related sexual violence
<b>CSO</b>	Civil Society Organization
<b>CVJR</b>	Comission Nationale Justice et Réconciliation
<b>DM&amp;E</b>	Design, Monitoring and Evaluation
<b>DPPA</b>	Department of Political and Peacebuilding Affairs
<b>DRC</b>	Democratic Republic of Congo
<b>FAO</b>	Food and Agricultural Organization
<b>FARC</b>	Fuerzas Armadas Revolucionarias de Colombia
<b>GCC</b>	Gulf Cooperation Council
<b>GEWE</b>	Gender equality and women empowerment
<b>GFP</b>	Global Focal Point
<b>GPI</b>	Gender Promotion Initiative
<b>GYPI</b>	Gender and Youth Promotion Initiative
<b>H&amp;I</b>	Humanity and Inclusion
<b>HQ</b>	Headquarter
<b>HRC</b>	Human Rights Council
<b>ICC</b>	International Criminal Court
<b>IOM</b>	International Organization for Migration
<b>IRF</b>	Immediate Response Facility

<b>JEP</b>	Jurisdicción Especial para la Paz
<b>M&amp;E</b>	Monitoring and Evaluation
<b>MPTF</b>	Multi-Partner Trust Fund
<b>NDC</b>	National Dialogue Conference
<b>NPC</b>	National Peace Council
<b>NUNO</b>	Recipient Non-UN Organization
<b>OCNC</b>	Organizing Commission of the National Conference
<b>OECD-DAC</b>	Organization for Economic Co-operation and Development's Development Assistance Commission
<b>OfR</b>	Office for Reparations
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OMP</b>	Office on Missing Persons
<b>OROLSI</b>	Office of Rule of Law and Security Institutions
<b>PBC</b>	Peacebuilding Commission
<b>PBF</b>	Peacebuilding Fund
<b>PBSO</b>	Peacebuilding Support Office
<b>PO</b>	Program Officer
<b>PRF</b>	Peacebuilding Recovery Facility
<b>RCO</b>	Office of the Resident Coordinator
<b>RUNO</b>	Recipient UN Organization
<b>SCRM</b>	Secretariat for Coordinating Reconciliation Mechanisms
<b>SFCG</b>	Search for Common Ground
<b>SG</b>	Secretary-General
<b>SGBV</b>	Sexual and gender-based violence
<b>SIVJRR</b>	Sistema Integral de Verdad, Justicia, Reparación y no Repetición
<b>SR</b>	Special Rapporteur
<b>SRSG</b>	Special Representative of the Secretary-General
<b>TJ</b>	Transitional Justice
<b>ToRs</b>	Terms of Reference
<b>TRC</b>	Truth and Reconciliation Commission

<b>TRRC</b>	Truth, Reconciliation, and Reparations Commission
<b>UBPD</b>	Unidad de Búsqueda de Personas dadas por Desaparecidas
<b>UNDP</b>	United Nations Development Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNFPA</b>	United Nations Population Fund
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UNV</b>	United Nations Volunteer
<b>YPI</b>	Youth Promotion Initiative

# ▶ EXECUTIVE SUMMARY

To advance ongoing quality assurance, knowledge management efforts and in recognition of growing demand for UN support to transitional justice and reconciliation efforts in conflict-affected countries, the UN Department of Political and Peacebuilding Affairs' (DPPA) Peacebuilding Support Office (PBSO) commissioned a thematic review of PBF supported transitional justice projects in the past five years (2014-2018). The review identifies good practices and lessons learned in an effort to inform future PBF investment decisions and help inform programmatic approaches in support of transitional justice measures.

Based on document review and key informant interviews the review analyzed 22 projects from eleven countries (Burundi, Colombia, Côte d'Ivoire, DRC, Guatemala, Guinea, Guinea-Bissau, Mali, Sri Lanka, The Gambia, Yemen) totaling the allocation of \$ 39,620,878 to nine UN agencies funds and programs (UNDP, OHCHR, UN Women, UNFPA, UNICEF, FAO, IOM, UNODC, UNESCO and three CSOs (Search for Common Ground, Humanity & Inclusion and National Peace Council).

The projects under review demonstrated relevance through addressing drivers of conflict as identified by a conflict analysis and supported transitional justice interventions across all pillars. Four quarters of the projects did include gender considerations in their analysis. Fund recipients, e.g. from Sri Lanka, Colombia and The Gambia, welcomed the fast, catalytic, gap-filling and risk-tolerant nature of PBF-support to the establishment or strengthening of transitional justice mechanisms.

The 13 out of the 22 projects which had finished their implementation have largely achieved their intended outcomes, thus demonstrating satisfying levels of effectiveness. PBF successfully supported national consultations in Guinea, Guinea-Bissau, and Sri Lanka, including more than 9,000 Guineans and more than 7,000 Sri Lankans in these participatory processes.

Transitional justice is often conceptualized to rest on four pillars: truth, justice, reparations and guarantees of non-recurrence. Two projects have provided support to Truth and Reconciliation Commissions with positive to exceptional results. In Mali, the project built capacities of the Commission Nationale Justice et Réconciliation (CVJR) to strengthen the gender dimension of its work, while in Colombia the project contributed to the transformation of the Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (CEV) into a fully-functioning State institution.

Justice, in the form of criminal accountability, featured successfully in PBF-supported interventions in Guatemala through support to high-impact criminal cases, such as the Sepur Zarco case, addressing the systematic rape and exploitation of indigenous Q'eqchi' women in the 1980s.

Reparations played a major role in projects in Guatemala and Colombia, comprising both individual and collective reparations. The support to the reintegration of children and adolescents captured by FARC in Colombia had a catalytic impact on the public discourse.

Many projects supported elements of the guarantee of non-recurrence, most often through institutional reforms. However, two projects in Burundi and Sri Lanka focus on young people as change agents and develop a potentially interesting bottom-up approach without a formal engagement with existing TJ-mechanisms, which needs to be further developed.

Some of the projects, e.g. in Guatemala, DRC and Sri Lanka adopted an approach trying to address all four pillars simultaneously. While it is positive that these projects attempt to implement a holistic approach to transitional justice, the review considers that often such projects run the risk of spreading resources too thin and would benefit from a clearer focus and/or sequencing.

Given the relatively short duration of PBF-projects (12-36 months), expectations regarding impact-level results were limited. Some countries, such as Mali, Guatemala, Sri Lanka and Guinea-Bissau did, however, report some contributions of projects to aspects such as recognition of victims, increased trust in state institutions, reconciliation and the strengthening of the Rule of law.

The participation of victims, of women and to a smaller degree of young people played an important role in the design and implementation of projects. These promising attempts at fostering inclusion could further be strengthened: The victim-centered approach could be improved through including a broad diversity of victims even earlier in project design and implementation. In regard to gender, it will be important to highlight even further the particular role of women as leaders and change agents in transitional justice processes. Lastly, there are good reasons to further develop a youth and child-rights based focus due to the transmission of transgenerational trauma and the intergenerational dimensions of trust and reconciliation.

The projects under review are almost exclusively implemented by more than one organization (RUNO/NUNO). This joint implementation has shown potential benefits, such as harnessing the comparative advantages of each organization for more holistic transitional justice responses. However, it could be improved through further investments in joint analysis and planning and strengthening not only the joint implementation within projects but also among projects (programmatic approach). Sustainability is concerned with the question whether the benefits of an activity are likely to continue beyond donor funding. Most projects fell short in regard to the mobilization of funding from donors other than the PBF, which is a shortcoming in light of the catalytic nature of the Fund. A more successful strategy of projects has been to envision the integration of certain activities in the regular state budget. However, it seems that this strategy has more potential in upper-middle income economies such as Colombia, Guatemala and Sri Lanka (assuming the political will to do so) than in low-income economies such as Guinea, Guinea-Bissau, Mali, and The Gambia.

The political nature of transitional justice interventions and resistance faced in local contexts was brought up as the key challenge by key informants. Given that transitional justice is inherently a field of the political contestation this should not be surprising. Seizing windows of opportunity based on a solid conflict analysis, identifying allies based on a stakeholder analysis and forging complementary between political dialogue involving UN leadership and technical programmatic assistance present avenues that have successfully been used to navigate these challenges. Programming and monitoring tools should be equipped to flexibly react to changes in the political context.

The review formulated a number of strategic recommendations for the PBSO aimed at continuing or scaling-up support to transitional justice based on nuanced funding considerations for different scenarios. Substantively, the PBF should build on promising practices of further strengthening national ownership and the inclusivity of TJ-processes. More robust monitoring and evaluation approaches would help to create feedback loops and to adapt projects, while building the foundation for deeper learning if accompanied by appropriate knowledge management components. In regard to quality control for TJ-projects, the review proposes a checklist (Annex 1) that should be tested and further developed to serve as an entry point for standard procedures in the approval of TJ-projects.




In addition, the review formulated detailed recommendations for RUNOs/NUNOs, which aim at balancing the ambitions of a holistic TJ-support with the realities of limited resources in terms of time, funds and capacities in order to attain deeper rather than broader results. The recommendations focus on undertaking quality analysis of the political context as the foundation for simplified yet more focused project design. The project should strive to support locally owned processes through building capacity and the fostering inclusion, while being situated within a larger and coherent UN approach to transitional justice in the country.



## A. INTRODUCTION

'Transitional justice' is a broad, encompassing framework and not an explicit priority or focus area of the UN Peacebuilding Fund (PBF). However, preliminary analysis conducted by the Peacebuilding Support Office (PBSO) in the summer of 2019 has demonstrated that many projects especially under the PBF priority area 2 (dialogue and peaceful coexistence) are focused on transitional justice (more narrowly defined), and/or reconciliation (broadly defined). Based on this analysis, 24% (142 out of 585) of PBF funded projects during 2009-2018 supported transitional justice and reconciliation, which is the equivalent of 26% of total approved budgets over this period. Furthermore, PBF support to transitional justice and reconciliation efforts increased during the last five years (2014-2018): In this period, 85 out of 316 projects (27%) fell into this category, an increase of 19% in number of projects and a 6% funding growth. At the same time, the number of recipient organizations has also grown.<sup>1</sup>








To advance ongoing quality assurance, knowledge management efforts and in recognition of growing demand for UN support to transitional justice and reconciliation efforts in conflict-affected countries, the UN Department of Political and Peacebuilding Affairs' (DPPA) PBSO commissioned a thematic review of PBF supported transitional justice projects in the past five years (2014-2018). The review identifies good practices and lessons learned in an effort to:

-  **Identify** how effectively PBF resources have been used in support of transitional justice (understood as truth, justice, reparations and guarantee of non-recurrence), and what outcomes have been achieved;
-  **Inform** future PBF investment decisions, in particular how and when to best utilize the timely, flexible and catalytic nature of the PBF in this area; and
-  **Compile** good practices to help inform programmatic approaches in support of transitional justice measures at the country-level, as well as contribute to system-wide guidance.

In short, the thematic review contributes to three objectives: 1) accountability; 2) evidence-based strategic guidance for resource allocation by the PBF; and 3) programmatic guidance for recipient organizations of PBF funds, such as recipient UN organizations (RUNOs) and regional and civil society organizations (NUNOs).

In the future, transitional justice is likely to remain an important area of support for PBF. In 2019, a number of new relevant projects, inter alia, in the Central African Republic, Colombia and Guatemala were approved, highlighting the continued relevance of this thematic review.




The portfolio for this review has been identified by PBSO and the consultant narrowing it down to the following 22 projects in 11 countries. Annex 2 details the considerations that have determined these choices during inception and the data collection for the final report. The portfolio under review consists of the following projects:

COUNTRY	PROJECT TITLE	FROM-TO	APPROVED BUDGET	RUNOs/ NUNOs
Burundi	PBF/BDI/A-15 Appui à la Résilience des jeunes face aux conflits sociopolitiques au Burundi	11/2018-05/2020	\$1,776,186	  
Colombia	PBF/IRF 142: Support to the Collective Reparation Program in Colombia for the generation of trust, the construction of territorial peace and the strengthening of the Rule of Law in the post-conflict	08/2016-08/2018	\$3,000,000	 
Colombia	PBF/COL/A-2: Support for the departure of children, girls and adolescents from the camps of the FARC-EP	12/2017-12/2018	\$1,000,000	 

<sup>1</sup> In light of the difficulties of determining the exact nature of a transitional justice project discussed below, these numbers are only indicative.

COUNTRY	PROJECT TITLE	FROM-TO	APPROVED BUDGET	RUNOs/ NUNOs
Colombia	PBF/COL/A-3: Apoyo al proceso de alistamiento de la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (CEV) (Support for Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV))	01/2018-10/2018	\$2,825,954	
Colombia	PBF/IRF 266: Territorial model for non-repetition guarantees and citizen empowerment of youth and women victims of sexual violence and forced disappearance during the armed conflict	01/2019-06/2020	\$1,500,000	   
Côte D'Ivoire	PBF/CIV/C-2 Promoting the Rule of Law and Human Rights to Consolidate Peace in Côte d'Ivoire	10/2018-10/2020	\$2,600,000	 
DRC	PBF/COD/C-1: Paix, Justice, Réconciliation et Reconstruction au Kasai Central	10/2018-09/2020	\$3,500,000	  
Guatemala	PBF/IRF 80: 1385 Asserting the Rights of Women Survivors of conflict-related sexual violence in Guatemala	01/2014-01/2016	\$1,000,000	  
Guatemala	PBF/IRF 144: Institutional and citizen empowerment for the fight against impunity: an opportunity for peace and the rule of law in Guatemala	08/2016-06/2018	\$1,331,723	  
Guatemala	PBF/IRF 145: 1325 - Empowering women survivors of conflict and post-conflict related sexual and gender-based violence in Guatemala	11/2016-05/2019	\$1,000,000	  
Guatemala	PBF/IRF 189: Promoviendo la integralidad de la justicia de transición en Guatemala (Promoting the integrality of transitional justice in Guatemala)	11/2017-09/2019	\$1,893,000	

COUNTRY	PROJECT TITLE	FROM-TO	APPROVED BUDGET	RUNOs/ NUNOs
Guatemala	PBF/IRF 194: Realizing the transformational effect of the Sepur Zarco reparation sentence to break the continuum of conflict and post-conflict related sexual and other forms of violence against women (Guatemala)	12/2017-06/2020	\$2,825,954	  
Guinea	PBF/GIN/A-8:Appui aux Consultations Nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée (CoNARGui)	06/2013-12/2015	\$1,500,000	  
Guinea	PBF/IRF 133: CONARGUI Phase II Appui aux Consultations nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée	10/2015-06/2016	\$2,600,000	
Guinea-Bissau	PBF/IRF 208: Support to political dialogue and national reconciliation in Guinea-Bissau	01/2018-10/2019	\$3,500,000	
Mali	PBF/IRF 105: Program to Improve Access for Women Victims of Sexual and Gender-Based Violence to Justice and Security in Mali	12/2014-12/2017	\$1,000,000	 
Sri Lanka	PBF/IRF 138: Support to Sri Lanka to design transitional justice mechanisms	04/2016-06/2018	\$1,331,723	
Sri Lanka	PBF/IRF 154: Empowering women for an inclusive and sustainable transitional justice and reconciliation process in Sri Lanka (NUNO)	03/2017-06/2019	\$1,000,000	
Sri Lanka	PBF/LKA/A-1: Support to strengthen capacities to undertake reforms to advance peacebuilding and transitional justice processes in Sri Lanka	05/2017-09/2020	\$1,893,000	 
Sri Lanka	PBF/IRF 240: Youth Engagement with Transitional justice for long-lasting peace in Sri Lanka	03/2018-02/2020	\$454,148	

COUNTRY	PROJECT TITLE	FROM-TO	APPROVED BUDGET	RUNOs/ NUNOs
The Gambia	PBF/IRF 172: Support the capacity of national stakeholders to establish credible transitional justice processes and mechanism that promote reconciliation and sustainable peace in the Gambia	05/2017-11/2020	\$4,200,000	 
Yemen	PBF/YEM/B-2: Support to the Implementation of Transitional Justice in Yemen	07/2014-12/2015	\$1,000,000	

## B. METHODOLOGY

According to the ToR, the thematic review was supposed to cover two sets of questions:

- ? **Set 1:** What are the lessons learned and good practices regarding the performance of the projects, and the implications for future PBF investments?
- ? **Set 2:** What are lessons learned and good practices for program design in transitional justice?

While the thematic review is not a formal evaluation, it is structured around the OECD-DAC evaluation criteria to frame the questions raised by the ToR.<sup>2</sup> According to the ToR, these questions were supposed to be answered based on a comparative desk review of project documentation and end evaluations (where available) and complemented by interviews with staff involved in the design and implementation of the projects as well as HQ policy leads.

The thematic review applies a mixed-method approach and collects and analyzes various forms of evidence denoting how they were used to triangulate information. Data collection tools include document review and qualitative semi-structured interviews with key stakeholders. The review conducted

<sup>2</sup>OECD (2012), *Evaluating Peacebuilding Activities in Settings of Conflict and Fragility: Improving Learning for Results*.

remote interviews (42 key informants in total) with a diverse group of stakeholders, such as staff of the PBSO, PBF Secretariats, RUNOs/ NUNOs (both in HQ and in country), implementing partners, and donors. As some key could not be reached in time, the information on Yemen and Guinea is entirely based on document review.

The findings are organized in eight sections, namely the 1) classification of projects, 2) relevance, 3) effectiveness, 4) impact, 5) victims' participation, gender considerations, youth participation and empowerment, 6) efficiency, 7) sustainability and 8) additional findings.

### I. CLASSIFICATION OF PROJECTS

#### 1. CONCEPTUAL CLARIFICATIONS CONCERNING TRANSITIONAL JUSTICE

The apparently basic question, whether a PBF project has a transitional justice focus turned out difficult to answer across the board. To begin with, PBSO does not have any systematic way of classifying projects and thus has not developed clear criteria to distinguish projects beyond its broad priorities and focus areas. A clear definition of transitional justice as well as its relation to other key terms such as peacebuilding and sustaining peace are necessary to define the scope of the review, also because key informants, e.g. from OHCHR, UNDP and UN Women, acknowledged that they were also still grappling with the clear delineation of these concepts.

Transitional justice shall be understood as the “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<sup>3</sup> reconciliation” in line with the Secretary-General's Report on the rule of law and transitional justice in conflict and post-conflict societies.

According to the twin resolutions adopted by the General Assembly and the Security Council in 2016, sustaining peace

“[...] should be broadly understood as a goal and a process to build a common vision of a society, ensuring that the needs of all segments of the population are taken into account, which encompasses activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development, and emphasizing that sustaining peace is a shared task and responsibility that needs to be fulfilled by the Government and all other national stakeholders<sup>4</sup>”

3. S/2004/616, para. 8.

4. A/RES/70/262 and S/RES/2282 (2016).

In light of these two definitions, there is a substantial overlap between the two concepts, transitional justice appearing to be a specific set of approaches included in the more encompassing term of sustaining peace. On the one hand, this justifies the significant investments by the PBF in support of transitional justice projects. On the other hand, it raises questions regarding the specificity of the concept of transitional justice within the realm of peacebuilding and sustaining peace, as well as concerning its added value. OHCHR has been tasked by the Human Rights Council to deliver a report on the relationship between these two concepts<sup>5</sup> and on 13 February 2020, the Security Council held its first-ever open debate on transitional justice under the broader agenda item “peacebuilding and sustaining peace”. The discussion of these nuances of this complex relationship would therefore best be continued at a workshop with a broad set of stakeholders envisioned as a follow-up to this review.

A simplified approach was taken for the purpose of this review. There were a number of clear-cut cases in the decision whether a project was to be included in the review, e.g. the support to the truth commission in Colombia or a variety of TJ-mechanisms in Sri Lanka. In other cases, it was more difficult to determine which projects or their components should be considered. Three elements were used to make this decision: residual challenges, the normative framing, and temporary responses.

**⚠ Residual challenges.** As the definition shows, the focus of transitional justice is coming to terms with large-scale past abuses. This does not preclude that some sort of continuation of human rights violations exists or additional peacebuilding challenges are present in the current context. However, the main thrust of transitional justice processes is coming to

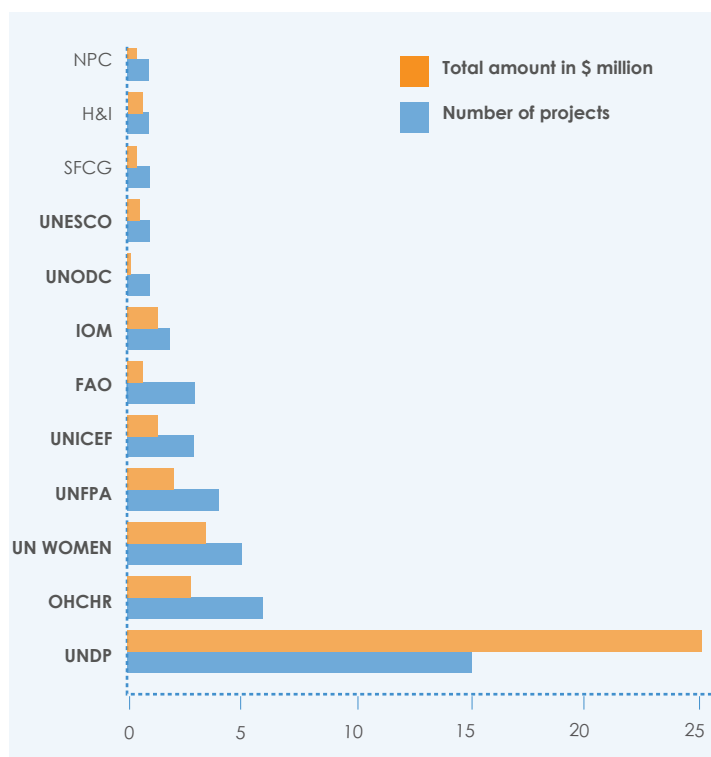
5. In resolution 42/17 of 19 September 2019, the Human Rights Council tasked OHCHR to prepare a report on how “addressing a legacy of gross violations and abuses of human rights and serious violations of international humanitarian law through transitional justice measures can contribute to sustaining peace and the realization of Sustainable Development Goal 16” to be presented at the Council's 46th session (February/March 2021)

terms with the consequences of past abuses creating residual challenges for stakeholders at the time of the interventions. The components of some projects were considered to be focusing too much on ongoing challenges such as land conflicts in Côte d'Ivoire or the creation of one-stop centers for GBV-treatment in Mali to be considered still in the realm of transitional justice.

**⚠ Normative framing.** The second point that adds specificity to the transitional justice concept is its normative framing, both in regard to the qualification of the object (large scale abuses, grave human rights violations) and in regard to the responses (restorative and/or punitive justice, accountability). It is with an explicit human rights angle and thus more specific than concepts such as grievances, exclusion, inequality or even more high-level concepts such as structural drivers of conflict.

**⚠ Temporary responses.** Finally, by definition transitional justice has a transitory element, i.e., a number of responses and approaches applied within a limited time frame. It is crucial to limit expectations concerning what transitional justice mechanisms can achieve within short time frames in light of the enormous challenges presented by the large-scale historic abuses which often require generational transformation processes. At the same time, it is important to denote a division of labor between the work of transitional justice mechanisms and the work of institutions of the ordinary justice sector and security or political institutions which can all be strengthened through sustaining peace interventions. For this reason, a number of projects, e.g. in Guinea and Guinea-Bissau, were excluded because the approach to justice sector reform or strengthening of the penal chain was based on a more long-term developmental approach than limited in time.

## 2. BREAKDOWN OF PROJECTS REVIEWED



The total amount of approved budgets is \$ 39,620,878 with UNDP implementing almost two thirds of these funds. The distribution in the graph is a bit misleading as some joint projects do not only include TJ-components in the narrower sense as discussed above, which were the sole focus of the participating RUNOs. Even accounting for these qualifications, nearly \$ 40m are an impressive amount of funding to TJ-related activities by PBF from 2014-2018 and also displaying a diversity of recipients with nine RUNOs and three NUNOs.

## 3. DIFFERENT TYPES OF PROGRAMMATIC SUPPORT

According to the Special Rapporteur, four different elements of transitional justice can be distinguished: namely truth, justice, reparations and guarantees of non-recurrence. In addition, to these four categories detailed below, this thematic review adds an additional category – in line with the SG Guidance note on transitional justice – in the form of support to national consultations.

**⚠ National Consultations.** National consultations intend to inclusively determine priorities for transitional justice processes from

the perspective of the population. This category can also include support to other forms of participatory and deliberative processes in the preparation of transitional justice mechanisms. Analyzing this support as a separate category is necessary, as there are projects that intervene in a context where the content and focus of transitional justice processes have yet to be defined and/or TJ-mechanisms have not (yet) been created. These participatory and deliberative processes are geared towards determining needs and priorities for transitional justice at the national or sub-national level. From a project perspective it would therefore be premature to look for outcomes relating to any specific transitional mechanism. Examples in the review include the support to national consultations in The Gambia, Guinea, Guinea Bissau, Sri Lanka and Yemen. Yet, it can also include efforts to increase local level participation and build a sense of ownership of stakeholders in the design of the TJ-efforts (e.g. in Colombia, IRF 266).

**▲ Truth finding.** Truth-seeking entities such as truth commissions are focused on the fulfilment of the right to truth, which is enshrined in international instruments such as the International Convention for the Protection of All Persons from Enforced Disappearance and the 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.

“The right to truth entitles the victim, his or her relatives and the public at large to seek and obtain all relevant information concerning the commission of the alleged violation, the fate and whereabouts of the victim and, where appropriate, the process by which the alleged violation was officially authorized. With this legal framework in mind, in the aftermath of repression or conflict, the right to truth should be understood to require States to establish institutions, mechanisms and procedures that are enabled to lead to the revelation of the truth, which is seen as a process to seek information and facts about what has actually taken place, to contribute to the fight against impunity, to the reinstatement of the rule of law, and ultimately to reconciliation.”<sup>6</sup>

**▲ Justice.** Within the transitional justice framework, the concept of justice largely refers to criminal prosecutions, i.e., formal criminal justice dispensed at the national, regional or international level. According to the Special Rapporteur:

“The contributions of criminal prosecutions to transitional processes are manifold. At the most general level, criminal prosecutions provide recognition to victims as rights holders. They also provide an opportunity for the legal system to establish its trustworthiness. Effective prosecutions, in systems that respect due process guarantees, strengthen the rule of law and finally, in doing all of the above, contribute to social reconciliation.”<sup>7</sup>

In this sense, criminal prosecutions can give life to the principles of equality and the supremacy of law in response to contexts in which the law has previously been applied arbitrarily. While the attribution of individual criminal responsibility has been considered a strong tool to counter narratives of collective guilt, the scale of mass atrocities and the number of people involved in them, often stretches criminal justice systems to and beyond their capacities. This narrower interpretation of the concept of justice should not mask the importance of restorative justice concepts for achieving TJ-results.

Examples in the review for this type of programming include a number of projects in Guatemala and to a lesser extent projects in Mali, DRC, Sri Lanka and Yemen which provided legal aid to victims and support to justice institutions, though not always with a clear transitional justice link.

**▲ Reparations.** Reparations can occur in a number of ways. In the context of transitional justice, large scale administrative programs geared towards a large universe of cases are the most appropriate focus, even though judicial reparations have played an important role,

6. A/HRC/24/42, para. 20

7. A/HRC/27/56, para. 22.

in particular in PBF-support to Guatemala, Sri Lanka, The Gambia and Yemen. Reparations can take many forms, individual or collective, material and non-material. Specific UN guidance has been developed for reparations for conflict-related sexually violence.<sup>8</sup>

“At their best, reparation programmes are administrative procedures that, among other things, some of the difficulties and costs associated with litigation. For the claimants, administrative reparation programmes compare more than favourably to judicial procedures in circumstances of mass violations, offering faster results, lower costs, relaxed standards of evidence, non-adversarial procedures and a higher likelihood of receiving benefits.”

Examples in the review come from Colombia and Côte d'Ivoire, with support to collective reparation programs. Addressing SGBV has usually a reparation component, as can be witnessed in the cases of Colombia, Guatemala, Mali, Sri Lanka and Yemen. The reintegration of the children and adolescents from FARC-camps in Colombia has also a reparative angle.

**4 Guarantees of non-recurrence.** Lastly, guarantees of non-recurrence are the broadest element of transitional justice. The core function of these guarantees is preventive in nature and this function can be satisfied by a diverse set of measures, such as reforming institutions, disbanding unofficial armed groups, repealing emergency legislation incompatible with basic rights, vetting the security forces and the judiciary, protecting human rights defenders and training security forces in human rights etc.

“[T]he sort of transformations that are called for in order to approximate anything resembling guarantees of non-recurrence following mass violations cannot be achieved through “institutional engineering” or institutional reforms alone. The challenge of achieving justice retrospectively and prospectively is not merely a technical one. Lasting societal transformations require interventions not only in the institutional sphere but also in the cultural sphere and at the level of personal, individual dispositions.”<sup>10</sup>

8. See [Guidance Note of the SG on Reparations for CRSV](#)

9. A/69/518, para. 4.

The concept of guarantees of non-recurrence with its preventive nature runs the risk of lumping together all activities in the areas of peacebuilding and sustaining peace under this heading. Not surprisingly, the review of the portfolio shows that guarantees of non-recurrence are the most common category, addressed by twelve out of 22 projects.

It is also the category where the conceptual distinction between transitional justice and the broader PBF support to building and sustaining peace discussed above becomes the most difficult. The danger is, for example, to consider all activities of justice sector reform as a contribution to the guarantee of non-recurrence. In line with the conceptual clarifications above, it is therefore suggested to interpret the concept of recurrence narrowly. This implies that the reform of an institutional practice should only be considered as an element of transitional justice and a contribution to the guarantees of non-recurrence in cases where this specific practice was essential to systematic gross human rights violations and mass atrocities of the past.<sup>11</sup>

Examples from the review are mostly from the justice sector (Colombia, Guatemala, DRC, Sri Lanka, The Gambia and Yemen). However, there are other cases that take into account the education sector and narratives of the past, such as projects in Burundi and Guatemala (IRF 189).

Based on this conceptual background, the portfolio under consideration can be classified in the following way (**C**= consultations, **T**= truth, **J** = justice, **R**= reparations, **NR**= guarantees of non-recurrence). Often projects have additional components, not all of them TJ-relevant in the sense developed above.

10. A/HRC/30/42, para. 32.

11. Similar the Special Rapporteur, A/HRC/30/42, para. 25: “The ‘object’ is not the prevention of isolated violations, but of gross human rights violations and serious violations of international humanitarian law. Such violations presuppose systemic abuses of (State) power that have a specific pattern and rest on a degree of organizational set-up.”

PROJECT	C	T	J	R	NR
PBF/BDI/A-15 Appui à la Résilience des jeunes					
PBF / IRF 142: Support to the Collective Reparations Program					
PBF / COL / A-2: Support for the departure of children, girls and adolescents from the camps of the FARC-EP					
PBF/COL/A-3: Apoyo al proceso de alistamiento de la Comision para el Esclarecimiento de la Verdad (CEV)					
PBF/IRF 266: Territorial model for non-repetition guarantees					
PBF/CIV/C-2 Promoting the Rule of Law and Human Rights to Consolidate Peace in Côte d'Ivoire					
PBF/COD/C-1: Paix, Justice, Réconciliation et Reconstruction au Kasai Central					
PBF/IRF 80: Asserting the Rights of Women Survivors of conflict-related sexual violence in Guatemala					
PBF/IRF 144: Institutional and citizen empowerment for the fight against impunity					
PBF/IRF 145: 1325 - Empowering women survivors of conflict and post-conflict related SGBV					
PBF/IRF 189: Promoviendo la integralidad de la justicia de transición en Guatemala					
PBF/IRF 194: Realizing the transformational effect of the Sepur Zarco reparation sentence					
PBF/GIN/A-8:Appui aux Consultations Nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée					
PBF/IRF 133: Appui aux Consultations Nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée (Phase II)					
PBF/IRF 208: Support to political dialogue and national reconciliation in Guinea-Bissau					
PBF/IRF 105: Program to Improve Access for Women Victims of SGBV to Justice and Security in Mali					
PBF/IRF 138: Support to Sri Lanka to design transitional justice mechanisms					
PBF/IRF 154: Empowering women for an inclusive and sustainable TJ reconciliation process in Sri Lanka					
PBF/LKA/A-1: Strengthen capacities to undertake reforms to advance peacebuilding and TJ processes in Sri Lanka					
PBF/IRF 240: Youth Engagement with TJ for long-lasting peace in Sri Lanka					
PBF/IRF 172: Support the capacity of national stakeholders to establish credible TJ processes in the Gambia					
PBF/YEM/B-2: Support to the Implementation of Transitional Justice in Yemen					
<b>TOTAL: 22</b>	<b>9</b>	<b>6</b>	<b>7</b>	<b>12</b>	<b>12</b>

This classification is more descriptive in nature. However, it anticipates the analysis for relevance, as it is positive to see that PBF support to TJ addresses all its dimensions in the sense of a holistic approach to TJ-programming. It also shows that most of the projects address more than one dimension of TJ. In addition, it is worth noticing that seven projects under review were funded under PBF's Gender and Youth Promotion Initiative (six under GPI and one under YPI). As will be detailed below, these projects often serve to pilot complementary or additional approaches to TJ with a specific emphasis on women or youth, thus broadening the inclusivity of TJ-processes.

#### 4. TIMING OF SUPPORT

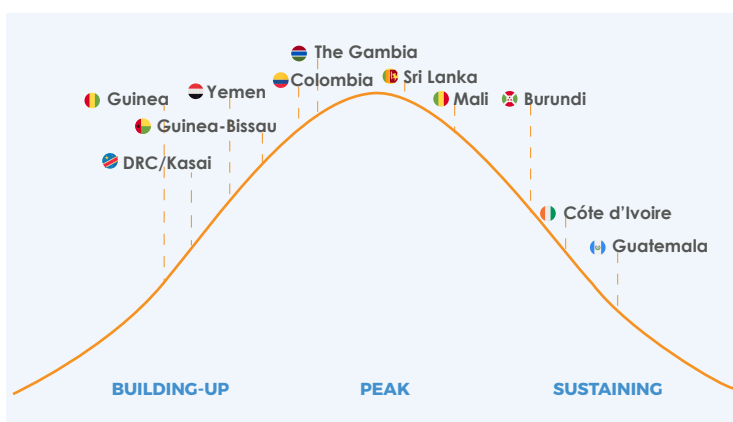
Another important way to classify TJ-interventions concerns the timing of support. For the purposes of this review, three broad phases shall be distinguished:

- ▲ **a preparatory phase** (building up), which consists of determining the appropriate TJ-mechanisms to be implemented, including but not limited to national consultations; this phase can also include the creation of TJ-mechanisms and the strengthening of local capacities to foster participatory and inclusive approaches;
- ▲ **a peak phase**, with the concentrated work of TJ-mechanisms, usually with a limited duration;
- ▲ **a sustaining phase** with a transfer of remaining cases to ordinary justice institutions as well as the implementation of recommendations and institutional reforms with a focus on the guarantees of non-recurrence.

This rather broad classification presents things in a much more linear fashion than they occur in reality. TJ-processes are often much messier where different components of the process move at different speeds and where momentary advances are followed by small or significant setbacks or where years of stalling can suddenly be followed by rapid progress. While this categorization has some descriptive value, its main benefit will become apparent as a foundation for programmatic guidance, which will be further developed in the section on conclusions and recommendations. Based on this



categorization, the following placement of the countries along this continuum is proposed, with a brief description of the country contexts to justify this placement:



According to this concept, DRC/Kasaï, Guinea-Bissau, Guinea, and Yemen fall into the first phase, if so for different reasons. It could be argued that TJ has only started to be explored as topic in Kasaï, while it is not clear whether Guinea and Guinea-Bissau will ever make it over the hump to enter the peak phase, while Yemen has relapsed into conflict.

**DRC/Kasaï.** Transitional justice in the DRC is complex and comprised among other things six cases before the ICC concerning war crimes and crimes against humanity committed in the context of armed conflict in Eastern DRC since 1 July 2002. However, the focus of the PBF project under review has a different regional focus, namely on the Kasaï region. Serious atrocities have been committed in the Kasaï region since mid-2016. The conflict in the Kasaï broke out after Congolese security forces killed Jean-Pierre Mpandi in 2016, a customary leader, prompting his supporters to create an anti-government militia, who attacked and killed state officials and, on some occasions, ordinary citizens. When the military managed to retake control over towns, they committed serious human rights abuses. This situation has caused over a million IDPs and roughly 35,000 refugees to Angola. While many have since returned, the situation in Kasaï remains volatile.

Given the rather recent events, the TJ-process is still very much at the beginning and it is still unclear whether the framing of dealing with these events under the heading of transitional justice will stick.


**Guinea.** While Guinea has not known an open armed conflict, its history is fraught with repression and human rights violations. Examples include the repression of the Peul ethnic group under President Sékou Touré (1958–1985) on conspiracy allegations. Human rights organizations estimate that some 50,000 people died in Camp Boiro alone. The regime of General Lansana Conté which followed was marked in its first years by repression against the Mandinka people, the ethnic group of Diarra Traoré who led a failed coup attempt in July 1985 and was subsequently executed. More recently, on 28 September 2009, soldiers burst into an opposition meeting in Conakry Stadium, firing into the crowd. More than 150 people died and 200 women were raped. More than 13 suspects have been charged, including current and former high-level officials but the trial has yet to take place. In 2011, the Commission Provisoire de Réflexion pour la Réconciliation Nationale (CPRN) charged with the task to lead national consultations to decide on how to come to terms with this history of past violations was created and submitted its reports in 2016. Since then the TJ-process has stalled and Guinea is a case that bears the question whether the process will ever move from the build-up to some sort of peak.

**Guinea-Bissau.** Emerging from a protracted war of liberation between 1963 and 1974, Guinea-Bissau's population experienced violent conflict previous to its inception as an independent state in 1974. In the post-colonial era, a succession of military coups (in 1980, 2003, 2010 and 2012) and the assassination of the president in 2009 illustrate the country's erratic and conflict ridden course. The civil war from 1998/99


was a watershed which prompted international intervention to end the crisis. In 2010, President Vieira launched the project of a National Conference – “Pathways to Peace and Development” that was supposed to develop mechanisms to deal with the legacy of this past. The UN has supported its Organizing Commission (OCNC) but as of the writing of this report, the National Conference has not taken place.

 **Yemen.** With the signing of the peace initiative and its implementation mechanism sponsored by the Gulf Cooperation Council (GCC) in November 2011 and the stepping down of former President Ali Abdullah Saleh after more than 33 years of power, Yemen embarked on the implementation of its transition agenda (two-year political transition process with a fully inclusive National dialogue process and constitutional and electoral reform with Presidential/Parliamentary elections in 2014). This process which was supported by the PBF in 2014-15 through the project under review has since seen significant setbacks through a deterioration of the political and security situation and a relapse into open conflict.


Colombia, The Gambia, Sri Lanka, Mali and Burundi could be characterized as operating in the peak phase, though this means different levels of activities in these contexts. The Gambia is still operating with a lot of energy and dedication to the TJ-process, while it is still open to see what impact the government changes in Colombia and Sri Lanka will have on ongoing TJ-processes. The TJ-processes in Mali and Burundi are at a very different level of intensity, both with mandate renewals for their respective TRCs, whose work is not met with a lot of enthusiasm and in the case of Burundi also carried out without any UN-support.


 **Colombia.** The cornerstone of the current TJ-process in Colombia is the 2016 Peace Agreement. It includes a partial agreement

on victims announced in December 2015, which constitutes a Comprehensive System of Truth, Justice, Reparation and Non-Repitition (Sistema Integral de Verdad, Justicia, Reparación y no Repetición - SIVJRR). This system relies on three mechanisms created in 2017, the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz – JEP) with a maximum duration of 20 years, a Truth and Reconciliation Commission (Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición – CEV) with a mandate of three years, and a Search Unit for Disappeared Persons (Unidad de Búsqueda de Personas dadas por Desaparecidas – UBPD) with a mandate of 20 years. In addition, the system includes guiding principles for reparations as well as guarantees of non-recurrence.

 **The Gambia.** During the 22 years former President Yahya Jammeh was in power, the regime perpetrated an unknown number of human rights violations against voices of dissent. The media was especially targeted, and journalists went missing, were detained and tortured, or were killed. Scores of citizens had their land and properties seized or otherwise destroyed. Overwhelming evidence indicates that sexual abuse and rape were widespread and potentially systematic in state institutions and the security apparatus. The dictatorship severely weakened Gambian institutions and plunged the country into financial crisis. Jammeh also left behind a legacy of corruption on a massive scale. The 2016 elections brought an end to this regime and a key electoral promise of the new democratic government was the establishment of an effective transitional justice process. The Truth, Reconciliation, and Reparations Commission (TRRC) to investigate abuses committed during the dictatorship, determine the scope of future prosecutions and possible amnesties, pursue truth-seeking, advance community and national reconciliation, educate the public on peace and justice, and deliver

individual and communal reparations was established in 2017 following a process of national consultations.

 **Sri Lanka.** Around 80,000-100,000 people were killed during the armed conflict in Sri Lanka (1982-2009). Final stages of the war created 300,000 IDPs who were transferred to camps in Vavuniya District. Following the end of a 30-year armed conflict, the Rajapaksa Government (2010-2015) made insufficient efforts to deal with the past. The 2015 elections changed the political context in Sri Lanka, with a new government committed to an agenda of human rights, good governance, the rule of law and reconciliation. Since 2015, the Government, in collaboration with the UN and other relevant partners, has made progress, such as the establishment of the Office on Missing Persons (OMP) and Office for Reparations (OfR); strengthened institutional capacities of the independent commissions supporting the advancement of transitional justice and reconciliation in Sri Lanka; and community-level dialogue and violence prevention programs, including psychosocial support, in conflict-affected regions towards non-recurrence. In 2019, Sri Lanka co-sponsored the two-year timeline extension to implement its commitments on peacebuilding and transitional justice captured in HRC resolution 30/1. The 2019 elections saw the return of Gotabaya and Mahinda Rajapaksa as President and Prime Minister.

 **Mali.** The failure to fully reckon with its past has made Mali fertile ground for political and armed conflict: violence erupted in the wake of peace deals in both 1996 and 2012. The most recent peace, a fragile agreement reached in 2015, still stands, but its long-term viability rests in the commitment by Malian actors to implement the conditions of the agreement. Mali has yet to genuinely address a legacy of authoritarian rule,

extrajudicial killings, sexual violence, torture, enforced disappearances and the displacement of over 400,000 people. The lack of accountability and redress during previous efforts to bring peace has generated frustration among both victims and civil society at large. The Dialogue and Reconciliation Commission (CNDR) highlighted these failures. Created to address the violence following 2012's military coup, the government dissolved the commission just one year later. In the meantime, the ICC convicted Ahmad Al Fiqi Al Mahdi, as a member of Ansar Eddine to nine years for attack on religious and historic buildings in Timbuktu and is currently conducting one other case against Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud for alleged war crimes and crimes against humanity. National efforts to prosecute perpetrators of human rights abuses have been slow and made no real progress to prosecute crimes committed in the north of Mali. The main focus is currently on the work of the Truth, Justice and Reconciliation Commission (Commission Vérité, Justice et Réconciliation, CVJR) created in 2014, whose mandate has been renewed.

 **Burundi.** The starting point of the transitional justice process in Burundi are the Arusha Accords from 2000, which foresaw among other things the creation of an international commission of judicial inquiry, a national truth and reconciliation commission, and an international criminal tribunal. National consultations with UN support took place in 2009 and while currently there is no probable scenario concerning the creation of a criminal accountability mechanism, a Truth and Reconciliation Commission started its work in December 2014. In 2018, the mandate of the TRC was extended for another four years, while replacing all Commissioners.

Lastly, Côte d'Ivoire and Guatemala can be considered to be cases falling into the sustaining phase. The official position in Côte d'Ivoire is that

the TJ-process is concluded, though residual challenges from it remain. The peak of the TJ-process in Guatemala dates back much longer, yet the country shows that progress in this field is not linear and perseverance and a long-term perspective are indeed essential.

**Côte d'Ivoire.** A Dialogue, Truth and Reconciliation Commission (Commission Dialogue, Vérité et Réconciliation - CDVR) started its work in September 2012 in response to the post-election violence in 2010-2011. The final – and as of yet unpublished report – was submitted report to the government in December 2014. In parallel, three cases had started in front of the International Criminal Court, namely against former President Laurent Gbagbo and the former Minister of Youth Charles Blé Goudé. Both have been acquitted by the Trial Chamber in January 2019 and the Prosecution is preparing an appeal. The ICC also indicted the wife of the former President Simone Gbagbo, who has in the meantime been sentenced by a national court to 20 years in prison. There are a number of additional relevant mechanisms, such as the Commission Nationale pour la Réconciliation et l'Indemnisation des Victimes (CONARIV), created in March 2015 with a compensation fund of 15 million Euros. However, effective reparation still has not been delivered to individual victims and affected communities.

**Guatemala.** UN-brokered peace accords were finalized in 1996, ending the war and bringing a promise of truth, reparations, and reforms to address deep-rooted drivers of conflict. The Historical Clarification Commission (CEH) published its final report in 1999 and estimated total deaths and disappearances at 250,000, with indigenous communities facing the brunt of the violence. Earlier, the Catholic Church sponsored one of the most comprehensive unofficial truth commissions ever conducted. A number of cases have been prosecuted after years of efforts by victims, including the Sepur Zarco case, which

focused on the systematic rape and exploitation of indigenous Q'eqchi' women, from 1982 until 1988. In March 2016, the court issued a wide-ranging reparations decision that addressed past denials of the right to health, education and access to land that indigenous communities in Sepur Zarco had endured, which is the focus of most of the current Guatemala programming. The current political context is less favorable to sustaining this agenda, which shows the long perspective that TJ-processes require due to advances and setbacks that defy any linear concept of transitional justice.

## II. RELEVANCE

The criterion of relevance asks to what extent the interventions are suited to the priorities and policies of target groups, recipients and the donor. The review touched on all three elements.

**Conflict analysis.** For this desk review, substantive engagement with the target groups across all geographic contexts of these interventions was not be feasible. A proxy for the criterion of relevance is the systematic review of conflict analyses conducted during the program design phase, i.e.

- ▲ was a conflict analysis conducted,
- ▲ to what extend was the conflict analysis conducted in a participatory fashion, including a diversity of stakeholders,
- ▲ does the analysis include both elements of conflict analysis in a narrow sense as well as context analysis, including a focus on legal elements of the transitional justice framework, including of existing/ongoing transitional justice mechanisms,

The review concluded that based on these limited criteria, the projects under review have been relevant. Conflict analysis – a requirement for all PBF projects – has been included in all project documents. Some fail to present a proper analysis of the situation on the ground and the consequences of past human rights abuses for

for populations in the current context (e.g. IRF 138 and IRF 142) but these are rare exceptions. Some projects, e.g. IRF 189 and IRF 266 present excellent analyses that can serve as models for future projects.

It has been difficult to assess the exact degree of participation of a diverse set of stakeholders. Often this has been the case at the project or portfolio-level (e.g. in cases where projects are part of a Peacebuilding Priority Plan as in the case of Sri Lanka). Yet it is safe to say that even more efforts to this end could be made in order to shape projects to the needs present in their respective contexts.

In addition, transitional justice support needs to consider normative dimensions. Therefore an analysis of the national and relevant international legal TJ-framework should be included in the analysis during project design, as it can provide additional insights into the TJ-process and its strengths and weaknesses, thus serving to identify entry points for programming. Overall, about three quarters of projects included some analysis of the legal framework, yet five out of 22 projects (27%) have not done so. Even the projects that deliberately do not engage with existing TJ-mechanisms (e.g. BDI/A-15, IRF 240) would benefit from including some sort of analysis as this would also help to justify their approach.

Key informants, e.g. from Mali or Guinea-Bissau, stressed an important point, which relates to the fact that transitional justice as a concept in itself can be perceived as foreign, with negative impact on relevance. Two elements will help to address this challenge and increase relevance.

First, analysis should be focused on uncovering the needs a society is facing in coming to terms with the past, involving its different components with a particular focus on victims of past human rights violations. The more detailed and nuanced the understanding of existing needs and burning issues, the higher the probability that interventions will be relevant and avoid frustrations. In the words of one key informant, it might be more useful to find out what people would need to get on with their lives than spending time on supporting the set-up of a TJ-mechanism which appears to be 'pre-cooked'.

Second, projects should refrain from focusing capacity development on explaining the concept of TJ, as this quickly can turn into an academic exercise, which suggests that there is a right or wrong about these matters and emphasizes external expertise. This runs the danger to obscure what is important in the local context and tends to forget that great advances in transitional justice were made based on social mobilization of victims and other groups before the concept of TJ was even coined. This advice also applies to the organization of national consultations during which sometimes technical questions on the design of TJ-mechanisms are put before a population that will at best only have a vague understanding of some of the terms.

Regarding gender, it is positive to note that 18 out of 22 projects (82%) projects did include gender considerations in the analysis. This analysis is obviously included in the five projects with UN Women participation but goes beyond the work of one agency and points to the solid emphasis put by the PBF on this aspect. This holds true for the projects, which are part of the GPI, but is visible beyond this particular part of the portfolio as the result of a dedicated effort to ensure gender mainstreaming. The fact that most projects do include gender considerations in the analysis does not mean that efforts to develop the different way women and men participated in and experienced the consequences of past human rights violations should not be increased. On the contrary, the potentially active role of women as agents of change can further be brought out in the analysis, which frequently only considers the experience of women as victims. Young people and children feature less often in the analysis, which is partly due to the fact that the Youth, Peace and Security agenda is a more recent development and PBF's YPI was not yet in place at the beginning of the period covered by this review.

One aspect that currently is underdeveloped in the conflict analyses reviewed relates to a robust stakeholder analysis. Transitional justice is a politically contested field and a better understanding of who the actors with their respective interests and intentions are, is crucial in finding allies in the local context to provide targeted support for a strengthened human rights

and transitional justice agenda. This analysis does not always need to be included in the publicly available project documents but should definitely be conducted and updated regularly in the background by the RUNOs/NUNOs and with participation of local stakeholders.

**Recipients' perspective.** From the perspective of the funds' recipients, the support is highly relevant. Both field- and HQ-based key informants commented positively on PBF-engagement in the TJ-field. UN Women, for example, highlighted the change that the creation of the GPI entailed, from which also interventions in transitional justice benefitted, as UN Women was facing challenges to mobilize resources for broader work on consultations and women's participation in TJ-processes.

Other key informants highlighted the risk-taking nature of the PBF, which becomes particularly relevant in light of the political nature of TJ-processes. The timely and appropriate funding was for example highlighted regarding PBF support in Mali, Sri Lanka and The Gambia. In the latter case, the new President was sworn into office in February 2017. During the same period a UN inter-agency mission was deployed to assess immediate needs and three IRF-projects, including one on TJ were drafted without delay, reviewed and approved in a mere two months and funds disbursed in May 2017. This speed is difficult to achieve for other donors and presents a comparative advantage of the PBF.

**PBSO decision-making:** Lastly, relevance is assessed from the donor perspective. The review concludes that PBF support to TJ is highly relevant to its overall mandate. The conceptual clarifications concerning the relationship between transitional justice and peacebuilding and sustaining peace have already shown a substantial overlap between these concepts and beyond that strong theories of change can be developed regarding the contribution of TJ-support to peacebuilding and sustaining peace.

As in other cases, PBSO assesses the funding environment and tries to provide gap-filling support. Key informants confirmed this gap-filling nature of PBF support. Examples include the case

of Côte d'Ivoire, where residual TJ-challenges were addressed as part of the transition funding window of the PBF. Guatemala, where donor fatigue in the area of transitional justice had set in, was able to make important advances despite shrinking political space thanks to the continued support, which is demonstrated by the fact that five out of 22 projects in this review are from Guatemala. PBF-funding to Kasai, a region comparatively neglected by the international community in comparison to other parts of the DRC, was also perceived as filling an important gap

The regularity of PBF investments in TJ notwithstanding, PBSO does not have more clearly articulated criteria for deciding on whether a particular TJ-proposal was "relevant", apart from the Fund's more generic criteria. PBSO compensated for this to some extent by drawing on expertise in other parts of the system on occasion. This occurs mostly in an ad hoc fashion through conversations with UN entities including agencies, funds and programs at headquarters-level, such as UNDP and UN Women. The secondment of an OHCHR colleague to PBSO has also been highlighted as an important step to building in-house capacity. Project-based conversations with the Global Focal Point arrangement, OROLSI and DPPA country desks are also crucial to introduce country and subject-matter expertise in the design and approval of project. It would be important to see how some of these conversations could be made more systematic to further develop strategic and uniform approaches.

Apart from project-specific interaction (SFCG in DRC, NPC and H&I in Sri Lanka), the collaboration with non-UN partners is currently underdeveloped and should be strengthened; potentially also in light of expanding the current set of recipient organizations. TJ-specific conversations with member states occasionally take place within the context of the Peacebuilding Commission (PBC). These country or thematic conversations might be explored further to discuss the political implications of transitional justice processes and thus increase the relevance of PBF support. The implementation of the recommendations of the thematic review will also further strengthen PBSO's decision-making.

### III. EFFECTIVENESS

Effectiveness is understood here as a measure of the extent to which PBF-funded TJ-projects attain their intended outcomes. It is important to note that this is not a formal evaluation and that nine out of 22 projects included in this review are still in the phase of implementation. The presentation of findings thus concentrates on the 13 projects that have already concluded and in addition presents some select findings regarding the likelihood with which the remaining projects will achieve their intended outcomes based on available data as well as through analysis of the underlying theories of change. Overall, the assessment of effectiveness is positive, as most of the projects have achieved their intended outcomes. The presentation follows broadly the classification of different types of interventions to allow for better comparison.

#### 1. NATIONAL CONSULTATIONS

A number of projects supported national consultations with diverse results, in particular when we regard what happened after the consultations.

Guinea/A-8 & IRF 133. These two projects provided continued support to the preparation of the TJ-process in Guinea, in particular in operationalizing the work of the Commission Provisoire de Réflexion pour la Réconciliation Nationale (CPRN) and the organization of a national consultation process. The first project encountered significant delays, which required a second phase to achieve the originally intended results. In the end, the CPRN was equipped to lead the process on the national consultations held from March to April 2016, which reached more than 9,000 Guineans, including in the diaspora. The report was officially submitted to the President of the Republic in June 2016 but since then the process has stalled.

**Guinea-Bissau: IRF 208.** In a similar way, the project in Guinea-Bissau achieved the results foreseen in its TJ-relevant component (Outcome 2) despite significant delays. The project provided capacity

provided capacity development for the members of the Organizing Commission for the National Conference (OCNC) as well as support to its outreach and communication efforts. The crucial question will be whether the National Conference, a mechanism to decide on a TJ-model for Guinea-Bissau, already postponed several times, will be held or whether the TJ-process will fizzle out.

**⚠ Sri-Lanka: IRF 138.** The project largely achieved its intended outcomes. It supported the national consultations as the first step in the implementation of the TJ-process with 100 public meetings and focus group discussions with special groups. The National Consultations Report presents a comprehensive overview of the thoughts, expectations and aspiration of a diversity of stakeholders with regards to Transitional Justice and is based on more than 7,000 individual submissions and group discussions. The consultation process was accompanied by a CSO-led outreach program. The project also facilitated the creation of an archive of human rights violations (1,100 written submissions, 800hours of audio submissions, 4,872 oral submissions etc.).

**⚠ IRF 154.** Another project in Sri Lanka has also worked on increasing participation in the design of the TJ-process. It achieved its outcomes despite a number of adverse context-factors. The evaluation demonstrated that as a result of the project, women from different communities have successfully come together in a set of platforms to advocate for TJ-related issues. The national level platform organized a national advocacy event ensuring participation of representatives from six line-ministries to discuss TJ-related issues to be addressed at local level, which resulted in the government's commitment to incorporate issues raised in the ministry activities. District-level platforms organized events and successfully advocated for the

government and the Office of Missing Persons to provide livelihood support for families of missing persons and female headed households.

- ▲ **Yemen/B-2.** The project had a component in support to the National Dialogue Conference (NDC). Key NDC's working groups (rights and freedoms, Sa'ada Issue and transitional justice) were capacitated to formulate their respective recommendations leading to the adoption of the NDC Outcomes. Over 400 people have participated in the consultation process on amending the TJ Law, including marginalized groups such as victims, minorities, citizens of Southern Governorates.

## 2. TRUTH

Two projects have provided support to Truth and Reconciliation Commissions (in Mali and Colombia) with positive to exceptional results.

- ▲ **Mali:** IRF 105. The project tackled larger issues of SGBV but had one specific output dedicated to transitional justice defined more narrowly which produced strong results. The project strengthened capacities of the Commission Nationale Justice et Réconciliation (CVJR) to strengthen the gender dimension of its work. This resulted in the creation of a Sub-Commission on Gender, trainings on investigation techniques regarding conflict-related sexual violence and an outreach strategy with a focus on women in the northern regions, which according to one key informant led to a substantial mobilization of women on these issues.

- ▲ **Colombia/A-3:** The project contributed to the transformation of the Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (CEV) into a fully-functioning State institution with

budgetary and financial autonomy, proper legal status, national headquarters and field presence, qualified staff, a strategic plan with strategic partners for the correct implementation of its mandate. As such, the Commission was able to assume its key role within the Sistema Integral de Verdad, Justicia, Reparación y No Repetición (SIVJRNR) as foreseen by the Peace Accord. As of the writing of this review, the CEV is in the second year of its 3-year mandate.

- ▲ **Gambia/IRF 172.** This project is still in implementation but has already provided some crucial support to the establishment and operationalization of the Truth, Reconciliation and Reparations Commission (TRRC). The TRRC Act was passed following nation-wide consultations and study tours. A National comprehensive strategy document on TJ was developed and endorsed by Government and Stakeholders in May 2019 following a consultative process. Commissioners of the TRRC were appointed following nation-wide consultations and nominations. Finally, the operationalization was supported through trainings, provision of office material and equipment, creation of a database, recruitment and deployment of 25 national experts, etc.) The establishment of the TRRC was preceded by support to national consultations which resulted in the adoption of a national TJ-Strategy, which was also supported as part of the project.

## 3. JUSTICE

There are no projects focusing exclusively on justice issues, as all the justice projects under review contain additional elements of reparations and/or guarantees of non-recurrence.

- ▲ **Guatemala:** IRF 144. This is the closest to a justice-centered project, as it is essentially a technical assistance project to the justice sector with a focus on potentially high-impact cases. It has achieved its



results, though the transitional justice impact is a bit more difficult to determine. However, one result standing out has been the strengthening of the cooperation at the Inter-American level regarding a joint protocol for the investigation of the crime of femicide. In addition, the project supported the overhaul of Guatemala's witness protection program, from which also witnesses in TJ-relevant cases benefitted. The strengthening of state institutions and civil society actors was successfully undertaken under the angle of guarantees of non-recurrence.

▲ **Guatemala: IRF 80.** The project largely achieved its outcomes, though most of them were pitched at the level of capacity development of state institutions. However, the main achievement of the project was its support to the indictment in the Sepur Zarco case, which became the foundation for subsequent PBF-support. In this regard, the project addressed crucial elements in regard to justice for indigenous women of SGBV, their medical and psycho-social care from a reparations angle, while supporting the broader participation of women in the peace and security agenda.

▲ **Guatemala: IRF 145.** The project continued the support to the Sepur Zarco case, which reached its final verdict in November 2018 and generated a sense of justice and collective reparations. As part of the project a total of 97 women (95 Mayan/2 mestizo) and 24 Mayan men from 4 cases of sexual violence in conflict and post-conflict received legal and psychosocial support. Despite an adverse context, the leadership of the Grandmothers of Sepur Zarco has motivated other women, nationally and globally, to continue to build peace through justice, truth and transformative reparation. The ongoing IRF 194 is continuing this work on the Sepur Zarco case and supports the implementation of the sentence.

#### 4. REPARATIONS

In addition to the reparations components in the projects from Guatemala, Colombia has finished the implementation of two projects focused on reparations.

▲ **Colombia: IRF 142.** In total the project reached more than 41,459 direct beneficiaries, including children, young people and adults and more than 711,492 indirect beneficiaries with the implementation of reparation measures. 118 community and participatory development measures were implemented, which included better access to educational services for 3,500 children, young people and adolescents; support to the construction of community social infrastructure; the delivery of more than 8,239 sports and recreational goods etc. The project also contributed to the reactivation of 24 agricultural production facilities with improved crops, the proper use of water resources and infrastructure for harvesting and processing agricultural products to the benefit of 58 family farming organizations, i.e., approximately 2,724 families. With the aim of mainstreaming gender actions in collective reparation plans, the project managed to incorporate four measures of group psychosocial care for female victims of sexual violence and seven measures of positive discrimination in favor of gender equity in 26 subjects of collective reparation.

▲ **Colombia/A-2.** This project successfully supported the reintegration of children and adolescents captured by FARC. 109 children came through the Transitional Reception Facilities, and 100 children were reunited with their families and 9 moved to a different setting. In regard to reparative measures, 85 people have already received humanitarian aid, 23 have received administrative compensation, 49 have been appointed as trustees, and the remaining young people are in the process of obtaining documentation or bank access. The social reintegration has been

facilitated: 103 young people have received economic benefits and were about to start livelihood programs and projects while ensuring psycho-social support throughout the process. This project has been seen as catalytic as, according to one key informant, everyone knew that FARC was recruiting children, so for the public opinion it was important that they were released.

**▲ Yemen/B-2.** The project achieved its stated results with regard to the support to the Commission to Consider and Address Land Issues (Land Commission) and the Commission on Forcibly Dismissed Employees (Forced Dismissals Commission), institutions created to address issues related to land and employees in the Southern Governorate. During the reporting period, the Land Commission finalized around 42% (42,000) of submitted files and the Dismissals Commission finalized around 20% (20,000) of its cases, reaching out to 350,000 victims and dependents. More than 2,200 victims and witnesses of violence have provided testimonies to NGOs contracted by UNDP and more than 1,500 victims of war crimes and Gender Based Violence have received psychosocial support. Other aspects of the project, e.g. relating to the Truth Commission and the National Independent National Human Rights Institution could not be implemented.

## 5. GUARANTEES OF NON-RECURRENCE

Many projects include elements of support to the guarantee of non-recurrence, often by the mere fact that they strengthen capacities of state institutions that in the past were incapable of successfully addressing or preventing gross human rights violations. However, two projects, Burundi/A-15 and Sri Lanka/IRF 240 focus on young people as change agents and develop a bottom-up approach without a formal engagement with existing TJ-mechanisms.

The project in Burundi combines approaches such

as trainings on life skills training, non-violent communication and conflict resolution with participatory theatre to form a pool of young change agents in their communities. IRF 240 targets law students with TJ-trainings and provides spaces for dialogue. Both projects encounter similar challenges: the link to address past abuses could be further developed in order to strengthen the TJ-focus and even under ideal circumstances the TJ-impact would be in a rather distant future. Lastly there is a question of scale to go beyond individual level change regarding project participants to achieve socio-political change, i.e., concerning historical narratives. Nonetheless, these are interesting approaches which should be developed further, particularly in cases where direct engagement with official TJ-mechanisms is difficult. IRF 189 might provide some positive examples in this regard, which worked on developing guides on teaching history in the schools. These were taken on by the Guatemalan Ministry of Education and distributed nationwide.

## 6. FOUR-PILLAR APPROACH

Two projects adopted a “four-pillar approach”, trying to address simultaneously truth, justice, reparations and guarantees of non-recurrence.

**▲ Guatemala: IRF 189.** The project successfully addressed residual challenges across the four TJ-pillars with the support to the digitization and accessibility of records in the Historic Archive of the National Police (truth); the development of a national prosecution strategy for the cases of gross human right violations (justice); support to exhumations, identification and inhumations of victims of enforced disappearances and other crimes, including support to their surviving family members (reparations); and its work on memorialization and change in historic narratives through the social media campaign “Hilos del Tiempo” which reached more than 300,000 young men and women in 2019 with messages about collective memory, transitional justice and a culture of peace (non-recurrence).

**⚠ DRC/C-1.** This project is still in implementation and is similarly trying to address all four pillars of TJ in the Kasai region within one project. The project contains support to a consultative process, advocacy for the creation of a TRC, capacity development and logistic support to justice institutions, the strengthening of alternative conflict resolution mechanisms, economic support in the guise of reparations and other institution. It is too early to judge the results of the project, however, from the theory of change, it seems rather ambitious to address all four pillars plus leading a consultative process in parallel so early on in what has been termed the build-up phase. While all of these interventions might be valuable in themselves as peacebuilding interventions, the question whether they will coalesce into a coherent TJ-project will have to be evaluated at the end of implementation. At this point, the review remains skeptical because the links seem to be more theoretical and highly ambitious given the duration of the project and the timing of the interventions.

**⚠ Sri Lanka/A-1.** This project is still in implementation but does equally follow a four-pillar approach in strengthening coordination of TJ-mechanisms and supporting the drafting of legislation and policies for these mechanisms as well as the operationalization<sup>1</sup> of the Office on Missing Persons' (OMP) truth, reparations and justice components which include inter alia a witness protection scheme and psycho-social support services. In addition, the project is supporting diverse activities such as the archiving of the records of the Consultation Task Force and a mapping of past and ongoing efforts for reparations.

## 7. DESIGN, MONITORING AND EVALUATION (DM&E)

The review looked at some elements of the design, monitoring and evaluation (DM&E) of the projects.

Regarding design elements, it was noted that overall the formulation of outcomes is solid. However, it is suggested that reference to abstract rights in the formulation of outcomes (e.g. "75 women survivors of conflict and post-conflict related SGBV, particularly indigenous women, are empowered in their rights to restorative justice and transformative reparation") should be replaced in the future by more concrete changes anticipated as a result of the project.

Many key informants complained about the short-duration of the projects (max. 18-months for IRF- and max. 36-months for PRF-projects according to the current PBF Guidelines). Indeed, the IRF funding modality leaves little room for the higher-level change sought by TJ-interventions, however, the PBSO is aware of this tension, yet has very limited leeway on this question. A pragmatic way out of this dilemma could be the agreement of a phased-approach with the possibility of cost-extensions or follow-up projects upon the presentation of promising results. In addition, projects should – where appropriate – integrate a clear scale-up strategy from the beginning in the anticipation that more time and/or resources will be needed. In any case, a heightened sense of realism what can (and cannot) be achieved during the duration of the project should guide both RUNOs/NUNOs and the PBSO during the design and approval process.

Several key informants admitted to difficulties finding appropriate outcome-level indicators and the document review confirms that this is indeed an element of the results frameworks that leaves room for improvement. Unfortunately, in many instances, baselines are not collected at the beginning of the project, which makes it difficult to capture changes resulting from the implementation of the project. The PBSO could consider investing in the development of some sample indicators for the different TJ-pillars, one or several of which might be included in future projects. Not only would this support RUNOs/NUNOs in the development of robust M&E, it would also contribute to comparison between projects for future evaluative or review exercise in the area of TJ.

Some key informants also pointed to the need to develop more flexible monitoring tools, in line with

the risky nature of PBF investments. Often the need to adapt programming due to a change in circumstances arises. For example, in The Gambia the project needed to re-align, re-sequence or engage in activity budget revisions in order to remain relevant to the needs of the TRRC in a constantly changing environment. Developing more adaptive programming and the monitoring tools would increase the quality of interventions. However, this is primarily the responsibility of RUNOs/NUNOs.

Conflict sensitivity can further be strengthened. Projects should have procedures in place that would detect potential negative effects of interventions on the context and adapt programming accordingly. Given the politically contested nature of TJ-processes, projects can inadvertently fuel grievances. In Sri Lanka, for example, it has been remarked that the process was heavily focused on the Sinhalese, while the Tamil in the Northern province were not as engaged.

#### IV. IMPACT

Impact relates to the positive and negative changes produced by an intervention, directly or indirectly, intended or unintended. Going beyond the effectiveness of projects, the criterion of impact raises the question to which higher level changes the project might have contributed to and what potentially negative consequences have been the result of the project.

Documenting impact of transitional justice interventions is a complex undertaking and to do so scientifically across all the country contexts under consideration goes well beyond the scope of this review. At the same time, it is crucial to go beyond the perspective of the individual project to ask what contributions PBF support might (or might not) have made to increase the success of TJ-interventions in a given context. For the purpose of this review, this question will be broken down into two aspects: the first focusing on the interaction between different projects that are implemented in the same context and the second on contributions to intermediate and long-term goals of transitional justice interventions.

Regarding contexts in which more than one

PBF-supported intervention occurred, the question will be asked to what extent the projects were designed to achieve cumulative/complementary results across the TJ-spectrum. In the words of the Special Rapporteur, the

“[...]various measures should be “externally coherent”, meaning that they should be conceived of and implemented not as discrete and independent initiatives but rather as parts of an integrated policy. [...] Measures should not be traded off against one another. Authorities must resist the tendency to expect victims to ignore lack of action in one of these areas because action is being taken in others. In addition to conflicting with international obligations that the State may have with respect to each of the measures under this mandate, such policy is likely to undermine the possibility that whatever measures the Government does implement will be interpreted as justice measures.”<sup>12</sup>

Guatemala, Colombia and Sri Lanka are three countries, where five or four projects respectively have been implemented. As described above, Guatemala has been a case, where this coherence has been well achieved, most notably through the fact that a series of projects was accompanying a high-profile case, which combined elements of justice, reparations and institutional reforms while providing the foundation for a precedence effect with catalytic results.

Colombia has seen large investments in transitional justice, not only by the PBF, which make the question regarding coherence of the PBF investments a bit more difficult to judge. The four projects under review do not have strong links and are thematically, geographically and in terms of implementing partners and target groups rather diverse. As most of them are funded through the Colombia MPTF to which the PBF acts as feeder fund, their unifying criteria is that they leverage the PBF-niche of fast, catalytic or risk-taking funding, while the overall coherence is located at the level of the Colombia MPTF.

In Sri Lanka, the overall coherence is achieved through the Peacebuilding Priority Plan that has guided the UN activities. Support is provided to the Secretariat for Coordinating Reconciliation Mechanisms (SCRM), tasked with the design and implementation of Sri Lanka's reconciliation mechanisms, as well as the PBF Secretariat in the

<sup>12</sup> A/HRC/21/46, para. 27.

country which jointly ensure coherence of interventions. At the same, two projects provide direct funding to NGOs, namely Humanity & Inclusion and the National Peace Council. While this support is complementary, the links to the UN programming in the area of TJ could be made more explicit.

The second question regarding the contributions of projects to substantive transitional justice results needs to face the specific context of PBF support. The projects under consideration are short- to medium term interventions: some of them were designed for 12 months, the longest ones for 36 months. The deep social, cultural and legal transformations of transitional justice, however, are essentially generational projects. This should caution expectations regarding impact-level results of PBF-projects. Long-term impact evaluations are not available for the projects in the portfolio and only one end evaluation was shared with the review team. To approach this question, the review utilized a simplified outcome harvesting approach.<sup>13</sup> An online questionnaire with these outcome formulations was deployed and key informants were invited to provide examples of matching results from their contexts. Responses covering eleven projects were received, which is acceptable, as only 13 projects finished implementation and these outcomes relate to higher impact-level. This approach was also chosen because PBF-projects are not asked to formulate impact-level outcome statements.

Based on the conceptual work of the Special Rapporteur, transitional justice strives to achieve two mediate goals, i.e., recognition for victims and trust, as well as two final goals, namely reconciliation and strengthening the rule of law.<sup>14</sup>

### Recognition

“Almost without fail, one of the first demands of victims is to obtain recognition of the fact that they have been harmed. What, however, is involved in such recognition? The sort of recognition at issue is complex. It is important but not sufficient to acknowledge the victims' suffering and their capacity to endure [...]

*It is therefore fundamental to acknowledge that the victims have been wronged, which is possible only by appealing to norms. What is indispensable, and what transitional justice measures seek to accomplish, is to recognize that the victim is the holder of rights. This entails not only the right to seek for avenues of redress that can assuage suffering but also to restore the victim's rights that were so brutally violated and affirm her or his standing as someone who is entitled to make claims, on the basis of rights, and not simply as a matter of empathy, or any other type of consideration.<sup>15</sup>*

Based on this concept the following outcome formulation was used: The rights of victims of gross human rights violations have been restored and their suffering has been recognized as a violation by an official institution. Answers include the following examples:

“Sri Lanka: The OMP is the first permanent TJ-mechanism established in Sri Lanka that is mandated to address the issues of the families of the missing people. So far, it has been able to record over 17,000 cases of the disappeared with more than 500 receiving their certificates of absence (CoA) hence entitling them for government compensation.

*Mali: La Commission Vérité Justice et Réconciliation a enregistré les dépositions de 15612 victimes des crises. Elle a préparée une politique de réparation et est en train d'organiser des audiences publiques pour permettre aux victimes de partager leurs souffrances vécues avec toute la population malienne.*

*Guinea-Bissau: The Organizing Commission of the National Conference met with many of the widow whose husbands were killed. As the Commission is an organ created by parliament, such meeting afforded the victim recognition by a State sponsored entity.*

*Guatemala: PBF projects in Guatemala have provided significant support to the prosecutor's office to investigate and prosecute cases of gross human rights violations committed during the internal armed conflict. This has led to victims' right to justice being fulfilled, and also their right to reparation being addressed by Sentencing Tribunals and included in judgments. The 18 measures of reparation for the victims of sexual violence in the 2016 Sepur Zarco case is an important example.*

Trust is conceived here predominantly in the vertical sense, i.e., between individual and (state) institutions:

“Trusting institutions means knowing and recognizing as valid the values and norms guiding an institution

13. Wilson-Grau, R. (2015). *Outcome Harvesting. Better Evaluation.*

14. A/HRC/21/46, para. 28.

15. A/HRC/21/46, para. 29.

and deriving from this commitment the assumption that an institutional set-up resting on such norms and values makes sufficient sense to a sufficient number of people to motivate their ongoing active support for these institutions and the compliance with their grounding norms and values. Successful institutions generate a feedback loop: they make sense to actors who will in turn support them and comply with what the institutionally defined order prescribes. In conclusion, trusting an institution amounts to knowing that its constitutive rules, values and norms are shared by its members or participants and are regarded by them as binding.<sup>16</sup>

Based on these explanations the following outcome formulation was used: Representative parts of the population or specific groups within the population show increased trust in and/or cooperation with state institutions. Answers include the following examples:

“ Sri Lanka: The new National Police Commission (NPC) online public Complaint Management System has improved public complaints mechanism in place; Three new regional offices of the Office on Missing Persons enhanced service accessibility to the public.

Mali: Aujourd'hui des milliers de victimes et plusieurs organisations de victimes affirment qu'elles attachent une grande confiance au travail de la Commission Vérité Justice et Réconciliation pour rétablir la paix, la justice et la réconciliation nationale

Guatemala: The PBF Transitional Justice projects have emphasized supporting victims of human rights violations with psychosocial and legal assistance to enable their meaningful participation in justice processes. This support has increased trust between victims and investigators and prosecutors, for example, within victims now being received and attended by the institution in respectful and culturally appropriate ways.

The two final goals of transitional justice, reconciliation and the promotion of the rule of law, are even less likely to be expected as outcomes from the relatively short transitional justice projects supported by the PBF. It was therefore not surprisingly that the results submitted were less numerous and vaguer in their description.

The concept of reconciliation is complex. The following definition shall be used for the purpose of this review:

“ [R]econciliation is, at minimum, the condition under which individuals can trust one another as equal rights holders again or anew. That means that individuals under the jurisdiction of a given State are sufficiently committed to the norms and values that motivate their ruling institutions, that individuals are sufficiently confident that those who operate those institutions do so also on the basis of those norms and values – including the norms that turn individuals into rights holders – and sufficiently secure about other individuals' commitment to abide by and uphold these norms and values.<sup>17</sup>

This means that reconciliation builds on increased institutional trust and adds a horizontal dimension regarding trust in fellow members of the society based on a commitment to shared norms. The following outcome formulation was used: Members of society, belonging to different social groups, show increased levels of trust towards one another, yielding the following results:

“ Sri Lanka: Exchange among women groups of different ethnicities and backgrounds helped them realize they have a joint perspective on TJ and bond over similar grievances and challenges and to understand the importance of non-recurrence; 92% of women participants (across six districts) reported deeper understanding of other women groups and their experiences in the conflict as well as improved knowledge on TJR mechanisms.

Mali : Toutes les organisations de victimes avec lesquelles la CVJR travaille sont composées des femmes et des hommes de différentes ethnies, de religion et de culture. [Ils] acceptent de travailler ensemble main dans la main pour la réconciliation nationale.

Guinea-Bissau: The regional consultations were attend by people from different social groups and helped reduce stereotypes and build trust, specifically between citizens and military.

Promoting the rule of law is the second final goal of transitional justice. While this is yet another very complex concept, three ideas can be considered to be at its core, namely the regulation of power (checks and balances), equality before the law and the significance of judicial processes, including their independence.<sup>18</sup>

The promotion of the rule of law goes beyond a mere formalistic notion of the rule of law and requires in addition that that these three elements are sustained throughout time:

17. A/HRC/21/46, para. 38.

18. A/67/368, para. 11.

16. A/HRC/21/46, para. 33.

“The operative rule of law here goes well beyond a purely juridical concept that can be reduced to regularity or consistency in the application of the law. It includes also the conditions under which individuals are guaranteed meaningful participation in processes of law-making through which they can give content to the notion of justice (not limited to their own redress).<sup>19</sup>”

Based on these clarifications the following outcome formulation was used: The rule of law is strengthened at least in one of three dimensions, i.e., the regulation of power (checks and balances), equality before the law and the significance of judicial processes. One result was submitted:

“Guatemala: PBF support in Guatemala has strengthened the rule of law supporting justice institutions technical capacities to investigate and prosecute cases of gross human rights violations committed during the conflict. The Human Rights Division of the Public Prosecutors Office has achieved historic convictions for crimes such as genocide and crimes against humanity, including diverse forms of sexual violence against women. This has enabled victims - who are predominantly indigenous, historically marginalized and excluded - to gain access to justice and equality before the law. This is particularly important given deep structural inequality in Guatemala which is reflected in indigenous people's limited access to justice generally, and the influence of powerful political and military sectors on justice institutions, eroding judicial independence.”

All outcome statements have in common that they require some social-level change that is backed by sufficient data. This is in line with the large-scale societal transformation that they describe. These direct or indirect higher-level objectives of transitional justice should guide the design and implementation of TJ-projects. The fact that in the online survey, the key concepts of recognition, trust, reconciliation and Rule of law were not understood by all informants or the presented links between activities and results were weak or unclear, points to the fact that more efforts should be undertaken to build capacities and a shared understanding of TJ as well as develop stronger theories of change, which could help contribute to these impact-level results over the long term.

## V. VICTIMS' PARTICIPATION, GENDER CONSIDERATIONS AND YOUTH PARTICIPATION AND EMPOWERMENT

In accordance with the ToR the review paid attention to the inclusion and participation of three (overlapping) groups in the design and implementation of the projects, namely victims, gender considerations with a focus on women empowerment and young people. The last two categories are also important in light of the Gender and Youth Promotion Initiatives (GYPI), an open call for proposals launched by the PBSO.

Victims of large-scale violations of human rights need to play a crucial role in the transitional justice processes:

“None of this [providing recognition to victims, fostering trust and strengthening the democratic rule of law] can happen on the backs of victims, without their meaningful participation. Such meaningful participation can take different forms. To illustrate, truth-seeking requires the active participation of individuals who wish to express their grievances and report on the facts and underlying causes of the violations and abuses which occurred. Truth-seeking will only be regarded a justice measure if civil society, in particular victims organizations, is adequately represented in the composition of a truth commission. Prosecutions, for their part, can only serve as actual justice measures if the victims and their families are effectively involved in the processes and provided with the necessary information relevant to their participation in proceedings. Local or traditional methods of rendering justice, when compliant with international fair trial guarantees, can reach out to the local population so they recognize them as “justice”. Reparations will only be successful if victims and civil society at large have been involved in the design of the schemes, so the measures are commensurate to the harm inflicted and contribute to the recognition of the victim as rights holders. Regarding guarantees of non-recurrence, institutional and personnel reform needs to have a firm grounding in the views of the population and specifically of the victims, who should be actively involved in the related processes so that legislation and institutions are built to prevent future violations and public officials selected in a manner in which the principle of the rule of law is given force.<sup>20</sup>”

The analysis of project outcomes provides examples of the implementation of a victims-centered approach: 28 out of 56 (50%) project outcomes contain explicit or implicit references (such as “conflict affected communities”) to victims. This is promising, as it

19. A/HRC/21/46, para. 45.

20. A/HRC/21/46, para. 54.

demonstrates for which target groups the aspired change is mostly envisioned.

Key informants have confirmed the overall importance that a victim-centered approach has played in the design and implementation of projects, even in projects that did not formulate victim-specific outcomes. In particular the decentralization of TJ-efforts, e.g. in Guatemala, Colombia, Mali, Sri Lanka, the Gambia and Yemen, have increased the participation of victims and access to TJ-mechanisms.

These positive efforts could be improved in two ways: Including victims even earlier in the process in order to strengthen their participation in the design of TJ-interventions; and ensuring the inclusion of a broad diversity of victims, in particular making efforts to reach the most marginalized of them. This would further increase the delivery of justice and prevent new grievances. These efforts should be informed by the understanding that not all victims necessarily have the same interests and priorities in regard to transitional justice.

The second set of questions focused on how the projects under review address gender considerations, including women's participation and empowerment.

“Another cross-cutting advance concerns the creation of specific strategies to address the rights and participation of women and to integrate a gender perspective into transitional justice measures. These innovations are critical given the facts that women are less likely than men to come forward concerning abuses they have experienced, and that the kinds and consequences of human rights abuses suffered by men and women are often different”<sup>21</sup>

Six out of 22 projects in the review are part of various reiterations of the GPI, which is why it is not surprising that 20 project outcomes (36%) contain references to women and girls. Many of these outcomes indeed focus on the women and girls as victims of human rights violations, in particular SGBV. This is witnessed by the fact that there is a large overlap between project outcomes making references to victims and women. As already discussed, there have been some strong results in

this area, including in Guatemala, Colombia, Mali etc.

PBF-funding has also been catalytic in a different sense. Based on the PBF-goal of 30% of funds being dedicated to gender equality and women empowerment (GEWE), the Colombia MPTF has also raised its goals from 15% to 30% in support to GEWE.

While some of the projects have done so, going forward it will be important to go beyond the perspective of seeing women and girls as the (primary) victims of conflict and of sexual and gender-based violence, in particular. The diversity of roles they play in times of conflict and peace should be highlighted, and in particular their role as leaders and change agents in transitional justice processes strengthened.

Lastly, another bias that has attracted a lot of scrutiny is the lack of a specific emphasis on and support to youth contributions and leadership to peacebuilding processes. The Independent Progress Study on Youth, Peace and Security highlighted the important contributions that young people can make to transitional justice processes:

“From the perspective of societies transitioning from conflict to peace, or from autocracy to democracy, youth are critical to the future, even if they have been marginalized in the present. Young men and women are potential purveyors of both historical memory and residual trauma to the next generation. As such, they are among the most strategically important constituencies in the transitional justice exercises of truth-telling and truth-seeking, rebuilding civic trust associated with institutional reforms, and ensuring that past crimes cannot be repeated. They are also the potential primary beneficiaries of reparations for past violations, and the arbiters of accountability or impunity for past violations.”<sup>22</sup>

Despite these observations, young people have not always been able to play this crucial role, as their participation in transitional justice processes has often been limited. The review thus analyzed how projects have addressed the concerns of young people within the support to transitional justice mechanisms and what role young women and men have played in the design, implementation, monitoring and evaluation of projects under consideration.

21. A/HRC/36/50, para. 30.

22. UNFPA and PBSO (2018): *The Missing Peace*, p. 103.



As expected, outcomes mentioning young men and women are less numerous; i.e., only 14 out of 56 project outcomes (25%) focus specifically on them. This is also due to the fact that in comparison to the previous group, one single YPI project was part of the portfolio under review. This is not surprising for a number of reasons: The YPI is younger than the GPI. The role of young people in TJ is more difficult to pinpoint, in particular in regard to TJ-processes that focus on past human rights violations that already date back a long time; the key stakeholders of that time are not part of the youth category anymore.

Nonetheless, there are good reasons to further develop a youth and child focus. The past is very seldom past, as the transmission of transgenerational trauma shows. At the same time, the structural causes for past violations often remain unchanged and affect populations of all ages. Lastly, transitional justice is also to a large extent about how the past is dealt with in the present: if the current society consists in large part of young people, they should also play an important role in the design and implementation of TJ-processes as they are predominantly affected by their results in regard to trust, reconciliation and the Rule of law.

There are some examples that have already been mentioned above, in regard to youth projects in Burundi and Sri Lanka. In addition, there have been some promising practices from Latin America (Guatemala and Colombia), where enforced disappearances of a middle generation have created alliances intergenerational alliances, often between grandmothers and their grandchildren. It should be further explored, how one could institutionalize some of these alliances and foster intergenerational dialogue in general.

## VI. EFFICIENCY

Efficiency, i.e., the qualitative and quantitative relation of inputs to outputs, was only addressed in a limited way in the context of this review. The projects under consideration are almost exclusively implemented by more than one organization (RUNO/NUNO). This joint implementation has potential benefits, such as harnessing the comparative advantages of each organization for more holistic transitional justice

responses. However, there are also risks involved, such as a lack of coordination, duplication and spreading resources too thin.

Overall, key informants spoke positively about joint implementation, though some also pointed to cases of parallel implementation with a lack of coordination. The tendency to attribute one outcome per agency seems to exacerbate this.

The collaboration between UN entities that have a specific approach to TJ, such as OHCHR (human rights), UNDP (Rule of law) or UN Women (gender equality and women empowerment) has the potential to leverage the comparative advantages of each organization for results that are greater than the sum of its parts. In cases, where such a clear profile does not exist, the results are mixed. The implication of FAO for example, seems to have worked better in Guatemala (IRF 194) than in Côte d'Ivoire. In these cases, it is important to already invest a lot into the development of joint and complementary approaches during the design phase.

The role of coordination between different recipients often seems to fall to the RCOs and the PBF Secretariats in particular. Some of these Secretariats, such as in Guatemala, have also specific TJ-expertise which is beneficial in coordination but also during the design and implementation in general. Some key informants pointed out that the Secretariats often do not have sufficient leverage to enforce this coordination.

Leveraging the added value of each

RUNO/NUNO could be improved in a number of ways:

- ▲ Investing in joint analysis and planning. The development of new UNDAFs/UNSDCFs is a crucial moment to look at the transitional justice needs within the country and to increase institutional coordination at the national level where possible. Common Country Assessments (CCAs) are an additional entry point. Projects should be designed in light of common strategic objectives.

- ▲ Diversify the recipients of PBF-funds. The Colombia MPTF, for example, is also trying to engage CSOs more directly as fund recipients to benefit from their proximity to local populations.
- ▲ Further explore the possibility of joint RUNO/NUNO projects. The project in DRC serves as one example of such joint cooperation, but the inclusion of NUNOs with a specific TJ-expertise could complement the work of UN entities creating mutual benefits.
- ▲ Strengthen not only the joint implementation within projects but also among projects (programmatic approach).

An even broader topic is the question of donor coordination, which is a recurring theme not only in regard to TJ-support. Key informants stated that in Sri Lanka, for example, the overall process could have been better coordinated, communicated and streamlined. Many times, relevant actors, especially from the donor community, were not aware of TJ-projects which led to the duplication of efforts. Where possible, the UN could leverage its convening role to oversee coordination under the leadership of Resident Coordinators and their offices in which the PBF Secretariats are usually located. This means of course creating an overview of relevant streams of efforts as well as informing donors and partners to promote effective coordination and transparency.

## VII. SUSTAINABILITY

The criterion of sustainability is concerned with the question whether the benefits of an activity are likely to continue beyond donor funding. One strategy has been to mobilize funding from donors other than the PBF. Few projects were able to do so, which is a shortcoming in light of the catalytic nature of PBF-support. The reasons for this vary: some projects are looking for support over a specific time-frame without a necessary follow-up engagement (e.g. national consultations), others are operating in an environment where little additional resources can be mobilized because of

donor fatigue, and others simply fail to consider resource mobilization during early stages of project design and implementation.

Another strategy of projects has been to envision the integration of certain activities in the regular state budget. However, it seems that for this strategy there is more leeway in upper-middle income economies such as Colombia, Guatemala, Sri Lanka than in low-income economies such as Guinea, Guinea-Bissau, Mali, and The Gambia.<sup>23</sup>

A certain predictability and reliability of funding is crucial to sustain TJ-processes and see through the work of TJ-mechanisms and/or key institutional reforms, which – when abandoned – just would fuel frustrations. For this reason, certain longer-term funding guarantees by PBF could be envisioned upon meeting certain conditions. Not to thwart resource mobilize initiatives by recipients, the PBF could also foresee a matching formula which would provide a certain amount for each dollar mobilized by RUNOs/NUNOs.

As further discussed in the section on recommendations, the PBF is increasingly developing an expertise for transition scenarios and thus should consider integrating an analysis of residual TJ-challenges in these settings, which would also ensure an increased level of sustainability.

In any case, changing from the temporary TJ-perspective to a longer-term developmental perspective on support to Rule of law, e.g. in regard to Justice and Security Sector Reform, organizations with a respective mandate, such as UNDP, should ensure that they create strong links between peacebuilding and development interventions to sustain TJ-results. The Global Focal Point arrangement could also be leveraged to provide ongoing comprehensive and coordinated support by the UN system.

## VIII. ADDITIONAL FINDINGS

Two additional findings of the review shall be discussed at this point, one relating to the political nature of TJ-interventions, the other one to different options of staff support.

<sup>23</sup> According to World-Bank information for [Fiscal Year 2020](#).

The challenge, most frequently brought up by key informants, concerned the political nature of transitional justice interventions and resistance faced in the local context. This can relate to opposition at the beginning of a TJ-process or later backlashes, e.g., as a result of change in government. The review acknowledges that transitional justice is inherently a field of the political contestation and while efforts to reduce it to technical questions might be justified for strategic reasons, they will never capture the essence of these interventions. This type of resistance should therefore not be seen as something unusual, but rather as an intrinsic element of transitional justice that should be considered in the analysis and the design of support programs from the beginning. In some contexts, the UN has at times shied away from grappling with these thornier elements of transitional justice.

Drawing from promising approaches in Guatemala, one can formulate the following principles for a constructive engagement, which would work in other countries as well:

- ▲ The starting point is the acceptance that transitional justice is politically contested.
- ▲ A solid context and conflict analysis will help identify windows of opportunity for thematic engagement;
- ▲ A granular stakeholder analysis will help to identify allies and actual or potential champions for a TJ-agenda, which can be (members of) state institutions and civil society organizations;
- ▲ The definition of a clear rights-based approach with the enforcement of the rights of victim-rights of human rights violations at its center;
- ▲ The willingness from UN senior leadership to ensure political dialogue and consistent messaging;
- ▲ The realistic management of expectations regarding what is achievable in a given

context combined with a clear long-term vision guiding the engagement.

- ▲ If helpful, apply labels other than transitional justice but be conscious that the underlying conflicts and power struggles will remain the same.

Following these principles is not a panacea but will help inject a healthy dose of realism into TJ-programming while providing some guidance on how to maneuver in politically difficult contexts.

In some cases, the UN has decided not to support the work of ongoing TJ-mechanisms, e.g. in the case of the Burundi TRC, based on the assumption that they do not conform to international standards. The review would argue for a more nuanced approach that carefully weighs the pros and cons of such a decision, while being aligned to an overall UN approach. While the support to a compromised mechanism indeed carries the risk of putting a stamp of approval on questionable work, it potentially also means to abandon allies within this mechanism and further weaken their position. The review therefore argues that – when in doubt – a low-profile engagement would in many cases be better than not engaging at all, as it would help strengthen voices of actors striving for a sincere coming to terms with the past, while keeping communication channels open. In addition, there should be a reflection on how the PBF could incentivize positive change and slowly build political will through supporting CSOs in the creation and development of civic spaces for the discussion of relevant issues centered around victims perspectives. In any case, the formulation of clear engagement strategies and decision-making criteria is crucial, so that decisions will not be perceived as arbitrary.

The second issue, which came up during the review is the question of appropriate support to staff costs projects and the related question of how to best integrate experiences from other TJ-contexts.

Based on the findings, it is suggested that staff working within TJ-mechanisms should be

considered for funding within the margins of the gap-filling and catalytic nature of PBF-support. In order to emphasize national ownership and ensure the retention of capacities, preference should be given to national staff; also from a value-for-money perspective. A model, which was successfully tried in Mali, was to have the national staff at the TRC in the beginning accompanied by an international expert, who would ensure transfer of crucial capacities; similarly, in Sri Lanka two international consultants provide ad hoc support and experiences from other countries.

In some cases, UN staff or UNVs are embedded within an institution, as in Colombia (CEV), Guinea-Bissau (OCNC) and Sri Lanka (SCRM). This can have the added benefit of increasing communication and providing continuous in-house support. However, one key informant highlighted the importance of ensuring a proper introduction and framing of this support, in order to prevent the impression of undue interference and control. In any case, a detailed negotiation of the terms of reference of this support should take place. UNVs can also provide a close link to communities at the decentralized level, e.g. IRF 266 (Colombia) but also need to be carefully prepared and supported throughout their assignment.

This interaction between national staff and international expertise seems to be the most beneficial in terms of benefitting from the TJ-experience in other contexts. Attention should be paid not to push one model, as might have been the case with the East-Timor experience in Guinea-Bissau, according to one key informant. In terms of value-for-money, the organization of study trips of a select group of people should only be the last resort, even though first-hand impressions are particularly lasting. The preferred option should be to invite key resource persons from other contexts to share their experiences and provide hands-on advice in the project country.

## D. CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations are structured in two parts, covering strategic considerations for the PBSO in the allocation of funds and programmatic aspects relevant for recipients of funds.

### I. STRATEGIC CONSIDERATIONS FOR THE PBSO

The different phases of TJ-processes described above can serve as the starting point for strategic considerations for the allocation of PBF-funds. During the build-up phase, the focus should be on four elements: building (on) national ownership, increasing inclusion, investing in sound political and contextual analysis and ensuring robust monitoring:

- ▲ As discussed, national ownership is crucial and particularly important during this first phase, as the concept of transitional justice was and can be perceived as foreign and not relevant to the local context. Therefore, early activities should be geared towards assessing national ownership in a broad sense (including state and civil society actors and the population at large) and building on it. In light of the accountability issue, some resistance towards building momentum for a TJ-process should be expected and not discourage engagement.
- ▲ Strengthening inclusivity of the deliberation and design processes of TJ-mechanisms is equally important. It is crucial to start early on with a victim-centered approach to include a variety of voices of victims (representing victims from different periods of conflict, if applicable, types of gross human rights violations as well as from across different groups, not neglecting those from more remote areas or minority linguistic groups etc.).
- ▲ TJ-processes are inherently political in nature and a sound political analysis is an important risk-mitigation strategy, particularly early on in a process, when it is unclear whether or not the process stands

a chance of getting off the ground. PBF resources should contribute to developing a unified UN approach to transitional in the context.

- ▲ Lastly, robust monitoring processes with strong feedback loops help adapt the project to changes in the context and to constantly reassess the suitability of the support and the probability of the TJ-process moving in the right direction.

Support during the peak phase, should be guided by the principles of full-on support, gap analysis and increasing inclusion:

- ▲ As TJ-mechanisms often have a limited mandate, timing is crucial, as there are opportunities that might not come again. This means that PBF should – in line with other elements of the country strategy – increase support to sincere TJ-mechanisms. This can include support to the staff within these mechanisms.
- ▲ However, this principle needs to be balanced by a solid gap analysis, as other donors are likely to increase their funding as well at this point. In line with its mandate, PBF should focus on neglected areas, risky components and elements that while not essential would deepen impact.
- ▲ In this gap analysis, it should be assumed that there cannot be such thing as too much inclusion. Outreach and communication offers to increase information and participation of stakeholders, including through support to decentralization of activities are one way. This also includes information in a variety of languages where relevant. PBF should also build on its successful work in regard to the inclusion of women and youth in TJ-processes also outside its GYPI.

Support during the sustaining phase should be guided by flexible expectations regarding the catalytic role of PBF funding, achieving meaningful change in the lives of victims and other populations through a focus on reparations and institutional reforms, and leveraging PBF's expertise in transitions:

- ▲ During this phase, donor fatigue might set in (as in Guatemala), while significant changes still need to occur or be sustained. In light of the overarching goal of strengthening trust, it is important not to abandon support, thus frustrating expectations of and undermining positive developments in terms of rebuilding trust. Based on a solid gap analysis and encouraging recipients to increase resource mobilization efforts, this can also mean to be less strict about the catalytic role of PBF funding.
- ▲ Change in the area of transitional justice is often framed in normative term, while the concrete change in the lives of victims and other populations remains abstract. In this phase, PBF should support these concrete changes and invest in robust M&E systems to document them.
- ▲ Lastly, the sustaining phase can fall into a period of transition from a UN configuration to another (as in the case of Côte d'Ivoire), an area in which PBF is increasingly gaining expertise. A thorough analysis of residual gaps in the TJ-process as well as ensuring relevant information is retained within the remaining UN setting can increase the success of continued support to reforms of the justice and security sectors or the strengthening of inclusive service delivery that is cognizant of past forms of discriminations, even where they occur without PBF funding.

In regard to quality control for TJ-projects, the review proposes a checklist (Annex 1) that contains elements for analysis, design and monitoring. In addition, to these considerations the review issues the following recommendations:

- ▲ Take the considerations regarding the timing of TJ-support into account when deciding on the allocation of funds to provide adequate support
- ▲ Apply project checklist during the support to the design of TJ-projects and the approval process; update the checklist every year based on feedback from RUNOs/NUNOs
- ▲ Develop and apply more detailed project markers, including one for TJ to be able to better track projects
- ▲ Develop standard evaluation ToRs for TJ-projects that include some common questions which will allow for better comparison among projects and regions
- ▲ Systematically support the analysis of residual TJ-challenges in the case of transitions from one UN configuration to the other
- ▲ In light of lack of flexibility of project duration (18-month limit for IRFs), explore options for more long-term support over different project phases
- ▲ Develop partnerships with non-UN organizations specialized in transitional justice theory and programming – with or without the perspective of identifying new NUNOs – to benefit from their expertise
- ▲ Be mindful of the generational timeframes required for the achievement of TJ-impact and adapt expectations consequently
- ▲ Develop guidance materials and conduct regular training on TJ-programming for PBF program officers (POs) and staff of PBF Secretariats
- ▲ Make available updated good practice and lessons learned materials (including the PBF TJ thematic review) for the reference of POs when advising RUNOs/NUNOs on TJ-programming.

## II. PROGRAMMATIC CONSIDERATIONS FOR RUNOS/NUNOS

One of the major challenges for fund recipients in the design of TJ-projects is the tension between the increasingly complex TJ-policy and academic literature and the (still) comparatively rudimentary practical experience in TJ-programming. This literature becomes ever more refined, arguing for a holistic approach that should consider all aspects of transitional justice, ideally at the same time. Potential consequences are analysis-paralysis and an over-stretch of limited resources in the attempt to address too many aspects simultaneously, while focusing on technical elements of transitional justice to the detriment of its intrinsic political nature. The main thrust of the recommendations of this review is therefore the reduction in complexity and the focus on pragmatic programming approaches for deeper rather than broader results.

Regarding the analysis, it bears repeating that it should be focused on uncovering the needs a society is facing in coming to terms with the past, involving its different components with a particular focus on victims of past human rights violations. While this includes both factual context elements as well as the normative aspects of the existing TJ-framework, it should be a needs-driven, locally-owned analysis that brings out the specificities of the context. Holistic TJ-policies can serve as a mental checklist and as a reminder of the kinds of questions that could be asked but not in a prescriptive manner.

One project alone and not even an ambitious program is going to deliver a holistic TJ-response, in particular not in light of available PBF-funding. Therefore, the most important guideline is to prioritize and simplify, while providing the foundation for leveraging the results. Prioritization will have to be decided on conflict analysis and local needs. Yet, one way to simplify is choosing one entry point and branch out from there if resources allow. Based on some promising practices from the projects under review, four entry points are proposed: focus on one mechanism, focus on a case, focus on a particular topic/issue, focus on a particular region:

**⚠ Focus on one mechanism.** In this case, the support is tailored around one mechanism, with a TRC as the most common example. The support can consist in logistic support to the operationalization of the mechanism, strengthening of capacity, broadening the reach of the mechanism, increasing inclusivity. Branching out could entail, working on institutional links with other TJ-mechanisms, the accompaniment of follow-up interventions and the support to the implementation of recommendations.

**⚠ Focus on a case.** This approach has most successfully been tried in Guatemala in regard to the Sepur Zarco case. A high-profile case can include various elements of transitional justice at the same time, such as truth (helping victims and their family members to find out more about what past atrocities), justice in the form of criminal accountability, reparations and institutional reforms, e.g. to state institutions involved in the prosecution. Focusing on one (or several) high profile cases is risky but the concentrated efforts can pay off and leverage the results, especially with a strong communications strategy.

**⚠ Focus on a particular topic/issue.** Examples from the portfolio have been the focus on SGBV but other forms of neglected aspects of past human rights abuses would also be possible. This approach also allows starting small while adding different aspects from truth over punitive to restorative justice up to changing historical narratives and other institutional reforms.

**⚠ Focus on a particular region.** Examples from the portfolio come from Colombia and Guatemala. The choice of the region should be indicated by the conflict analysis and have the potential to produce catalytic results allowing for a transfer to the national level or scale-up to other regions. . Limiting the scope

geographically allows for deeper engagement with communities and addressing local TJ-needs in a more holistic manner.

Where a local TJ-process with several mechanisms is in place, as in Colombia or Sri Lanka, more holistic support can be provided but should be focused on support to coordination and gap-filling interventions.

In addition, it will help to think about different success scenarios and define them clearly: help launch TJ-mechanisms, provide additional capacities that would otherwise be lacking (e.g. creation of a gender or SGBV unit), broaden geographic reach of TJ-mechanisms, increase inclusion and/or victim participation, strengthen independence of mechanisms in a context of political contestation through international accompaniment etc. Whatever the scenario, it is crucial to capture the development through a robust M&E system, including more solid baseline data as currently available.

As highlighted before, the political engagement should not be underestimated and sometime the project's main result might be to find entry points to intensify the dialogue on political elements of the transition.

In addition, to these remarks, the review issues the following recommendations:

⚠️ Conduct thorough analysis of conflict dynamics in the area of intervention as well as the normative frameworks shaping the TJ-context in the country, including existing (and past) TJ-initiatives and relevant materials

⚠️ Identify priorities and TJ-needs in a participatory form involving a diverse set of national stakeholders, including victims and their associations

⚠️ Strengthen inclusivity throughout the design, implementation, monitoring and evaluation of TJ-interventions, including victims, women, young people stimulating genuine participation

⚠️ Conduct an actor analysis to identify (potential) allies in the pursuit of genuine human-rights-focused efforts of addressing past violations and their consequences

⚠️ Invest in close dialogue with government counterparts and national stakeholders cognizant of the political nature of TJ-processes

⚠️ Systematically check how best to combine programmatic support with political conversations on TJ involving RCOs, SRSGs, SR etc.

⚠️ Assess realistically the capacities and political appetite for the implementation of TJ-mechanisms (of state and non-state actors), and develop scenario-based risk mitigation strategies

⚠️ Identify and strengthen local approaches to TJ, in active partnership with local civil society actors and communities, and dealing with the past instead of pushing generic international concepts and conceptual workshops on TJ

⚠️ Abstain from training merely focused on explaining TJ-concepts and make capacity-building as context specific as possible

⚠️ Strengthen M&E tools that capture TJ-relevant changes and invest in robust base- and endline studies



⚠️ Develop Do-no-harm tools capable of addressing potential adverse effects of TJ-interventions that inadvertently (or not) can sustain and fuel past grievances

⚠️ Invest in communication and outreach strategy that ensure a two-way communication: inclusive processes with a full feedback loop and the participation of diverse stakeholders and between TJ-mechanisms and broad constituency including at the decentralized level

⚠️ Conduct project evaluations focused on the achievement and contribution of projects to of higher-level TJ-results such as recognition and trust

⚠️ Be transparent and consistent to all relevant stakeholders involved about the UN engagement and its underlying value system and principles of engagement.

### III. FOLLOW-UP

In the preparation of this thematic review, a number of questions regarding appropriate follow-up were raised. Based on the process of data collection and analysis, the review proposes the following considerations regarding some of these questions.

The main gap of the review is the limited inclusion of the voices of national stakeholders on the success (or failure) of UN-support to TJ-interventions. Any follow-up should address this gap. One option would be to consider a second phase of the thematic review to delve deeper into the evidence base and collect information from local stakeholders, including through in-country case studies for a select number of countries. Based on the analysis of the portfolio, Guatemala, Colombia and Sri Lanka would be the prime candidates for such a case study approach. Alternatively, and potentially the better option would be to invest in strengthening M&E capacities and reconduct a similar study a few years down the line when more outcome-level

data is available to allow for better comparison. At this point, the inclusion of national stakeholders should be mandatory.

To keep up the momentum generated by the review, a joint workshop to discuss the results of the review and further build capacity should be organized. The workshop should comprise select participants from PBF Secretariats, RUNOs/NUNOs as well as HQ policy leads. Relevant topics include be the link between transitional justice and peacebuilding/sustaining peace, impact-level changes and plausible theories of change, robust yet flexible M&E systems and the funding environment for TJ and the need to program for catalytic results. Such a workshop would also be the starting point for ensuring PBSO's active participation in the formulation of the revised SG Guidance Note on Transitional Justice as well as the formulation of the overall UN approach on TJ. The PBF-experience is particularly valuable in these conversations, as it is a solid body of work that generated a lot of experiences over the years and could infuse contextualized programming experiences and a healthy dose of realism into this policy discussion.

Lastly, there should be a concerted effort to circulate the guidance emanating from the thematic review. Its application throughout the design, approval, implementation, monitoring and evaluation of PBF-funded TJ-projects in the future would contribute to even more coherence in PBF-support to transitional justice and would thus help not only to develop the brand of PBF in this field of work but more importantly increase the contributions of these projects to promoting transitional justice at a global level.

# ▶ ANNEX: KEY DOCUMENTS

## ANNEX 1: PBSO CHECKLIST FOR THE DESIGN AND APPROVAL OF TJ-PROJECTS

### TJ-context

- ▲ Support is appropriate for the phase of the TJ-process
  - ▲ During the build-up phase, the focus should be on building (on) national ownership, increasing inclusion, investing in sound political analysis and ensuring robust monitoring
  - ▲ During the peak phase, the focus should be guided by the principles of full-on support, gap analysis and increasing inclusion
  - ▲ During the sustaining phase, the focus should be guided by flexible expectations regarding the catalytic role of PBF funding, achieving meaningful change in the lives of victims through a focus on reparations and institutional reforms, and leveraging PBF's expertise in transitions.

### Analysis

- ▲ A thorough analysis of conflict dynamics in the area of intervention as well as the normative frameworks shaping the TJ-context in the country has been conducted
- ▲ Priorities and TJ-needs have been identified in a participatory form involving a diverse set of national stakeholders, including victims and their associations
- ▲ A granular stakeholder analysis to identify (potential) allies and champions in the pursuit of genuine human-rights-based efforts of addressing past violations and their consequences has been conducted. This analysis can be annexed to the public project document.

### Design

- ▲ Project design takes the recommendations of the PBSO Thematic Review on Transitional Justice into account, in particular in regard to prioritization and simplification
- ▲ The design of interventions follows a participatory and the inclusive process involving victims, women, young people
- ▲ The formulation of outcomes avoids an overly legalistic language and focuses on the change in the lives of target groups
- ▲ Strategies to engage in close political dialogue with government counterparts and national stakeholders by senior UN officials in country, at the regional (SRSG/SESG) or at the global level (Special Rapporteur) have been included to complement technical interventions
- ▲ Partnerships with non-UN organizations specialized in transitional justice theory and programming have been explored to leverage their expertise
- ▲ Theoretic capacity development activities consisting merely of explaining TJ-concepts to local stakeholders are reduced to a bare minimum

## Monitoring

- ▲ Results frameworks include outcome level indicators that meaningfully break down the contribution to recognition, trust, reconciliation and/or Rule of law
- ▲ Baseline studies are conducted at the beginning of the project and are ideally already developed
- ▲ Meaningful participation of victims, women and young people in the monitoring of projects is foreseen
- ▲ Tools to ensure conflict sensitivity and capable of addressing potential negative effects of TJ-interventions are available to prevent or detect effects that sustain or fuel past grievances

## Evaluation

- ▲ ToR for project evaluation includes some standard questions on outcome and impact analysis, e.g. referring to recognition, trust, reconciliation or Rule of law to allow for better comparison between contexts

## ANNEX 2: PORTFOLIO FOR THE REVIEW

COUNTRY	PROJECT TITLE	APPROVED BUDGET	RUNOs/ NUNOs
Burundi	PBF/IRF 139: African Union Human Rights observers support in Burundi	\$2,259,816	AUC
Burundi	PBF/BDI/A-15 Appui à la Résilience des jeunes face aux conflits sociopolitiques au Burundi	\$1,776,186	UNFPA UNESCO UNICEF
Colombia	PBF / IRF 142: Support to the Collective Reparation Program in Colombia for the generation of trust, the construction of territorial peace and the strengthening of the Rule of Law in the post-conflict	\$3,000,000	UNDP FAO
Colombia	PBF/COL/A-2: Support for the departure of children, girls and adolescents from the camps of the FARC-EP	\$1,000,000	UNICEF IOM
Colombia	PBF/COL/A-3: Apoyo al proceso de alistamiento de la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (CEV) (Support for Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV))	\$2,825,954	UNDP
Colombia	PBF/IRF 266: Territorial model for non-repetition guarantees and citizen empowerment of youth and women victims of sexual violence and forced disappearance during the armed conflict	\$1,500,000	OHCHR UN Women
Côte D'Ivoire	PBF/CIV/C-2 Promoting the Rule of Law and Human Rights to Consolidate Peace in Côte d'Ivoire	\$2,600,000	FAO UNDP
DRC	PBF/COD/C-1: Paix, Justice, Réconciliation et Reconstruction au Kasai Central	\$3,500,000	SFCG OHCHR UNDP
El Salvador	PBF / IRF 179: Joint Peace Program for post-conflict generation in El Salvador	\$2,272,181	UNDP UNHCR IOM
Guatemala	PBF/IRF 80: 1385 Asserting the Rights of Women Survivors of conflict-related sexual violence in Guatemala	\$1,000,000	UNFPA UNDP UN Women

COUNTRY	PROJECT TITLE	FROM-TO	APPROVED BUDGET	RUNOs/ NUNOs
Guatemala	PBF/IRF 144: Institutional and citizen empowerment for the fight against impunity: an opportunity for peace and the rule of law in Guatemala		\$1,331,723	UNODC UN Women UNDP
Guatemala	PBF/IRF 145: 1325 - Empowering women survivors of conflict and post-conflict related sexual and gender-based violence in Guatemala		\$1,000,000	UNFPA UNDP UN Women
Guatemala	PBF/IRF 189: Promoviendo la integralidad de la justicia de transición en Guatemala (Promoting the integrality of transitional justice in Guatemala)		\$1,893,000	UNDP
Guatemala	PBF/IRF 194: Realizing the transformational effect of the Sepur Zarco reparation sentence to break the continuum of conflict and post-conflict related sexual and other forms of violence against women (Guatemala)		\$2,000,000	OHCHR UN Women FAO
Guinea	PBF/IRF 201: Appui au renforcement de la chaîne pénale et à la lutte contre l'impunité en Guinée		\$1,700,000	OHCHR UNDP
Guinea	PBF/GIN/A-8: Appui aux Consultations Nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée (CoNARGui)		\$2,492,108	UNDP UNICEF OHCHR
Guinea	PBF/IRF 133: CONARGUI Phase II Appui aux Consultations nationales sur le processus et les mécanismes de Réconciliation Nationale en Guinée		\$876,442	UNDP
Guinea-Bissau	PBF/IRF 265: Placing Women at the center of Justice Reform in Guinea-Bissau		\$1,000,000	UNDP
Guinea-Bissau	PBF/IRF 208: Support to political dialogue and national reconciliation in Guinea-Bissau		\$807,328	UNDP
Mali	PBF/IRF 105: Program to Improve Access for Women Victims of Sexual and Gender-Based Violence to Justice and Security in Mali		\$1,498,310	UNFPA UN Women
Mali	PBF/IRF 299: Appui aux initiatives transfrontalières de dialogue communautaire et avec les acteurs du secteur de la sécurité et de la justice pour la consolidation de la paix au Mali et au Niger (Mali)		\$1,746,253	UN Women UNODC
Sri Lanka	PBF/IRF 138: Support to Sri Lanka to design transitional justice mechanisms		\$1,000,000	OHCHR
Sri Lanka	PBF/IRF 154: Empowering women for an inclusive and sustainable transitional justice and reconciliation process in Sri Lanka (NUNO)		\$1,125,000	Humanity & Inclusion
Sri Lanka	PBF/LKA/A-1: Support to strengthen capacities to undertake reforms to advance peacebuilding and transitional justice processes in Sri Lanka		\$4,411,874	IOM UNDP
Sri Lanka	PBF/IRF 240: Youth Engagement with Transitional justice for long-lasting peace in Sri Lanka		\$454,148	NPC
The Gambia	PBF/IRF 172: Support the capacity of national stakeholders to establish credible transitional justice processes and mechanism that promote reconciliation and sustainable peace in the Gambia		\$4,200,000	UNDP OHCHR
Yemen	PBF/IRF 89: Technical Assistance to the Constitutional Drafting Process in Yemen		\$2,013,202	OHCHR UNICEF UNOPS
Yemen	PBF/YEM/B-2: Support to the Implementation of Transitional Justice in Yemen		\$1,000,000	UNDP

Based on consultations with PBSO, the projects highlighted in purple were not included in the portfolio to be reviewed. The projects in Guinea and Guinea-Bissau appear to be pure justice sector reform projects; the project in Burundi was focused on the documentation of human rights violations outside the scope of the formal transitional justice mechanisms and in addition produced very little project documentation; the project in El Salvador seems to be focused more on support to victims of crime and current discriminatory policies. In their place, the projects highlighted in blue have been added. In the final stage of the inception, the project from Mali highlighted in green was added on the suggestion of PBSO, but then was taken out again during data collection as it did not have sufficient TJ-relevance. IRF 89 from Yemen has also been deleted, as closer analysis revealed that the project did not have a substantial contribution to transitional justice.



# United Nations Peacebuilding

## SECRETARY-GENERAL'S PEACEBUILDING FUND

### THEMATIC REVIEW

PBF-supported projects  
on Transitional Justice

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