



Restorative Justice & Transitional Justice

Breaking from a violent & abusive past

National Symposium on Restorative Justice

Thailand Institute of Justice

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From Principles to Practice: Implementing Restorative Justice Programmes



- Restorative Justice & Transitional Justice
- What is Transitional Justice?
 - Ways that countries emerging from periods of conflict & repression address **large-scale / systematic human rights violations so numerous & so serious that normal justice system can't provide an adequate response**
 - Rooted in accountability & redress for victims. Recognizes their dignity as citizens & as human beings
 - Usually includes: **truth seeking, reparations, justice, measures for non-recurrence, reconciliation & healing.**
- <https://www.ictj.org/about/transitional-justice> (ICTJ)



Restorative Justice informs Transitional Justice

- TJ often seen as **alternative** to traditional criminal justice system / retributive justice
- **Achieve accountability & redress outside of criminal justice system** (except for most serious international crimes generally reserved for specialist tribunals).
- **Sierra Leone** – to persuade fighting factions to stop the carnage & commit to peace: **general amnesty - truth & reconciliation commission** tasked with addressing **accountability**. <http://www.sierraleonetrjc.org/>





Key steps

- Product of national consensus / dialogue
 - <https://www.youtube.com/watch?v=VVH380BulMU> (TUNISIA)
- Opportunity for victims / communities to be acknowledged & heard
 - Hearings / statements / interviews / other





Restorative Justice & Accountability

- Thorough examination of past period of conflict / abuse
 - Impartial historic account
 - Identifying those who masterminded violence / repression
 - Identifying underlying causes & fault lines
 - Serious pursuit of guarantees of non-recurrence / recommendations – never again
- Holding of perpetrators to account through rigorous inquiry and robust public findings
 - Encourage / compel truth telling



Sierra Leone Guarantees of non-recurrence



- **Recommendations implemented:**
 - Gender laws / Child Rights Act
 - Creation of national Human Rights Commission
 - Disclosure of assets by senior public officials
 - Independent prosecution authority provided to Anti Corruption Commission
 - Official apology to women by President
- See Recommendations Matrix:
<http://www.sierraleonetr.com/index.php/resources/recommendations-matrix>

Restorative Justice & Accountability



Mitchell asked for
forgiveness (CNN)

■ Methods of accountability

- Public acceptance of responsibility
 - Truth for Amnesty (South Africa)
- Sincere offer of apology
- Immunity or lenient sentencing for full disclosure, reparation, commitment to peace
- Mediation / arbitration
- Symbolic / material reparation
- Community service / reconstruction

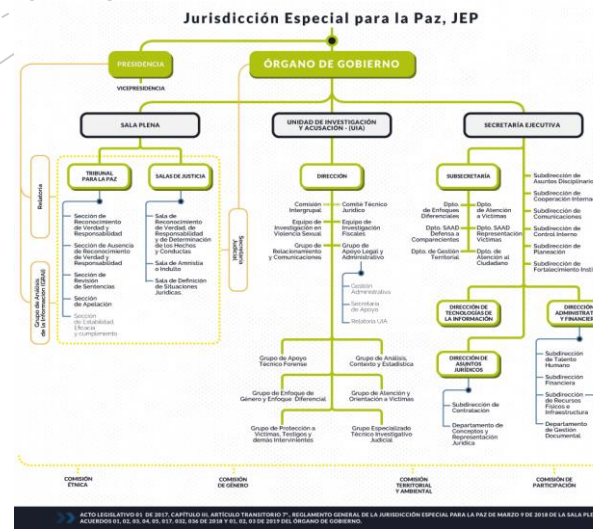
Restorative Justice between individuals



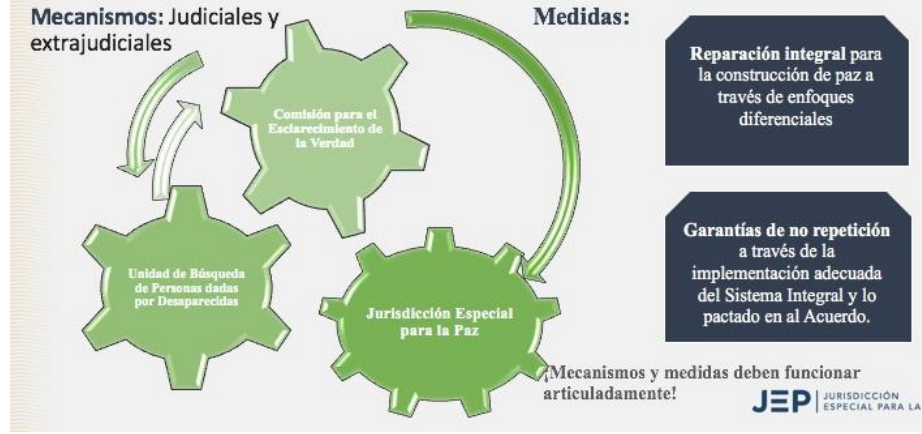
- **South Africa:** s 11, TRC Act: *informal mechanisms for resolution of disputes, incl. mediation, arbitration & any procedure provided for by customary law & practice shall be applied, where appropriate, to facilitate reconciliation & redress for victims*
- **Tunisia:** art 48, *Transitional Justice Organic Law, 2013:* Committee for Arbitration & Reconciliation to resolve disputes between victims & perpetrators.
- **Nepal:** art 22, *Commission on Investigation into Disappeared Persons, Truth & Reconciliation Act (2014)* - reconciliation can be made on application of perpetrator or victim.



Colombia Peace Jurisdiction



¿Cómo está compuesto el Sistema Integral De Verdad, Justicia, Reparación Y No Repetición ?



■ Truth, Coexistence & Non-Repetition Commission

- Contribute toward historical clarification
- Recognition of victims
- Responsibility for the armed conflict
- Promote coexistence across the country

■ Special Jurisdiction for Peace: - Peace Tribunal, Judicial Panels

- Political crimes but not grave human rights violations = amnesty
- Grave violations but disclose truth & contribute to reparations & guarantees of non-recurrence –
 - no prison but punishment that has “restorative & reparative function”
 - Restriction of liberty: 5 to 8 years / community service
- Decline to disclose truth – full force of law & prison



Community reconciliation



East Timor: Community Reconciliation Process

- Village-based participatory process : - community hearings:
- Perpetrator admit violation- agreement brokered: community service, apology, symbolic fine, reparations:
 - repair of public buildings, tree planting, erection of village flagpole; cleaning of public places.
 - reimburse victim for goods stolen or destroyed, e.g. livestock
 - donate a cow - slaughtered & eaten at communal meal
- Perpetrator then accepted back into community.
- Role of office of the General Prosecutor and approval of court



Reconciliation activities



■ Different mechanisms

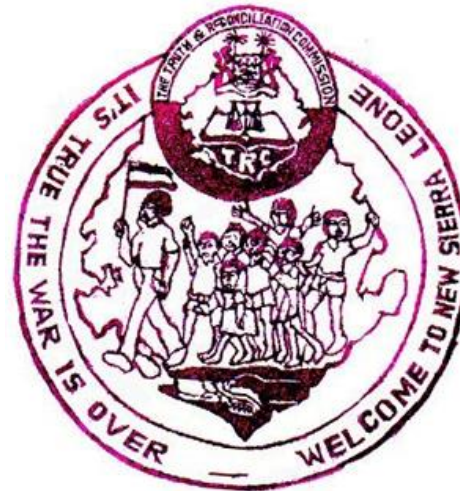
- Truth & Reconciliation Commission
- National Reconciliation Commission
- National Cohésion and Intégration Commission

■ Voluntary rapprochement

- Individual / community / national reconciliation
- Mediation / arbitration

■ Outlet for all role-players

- Submissions
- Art, theatre, poetry, music, free expression
- Celebrate acts of humanity on all sides





10 Key Principles & Values of Peace

- 1 Choose Zimbabwe as your #BuildingBlocks4Peace
- 2 Respect the Constitution & play by the Rule of Law
- 3 Enjoy rights and privileges & perform roles & mandates in accordance with the Constitution
- 4 Embrace conflict prevention efforts & stand firm against violence
- 5 Embrace diversity & celebrate our differences
- 6 Protect women, girls, persons living with disabilities, youth and all generations
- 7 Communicate in a manner that unifies, edifies & promotes cohesion
- 8 Be driven by the values of ubuntu
- 9 Choose dialogue as the preferred medium of communication, engagement, and decision making
- 10 Give mediation, conciliation and other alternative approaches for resolving disputes a chance



Rwanda

- Education for peace
- National summits
- Training of grassroots leaders



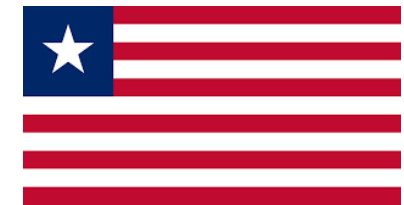
Sierra Leone

- Community truth-telling bonfire
- Cleansing ceremony
- Person to person peace



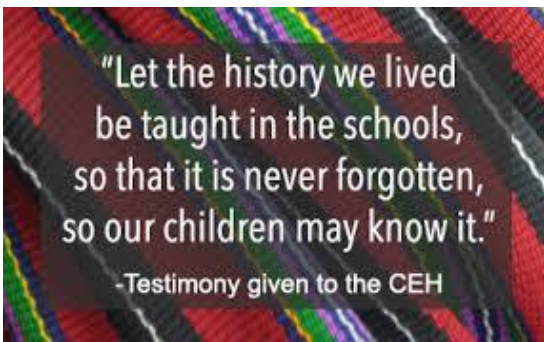
Kenya

- « Promote appreciation of Ethnic Diversity », through community elders.
- Creation of a County Elders Forum
- Community Peace and Cohesion Committee.
- Programs to combat hate speech



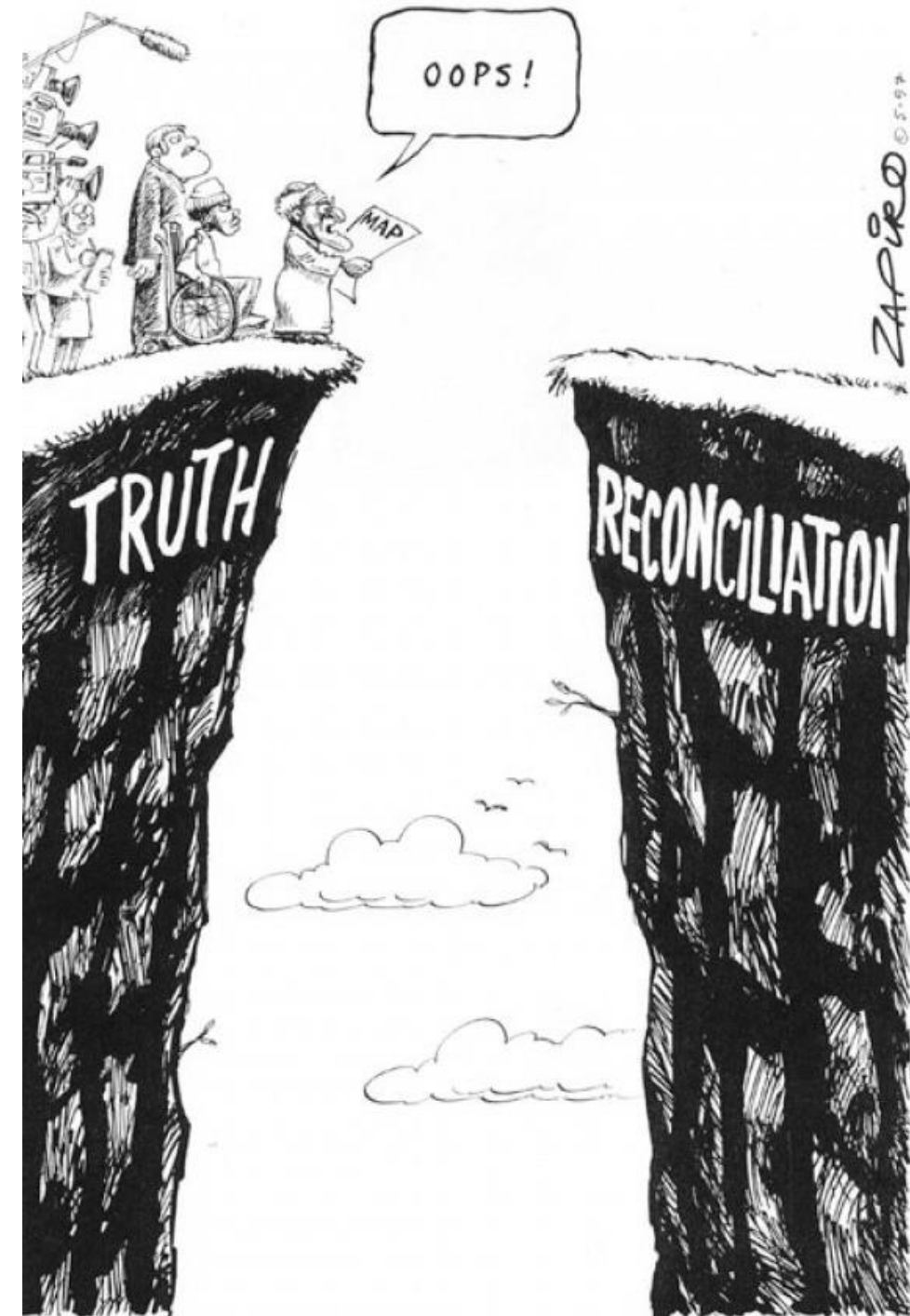
Liberia

- Regional Consultations to National Reconciliation Conferences
- ✓Palava Hut- community healing
- ✓Sharing of Kula nut: dispute resolution, based on forgiveness.

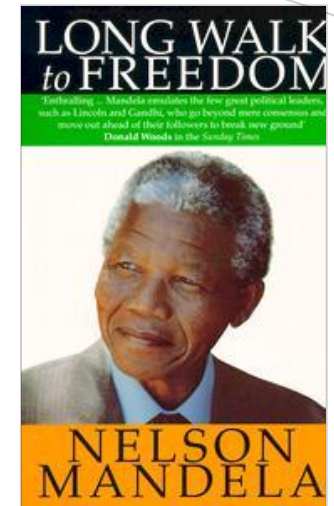
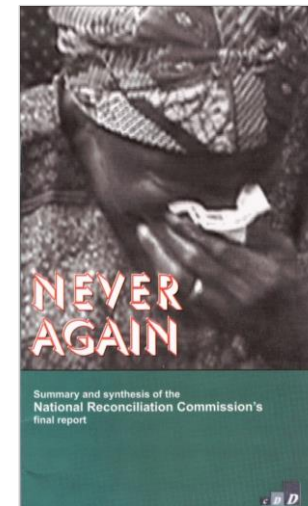


Take the outcomes seriously

- Respect rights of victims & take necessary steps
- Act against perpetrators who spurned /abused RJ process
- Seriously reform abusive institutions
- Enshrine & protect rights in constitutions
- Preserve memory and make records accessible



Values needed



- Commitment to building a new & better future for all
- Vision
- Integrity & honesty
- Courage
- Resilience & persistence
- Respect & tolerance of human rights of all
- Energy / Readiness for hard work
- Sacrifice / selflessness