

Transitional Justice

Transitional justice refers to the range of mechanisms used to address legacies of human rights violations and violence in countries recovering from conflict or transitioning from repressive regimes.

The United Nations defines Transitional Justice as:

“ The full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.

Transitional justice measures aim to provide:

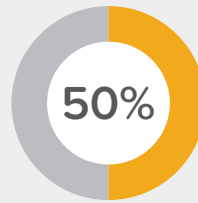
- accountability for perpetrators in the conflict
- social understanding of the conflict
- agendas for institutional reform
- reparation for victims and their families
- national reconciliation

In peace processes there can be tension between bringing combatants into a more inclusive political settlement, and holding them accountable for human rights abuses.



justice versus peace

In practice peace agreements often find creative ways to deliver both justice and peace.



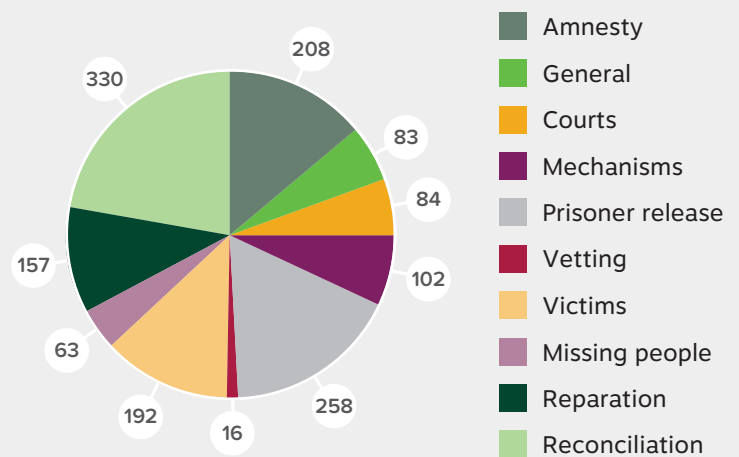
50% OF PEACE AGREEMENTS CONTAIN BOTH JUSTICE AND PEACE

(out of 1520 peace agreements between 1990-2016, 757 agreements)

Prisoner release and reconciliation provisions are the most frequent, but reconciliation provisions are often very vague.

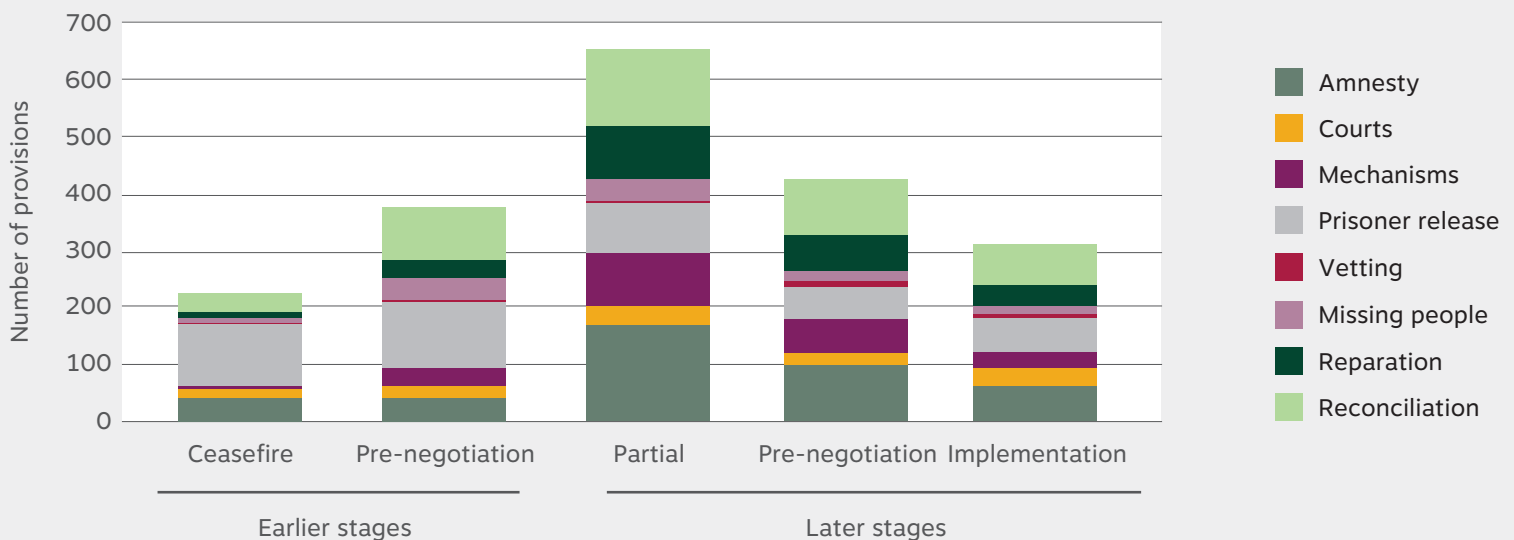
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Number of provisions by category



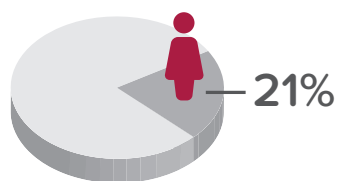
However, different measures are dealt with at different stages of a peace process, and measures agreed at one stage of a process can constrain what is possible at a later stage.

Number of provisions stages (by category)



Only 3% of peace agreements and 21% of peace processes include gender-specific transitional justice provisions.

Proportion of peace processes including women in transitional justice



The following factors affect whether women can influence transitional justice provisions:



Strength of women's sector



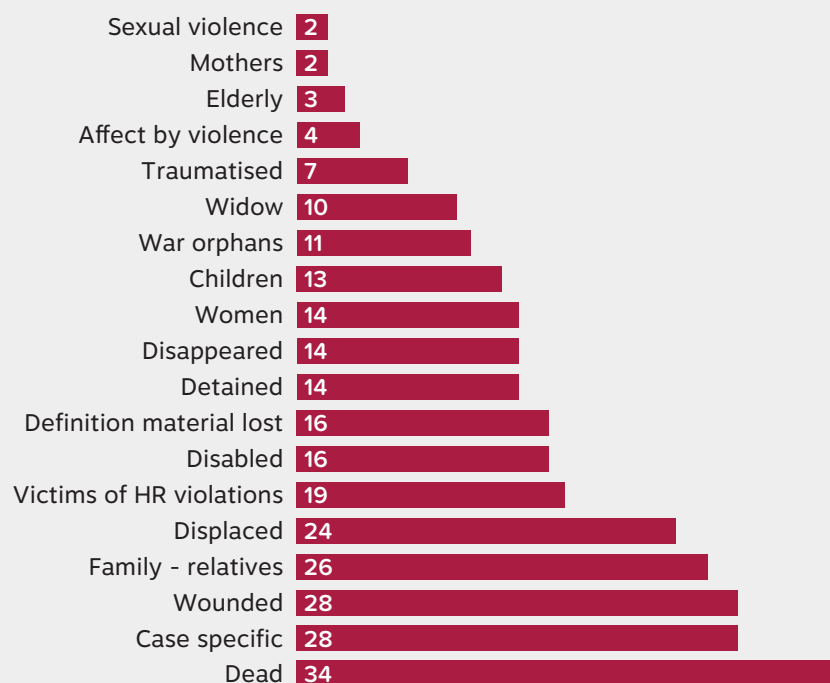
International support



Openness of the negotiation process

Victims are often a central focus of transitional justice arrangements. Peace agreements mention different types of victimhood.

Overview of victim definition

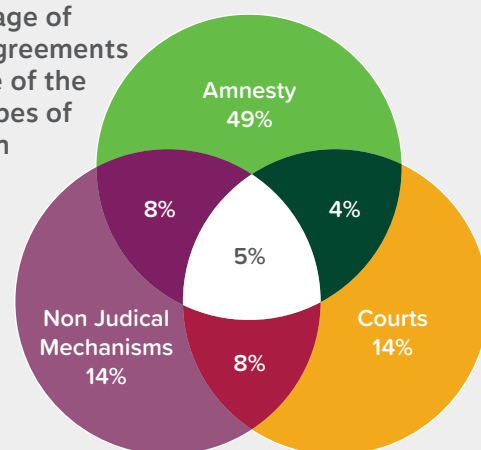


Only 6% of peace agreements (84 out of 757) contain commitments toward judicial accountability.

However, other forms of non-judicial accountability are often provided for, such as truth commissions. Often apparently opposed transitional justice mechanisms are provided together in the one peace agreement.

Stability - accountability combinations

Percentage of peace agreements with one of the three types of provision



Parties negotiating peace agreements often try to find ways to balance a measure of accountability with a measure of stability based on inclusion of military and political leaders.

Balancing techniques include:

- building conditions into amnesties which require 'truth telling'
- limiting amnesties to particular crimes
- having forms of trial which incorporate or are supplemented by restorative justice approaches
- providing measures such as reparations for victims, alongside forms of levels of amnesty

See publications at: www.politicalsettlements.org/publications-database

In particular Jamar, A., & Bell, C. (2018). Transitional Justice and Peace Negotiations with a Gender Lens (Gender Briefing Series). New York City: UN Women.

www.politicalsettlements.org/wp-content/uploads/2018/12/Inclusive-peace-processes-Transitional-justice-en.pdf

Jamar, A. (2019). Transitional Justice and Peace Agreements Navigating Trade-Offs between Stability and Accountability, PA-X Report Transitional Justice Series, Political Settlement Research Programme. Jamar, A. (2018). Victims' Inclusion and Transitional Justice: Attending to the Exclusivity of Inclusion Politics (PSRP Research Report). Edinburgh: Global Justice Academy, The University of Edinburgh.

www.politicalsettlements.org/wp-content/uploads/2018/12/2018_Jamar_Victims-Report.pdf

Designed by the Graphic Design Service, LTW - Information Services, The University of Edinburgh: www.ed.ac.uk/is/graphic-design

