



Towards Restorative/Transitional Justice in Iraq A Proposed Practical Guide to a Participatory Approach Pathway

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**Iraqi Al-Amal Association, Baghdad, August 2022
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Acknowledgment

The authors of this guide thank Impunity Watch for the advice and support they provided during preparation and writing, and they also thank the participants in the preparatory workshops for their views and suggestions that helped to complete this work.

This guide has been supported by the German Government. Any views represented in the guide are solely the result of the activities conducted by Iraqi Al-Amal Association together with Impunity Watch and do not represent or reflect the position and opinion of the German Government.

Introductory Note

The authors of this guide use the term “restorative/transitional justice” (RTJ) to refer to any policies, measures, or initiatives of a nature or within the framework of the principles and pillars of the concept of “restorative justice” (RJ) and which the authors consider to be a “transitional justice” (TJ) approach. Consequently, the authors of this guide do not propose a new term in the field of “transitional justice” and dealing with the past. Accordingly, the term “transitional justice” will be used in contexts that relate exclusively to its pillars, and the term “restorative justice” will be used in contexts that relate exclusively to its additional and/or unique components, and the term “transitional/restorative justice” will be used in contexts that relate to the content that it is related to the fact that “restorative justice” is an approach in the context of the development and/or application of “transitional justice”, according to what will be referred to in the presentation of these concepts in the content of the guide.

The authors of this guide point out that this guide was deliberately not given an academic character, and this will be evident through the presentation and interrelation of the opinions and conclusions of representatives of civil society and government entities participating in previous dialogue activities as a priority over condensing the content with academic references and footnotes despite their availability in abundance. The aim is to make this guide a material produced by Iraqis to reflect their reality, their understanding of the needs of their society, and their aspiration for the future. Therefore, despite the fact that the guide often presented conceptual content, the authors of this guide avoided quoting this content verbatim and worked to adapt it from a variety of sources, the most important of which - whenever appropriate - was expressed by the participants in the previous dialogue activities.

I. Introduction

The implementation of a RTJ process is one of the historic decisions taken by states in post-dictatorships or armed conflicts where widespread human rights violations have been committed. The aim is to move to a more stable phase that addresses the root causes that led to the disruption of the structure of society, the injustice of social groups and the absence

of the rule of law. RTJ also offers a range of measures and actions that contribute to the guarantees of non-recurrence of grievances and tragedies, providing victims with redress, ensuring their reintegration into society, and the achievement of long-term development.

TJ, also known as dealing with the past, means a wide range of practices that focus on redressing societies that have experienced periods of gross human rights violations. The main pillars of TJ are truth, reparation, justice, and non-occurrence, which translate into a set of policies and measures during a transitional period that follows these violations suffered by societies accompanied by the continued failure to deal with legacies that negatively affect the political and social course of the country.

In this context, the term RJ is intended to focus on the harm caused by the wrongdoing affecting society, to seek the guarantees of its non-recurrence. This is conducted by involving the victim, the offender, the community, and the state institutions concerned in the process which addresses the causes; design appropriate reparation measures as alternative or parallel measures to criminal justice; and focuses on confrontation, recognition, apology and effective remedy.

Iraq has been through years of dictatorial rule, mismanagement, and armed conflicts that were a primary cause of the accumulation of grievances, the feeling of marginalization by some community groups, the lack of fair representation in state institutions, the poor distribution of resources and wealth, and the lack of investment in human wealth. All that led to a state of mistrust and the continuation of the cycle of violence and conflict in various forms. Since 2003, the state has implemented measures and established TJ institutions. These institutions played a significant role in providing sorts of redress and financial compensation for the victims, as well as applying criminal justice measures to hold perpetrators of the violations accountable. However, this experience has been criticised for focusing on specific pathways and measures and failing to consider other social and economic pathways and measures that could be applied simultaneously to ensure the non-recurrence of human rights violations and move to the stage of establishing a cohesive society and guarantee the rights of individuals and groups. This pathway, because of the rapid events of that period and the need to rebuild state institutions, did not receive enough community discussions and the involvement of different groups, especially the victims, to listen to their needs, opinions and viewpoints in the appropriate form of TJ that meets their aspirations.

This guide presents a proposed comprehensive approach to RTJ in Iraq, with a focus on interventions and measures that have not yet been emphasized in the TJ experience in Iraq. This proposal adopts a participatory approach based on engaging victims in the planning, implementation, monitoring, and accountability process, away from imposing any other country's experiences on the Iraqi context. We have involved in the production of this guide different community groups such as victims, academics, researchers, media professionals, civil society organizations (CSOs) and relevant government institutions through series of meetings and activities that are described later in the guide. The guide includes three pathways: building trust and community ties and proposing practical mechanisms to bring the different community and official parties closer together. This paves the way for the second pathway, which includes the dissemination of informed knowledge regarding the RTJ methodologies and measures while taking the opinions of various community groups on what

is appropriate to the Iraqi context, taking into account Iraqi internal specificities. The third proposed pathway is the formal framework in which society and official institutions participate in its implementation and requires a formal legal cover that complements previous efforts and does not contradict the legislative and legal environment, but rather works to improve it and fill the gaps to reach an agreed approach to be adopted and applied.

This guide aims to be a knowledge reference on selected models of RTJ measures, practices, and initiatives (interventions). The selection of these interventions is based on the outcomes of a series of knowledge and dialogue activities with the participation of representatives of Iraqi CSOs, community leaders, and Iraqi officials representing the executive and legislative authorities. Building on the knowledge of the conceptual framework of RTJ that they acquired, as well as on the experiences of other peoples, the participants discussed the needs, relevance, and challenges of the development and adoption of appropriate interventions for the Iraqi context and its specificity. The authors of this guide assume that the interventions described in it should be an initial reflection of the Iraqi rich and unprecedented experience as expressed by the participants in the dialogues that can form a real basis for a broader and comprehensive framework of action to create a real and approved pathway to RJ in Iraq. In this context, it should be noted that the guide does not address criminal justice measures because they are in themselves a broad topic and were not a main focus in the relevant previous activities. This does not indicate any intention of neglecting them or not considering them as a component of TJ, but because of the desire to focus on the measures put forward by the guide and to give sufficient space for its discussion, considering them somewhat overlooked and didn't receive adequate participatory discussion. The guide authors stress that access to justice in its various forms is an inherent right and a fundamental pillar of TJ and effective remedy, but it should not be an isolated measure from discussing TJ pathways in Iraq, but rather an essential pillar in this context, and within an integrated and coherent road map.

The guide is based on providing a conceptual and practical description of most of the interventions discussed and compared to the Iraqi context. It specifically aims to provide the relevant stakeholders with a simplified knowledge material that can be customized to actual adaptation in accordance with the reality and specificity of Iraqi society and its contextual, social, and cultural diversity. In other words, the guide is expected to represent a "dictionary" of possible interventions in the Iraqi context, which at some point could be developed into an integrated and achievable action plan.

Adopting a RTJ approach in Iraq that is socially acceptable and enjoys official cover is a goal that must be intensively prepared and planned. It requires combining the efforts of several community and official actors, where the efforts of Iraqi CSOs are essential in this aspect, since CSOs form a link between society on the one hand and decision makers on the other hand. We must also not forget that the experiences of TJ in countries that witnessed such experiences began with social movements and demands that led at some stage to the response of the political power and its awareness of the necessity and inevitability of change and transformation based on the need of society.

As for the activities that were implemented while developing this guide, four workshops were carried out in Baghdad, Nineveh, Kirkuk, and Salah al-Din provinces in 2021-2022, involving

victims, civil society organizations, academics, researchers, community leaders, as well as relevant official institutions. The workshops addressed the conceptual frameworks of RTJ, examined the experiences of some States/communities in this regard, and facilitated a discussion about the views and suggestions of participants. The discussions elaborated about the proposed measures and interventions, in line with the local context while exploring how to achieve community acceptance and thus move to a more stable future. This guide also provides a vision of participants in how to deal with the legacy of human rights violations and address the needs presented by the participating group.

We hope that this guide will inspire local and international civil society programs and official policymakers in Iraq.

II. Who is this Guide for?

CSOs and relevant official bodies are the primary beneficiaries of the guide. The rationale for this stems from the adoption of the participatory approach as a basis for the guide and the initiative to discuss it and to advance RTJ in Iraq. This approach makes civil society interventions an essential complement, supportive, and sometimes even foundational centrepiece of what the state is expected to do in order to develop meaningful and effective TJ measures. They are the direct beneficiaries, although the ultimate beneficiary is, of course, Iraqi society, but the primary beneficiaries are the ones who are supposed to take the initiative to analyse contexts and design their interventions based on them, so that their efforts are intersecting and non-conflicting.

III. How do we Deal with this Guide?

The Guide presents a series of interventions that can sometimes be adopted sequentially, and other times in parallel. The categorization of interventions into community and formal spaces does not mean a complete separation of them, but rather aims to contribute to creating real conditions for the community to receive and cooperate with official spaces without which it is not possible to establish a RTJ that is effective and sustainable in terms of the objectives it will achieve.

The guide sets a conceptual and contextual framework for RTJ in Iraq, before presenting the proposed “roadmap” which consists of three components:

1. Essential steps for any community or formal interventions (from 1 to 3).
 2. The proposed community spaces/interventions (from 4 to 7).
 3. The proposed formal spaces/measures (from 8 on).
- Under the “Towards the Roadmap” section, the guide suggests a series of interventions that CSOs and other non-governmental actors can initiate according to developed strategic plans that identify the entry points for an effective intersection with official interventions. They are referred to as “community spaces/interventions”.
 - Under this category, users of this guide can find proposed interventions (interventions from 1 to 7) that can be solely implemented by CSO.
 - Proposed interventions 1 to 3 are relevant and essential to any planned interventions including the “formal spaces and measures”.

- Therefore, community interventions should not be developed in isolation from other formal ones. Users of this guide should be aware of the many intersections between the two pathways. For example, memory preservation interventions may be implemented via community interventions and as part of certain formal measures. Therefore, planning for interventions according to this guide should include the necessary components for effective engagement with official bodies, and the guide provides several recommendations in this regard of which many are detailed in the recommended interventions 5 and 7.
- Since the guide is primarily intended to provide relevant stakeholders with an actionable knowledge reference, it is assumed that specific interventions will only be identified - and subsequently assigned - within the framework of a sequential and coherent set of stages and/or interventions. For instance, interventions based on the direct involvement of victims and families' groups cannot be implemented before setting victims and families as a centrepiece as detailed in intervention 5 of the proposed roadmap.
- Even CSOs that plan to specify their work within a certain set of interventions described in the guide, should not do so without ensuring the complementarity of their plans - albeit limited - to the rest of the possible interventions by other parties. They should therefore look at the content of this guide holistically to ensure that their knowledge of the desired interventions is not limited and isolated in a way that negatively affects the true meaning of encouraging RTJ interventions.
- The set of other proposed interventions starting from the eighth one relates to the proposed "formal spaces and measures" without any prejudice to the necessity of CSOs' role and the participatory approach.

Almost each proposed intervention is framed as an introductory part as well as a set of recommendations.

IV. Do we Need Transitional/Restorative Justice?

Criminal justice in its concept and form, which is practically limited to trial proceedings and the vertical bilateral relationship between the authority/law and the perpetrator, remains unable to fully observe the rights of victims except through the principle of crime and punishment. This form of justice also limits the role of society in its implementation to the fact that it is only a recipient of the outcomes of this principle – crime and punishment.

Addressing the effects of the multi-stage past and the painful legacies in Iraq as a result of authoritarian rule, armed and community conflicts, and terrorism cannot be achieved through the courtroom alone. These legacies are not related to the perpetrator's relationship directly with the victim or with the authority and the law, but their effects extend and ramify in a very complex manner that reflects on the future of society as a whole and leaves it hostage to apparent and hidden conflicts that are impossible to address on the basis of the crime and punishment principle.

Also, providing financial compensation to victims or their families without expanding other reparation measures, such as psychological and legal support, appropriate educational and economic opportunities, and initiating an economic development process may not enable

these groups to engage positively and effectively in society. Thus it can create a social division and competition between beneficiary and non-beneficiary groups. On the other hand, such expanded measures will positively affect the lives of the most vulnerable groups in society and provide them with a decent level of human security.

The recurrence of grave human rights violations and the feeling of injustice by some community groups do not contribute to the transition to a more stable phase and prompt us to consider proposing a pathway of RTJ that takes into account the inclusion of all different community groups that have been subjected to grave human rights violations during different periods of time.

Iraqi society and actors could not be satisfied with the continued possibility of a recurrence of the past as long as its causes are not addressed and a future that guarantees sustainable community peace, growth, the rule of law, and human rights is not established. It has been proven to many peoples that ensuring the non-recurrence of the past cannot be achieved through the criminal justice process in isolation from an integrated pathway of other measures. The tribunals for the former Yugoslavia and Rwanda were milestones in the international justice pathway, but they clearly failed to bring about community stability and peace, except when TJ and national reconciliation initiatives were launched.

RJ is a real alternative to the revenge concept and engages the whole community in the relationship with the perpetrators so that the damage they have caused turns into harm that affects the entire community, including themselves, their families, and their community extensions. RJ plays a pivotal role in reforming the causes of wrongdoings and transforming the behaviours that cause them into components of reparation, ensuring non-recurrence and building community peace. In light of the complexity and specificity of the Iraqi case, with its multi-stage legacies and overlapping nature, the pathways of RTJ ensure that all components and forces of society are included in the design of a future in which the tragedies that they continue to suffer from their consequences and effects do not recur.

V. General Conceptual Framework of RTJ

"Transitional justice is a complete set of processes and mechanisms associated with society's attempt to reconcile with a legacy of widespread past abuses, in order to ensure accountability, serve justice and achieve reconciliation".¹ Any TJ pathway is in fact based on the following pillars/rights, which are both individual and community rights at the same time:²

- Truth
- Justice
- Reparation
- Guarantees of non-recurrence

These pillars do not constitute a ready-made practical recipe in themselves for communities to implement in a "checklist" manner, but they attempt to guide the general frameworks of

¹ United Nations, Guidance Note of the Secretary-General, United Nations Approach to Transitional Justice, March 2010.

² See e.g., Swisspeace, A Conceptual Framework for Dealing with the Past, 2016 (Available at: <https://www.swisspeace.ch/assets/publications/downloads/Essentials/7bdf926517/A-Conceptual-Framework-for-Dealing-with-the-Past-Essential-16-swisspeace.pdf>).

measures that communities are supposed to design according to their needs and the specificity of their past and present. They do so with a view to achieve the primary goal of dealing with the past which is the transformation into a future in which this past is not repeated. Therefore, no measures are supposed to be instantaneous and fail to take into account the last pillar, i.e., non-recurrence, otherwise we cannot speak of TJ.

RJ³ is a set of TJ measures that view crime or abuse as more than just a breach of the law, but rather as harm to people, relationships, and society. A just response is to address the harm and the act itself, in order to ensure the satisfaction and redress of those affected, while at the same time not repeating the act. The concept of RJ is one of the clearest forms of a participatory, parties-centred and context-specific approach, as demonstrated by its core ideas and principles. RJ is a theory of justice that emphasizes the repair of harm caused by a wrongful act. This is best achieved through cooperative processes that allow all parties wishing to meet in different ways and forms and to design measures for ensuring that the perpetrators of harm do not go unpunished, on the one hand, and involve them in bearing the responsibility of reparation for those affected, by actively engaging them in reparation measures that satisfy the affected and contribute to their reintegration into society so as not to repeat what happened.

This approach strengthens the ownership and agency of victims over their rights and their cause because they are able to directly intervene in the forms of reparation appropriate to them and their communities, especially as it opens the way for positive confrontation between the parties, facilitates confession and apology, as well as imposes restorative punitive measures that benefit society and its social cohesion.

RJ – apart from the general pillars of TJ - is based on 4 basic principles:⁴

- Reparation: focusing on the harm caused by the act and not on the perpetrator, and its impact on society as a whole and not only on the individual or the power.
- Confrontation and inclusion: Taking the concept of justice out of the duality of the perpetrator and the victim or the perpetrator and the state, and putting everyone in confrontation to determine the most appropriate reparation for the harm.
- Transformation: Modifying and transforming harmful behaviours that contribute to radical changes in people, relationships, and society, in addition to focusing on what the victim considers the redress is and carrying out behaviours that achieve this reparation, even if they are outside the scope of the harm itself.
- State responsibility: This pathway should not be a substitute for the state and its inherent responsibility to achieve the goals of TJ, as it is responsible for maintaining order and the society's role to build peace.

³ Check some concepts at: UN Economic and Social Council, Commission on Crime Prevention and Criminal Justice, Restorative Justice, Report of the Secretary-General, Report of the meeting of the Group of Experts on Restorative Justice, E/CN.15/2002/5/Add.1, 07 January 2002 (Available at: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_11/E-CN15-2002-05-Add1/E-CN15-2002-5-Add1_E.pdf).

⁴ See e.g., UN Office on Drugs and Crime, Concept, values and origin of restorative justice (Available at: <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-8/key-issues/1--concept-values-and-origin-of-restorative-justice.html>).

VI. Challenges, Ground Rules, and Expectations Management

The pathways of RTJ, despite their lofty goals and desired impact on the future of communities, are not as easy as they seem in theory. They are not related to clear legal texts that are enforceable in the context of specific rights and obligations, but are subject to the specificity of each experience and the related society, and subject to many considerations and challenges, including many that apply to Iraq:

- Justice is a subjective concept, and its achievement is relative according to each person's criteria.
- The conviction accumulated at the level of society as a whole of the principle of crime and punishment, the duality of the perpetrator and the victim or authority.
- Different time stages and the types of the painful legacies, perpetrators, and victims.
- The difference - and sometimes sharp difference - between cultural, social, and religious backgrounds of the different actors.
- The cycle and pattern of violations and rights affected by the painful legacy extends beyond "traditional" patterns such as murder, torture and enforced disappearance, to affect other issues such as reputation, stigma, marginalization, discrimination, property, etc., not only at the level of individuals, but also communities.
- The novelty of the concept and the pathway in general and in the Iraqi context.
- Limited academic and specialized expertise.
- The problem of necessary resources and sources to implement RTJ interventions.
- Loss of confidence in authority simply because it is an authority as a cumulative result of past experiences.
- The security situation and the role political and armed forces.
- The difficulty of coordination and joint or at least non-contradictory planning between community actors, especially CSOs.

It is therefore necessary to consider a set of minimum essential ground **rules** during the planning and implementation of the proposed interventions, and their adoption is regarded as an effective contribution to trying to overcome these challenges:

- Informed knowledge is the basis of all rights and therefore possible measures. Everyone has the right to clearly know the rationale, objectives, challenges, and expected results of these measures.
- Adopt a participatory approach in all cases and do not impose measures in isolation from the needs and satisfactory pathways identified by the community groups and actors.
- Identify the overarching issues as a starting point and build on the achieved progress in terms of creating consensus and bridging the gap between the parties.
- Support victims and families to take the lead and be at the centre of the process.
- Not to lean on and wait for official pathways projected by the authority. Taking the initiative and making sure that interaction, cooperation with, or supporting the authority is an integral part of it.
- Ensure that the participatory approach does not turn into a competitive endeavour between the concerned parties.
- Complementarity between interventions and refraining from adopting partial TJ measures, such as limiting reparations to financial compensation.

- No interventions or initiatives must harm any party.
- Manage everyone's expectations objectively and transparently.

By ensuring informed knowledge for all and adopting a participatory approach in the dialogue, planning and implementation processes, a **transparent management of expectations** is ensured. Victims and affected communities are not necessarily experts in the areas of justice and TJ, and a lack of transparency with them regarding the challenges and expectations of any interventions may cause them to lose confidence entirely in the pathways we are working on, threatening the entire process and the future in general.

VII. Towards the Roadmap:

As explained earlier, this proposed “roadmap” is the consolidated results of discussions among representatives of CSOs and official entities. The roadmap presents a series of interventions that can sometimes be adopted sequentially, and other times in parallel.

1. Understanding and Analysing the Context by Adopting Participatory Research Approach

TJ is not a "toolbox" that can be used in any situation alike. There are unique needs and challenges for each society where past experiences and current circumstances vary widely, especially in a society like Iraq where there are many different experiences and patterns of legacies, and thus victims and rights affected as well as those involved. In the light of this fact, any projected TJ processes without a deep understanding of the multiple contexts and the specificity and needs of each will be a mere duplication of other experiences that will remain incomplete in the eyes of those affected which might cause more harm than good.

Recommendations:

- a. Conduct a country-wide contextual analysis that addresses at least the following:
 - Socio-political context: An overview of the history associated with the current state of TJ in the country, such as external and internal armed conflicts, repressive regimes, terrorism, which still constitute persistent grievances.
 - Demographic context: An introduction to the country's demographics with an emphasis on prominent points that have affected religious, ethnic, or other groups.
 - Economic context: An overview of economic history with a focus on the earliest stages and information on poverty, unemployment, declining growth, patterns of economic power and labour, by region and population.
 - Legal context: An overview of the legal structure, especially laws that have a direct or indirect impact on TJ and dealing with the past.
- b. Invest in the accumulated research product inventory as a primary source and starting point.
- c. Include context analysis activities with interactive components with local communities and integrate their input into the results of the analysis.
 - This step may constitute an important input for memory preservation interventions as well.

- d. Conduct a needs assessment, which is defined as a thorough investigation of the needs of the community or the "gaps" that need to be filled to move from current to optimal conditions.
 - The needs assessment should be conducted at the community level and based on the results of the context analysis.
 - Targeted communities can be identified by geographic location, demographic component, shared cultural and social characteristics, pattern of abuse and/or the perpetrator to which a group of residents was jointly subjected, communities stigmatized because some of their members are considered to be involved, etc.
 - Many communities may naturally be identified by the mandate/specialization of the organization/body conducting the assessment.
 - Targeting one or more communities should not mean excluding others from the needs assessment.
 - No single body or few organizations can guarantee the comprehensiveness of needs assessment at the national level. Comprehensive needs assessments need a wide pool of actors coordinating and collaborating their conduct in this context.
 - Engage directly with the population, especially victims and families, to assess needs directly.

2. Develop Theory of Change and Implementation Plans

A theory of change is a series of logical hypothesis based on context analysis and needs assessment (as discussed in the previous section), and on what needs to be done and how to respond to needs and thus bring about change. Example: If the oral memory of the residents of the area is collected directly through them = the assumption based on the analysis of the context and assessment of the needs of the population, this will contribute to the establishment of an archive that preserves the history of what happened to them = the direct result, contributes to preserving the memory, which in turn constitutes a form of satisfaction = the medium-term result, which contributes to achieving some pillars of TJ (e.g., truth and reparations) = the long-term result. As another example, if the need of a particular group to know the fate of their missing persons is identified, this will be the starting point for planning sequential interventions: if a scientific, professional and impartial national body is formed to search for the missing persons, it will speed up searches, contribute to the progress of revealing the fate of missing persons processes, thereby promoting the right to the truth, creating a sense of satisfaction, and thus advancing one of the pillars of TJ (e.g., truth). Undoubtedly, the theories of change are not so simple as to address a limited intervention but are developed at several levels of interventions that ultimately lead to the desired result.

Recommendations:

- a. It is necessary to develop a theory of change through a participatory approach where community members contribute through planning sessions.
 - This approach ensures that a sense of community ownership and agency is enhanced and sustained over the entire process.

- It is essential that the process of developing and implementing the theory of change recognizes not only the role of these communities in their design, but also in their implementation.
- The participatory approach in the context of developing TJ-related interventions assumes the involvement of members of the "other" stigmatized as being the other side of the conflict: those involved or communities to which those involved belong.
 - The bodies in charge of this process must include in their analysis and evaluation the negative or positive impact of such an involvement.
 - Marginalization of community sectors just because other sectors refuse to engage them will reinforce the state of community division/conflict and will lead to the suspicion of marginalized sectors and their attempt to disrupt the process.
 - Based on their objective assessment, the initiating actors must decide the optimal direction to ensure such participation. It may start on a parallel pathway with each category, while the organizers share the results with the other. This process helps proving and persuading “the parties” of the intersection of needs and goals, and thus the necessity and inevitability of participating in implementation.
 - “Informed knowledge” plays a pivotal role in preparing and achieving this direction.
- b. Ensure that the participating community is aware of the objectives of the theory of change and its usefulness to them and the facilitators.
- c. Set the desired long-term end goal based on the conducted needs assessment.
- d. Setting “SMART” goals – specific, measurable, achievable, relevant, and time-bound – by transforming the immediate impact of a problem into a positive, desirable situation.
- e. Identify the immediate tangible results needed to achieve each of the SMART goals and develop the chain of activities that will lead to each of these results.
- f. Review the theory with participants and approve it.

3. Informed Knowledge

Any interventions and initiatives targeting community groups and/or formal frameworks without ensuring their informed knowledge of all the details, challenges and expectations of the process is nothing but a projection of a series of unaffiliated activities that do not truly reflect the reality and needs of the community. The provision of informed knowledge is a continuous process linked to all stages of the planning and implementation of any initiative, whether it is at the local or national level, and whether it addresses specific or comprehensive interventions targeting broader pillars of the TJ pathway.

Informed knowledge is the collective awareness of the following:

- A conceptual framework that answers the “why” question, e.g., why do we need to deal with the past? Why TJ? Why are we doing this? Why do you need it?

- The participatory approach is customized/tailored to the specifics of the communities, and there is no ready 'toolbox' for all experiences and cases. Peoples' diverse experiences play a pivotal role in establishing this point.
- Elements and measures of TJ processes.
- General and specific challenges for each community/case.
- The ultimate goal of TJ processes, specifically non-recurrence and community reconciliation.
- Managing expectations, including the need to take a courageous stand and decision, as well as expectations of time, resources, influence of different societal actors, and formal and informal components.

Recommendations:

a. Awareness-raising and capacity building activities for CSOs

- Initiating organizations must ensure that their staff have sufficient and informed knowledge of this pathway.
- Specialized training programmes for staff based on the intended/planned projects.
- Make use of academic specialists and operational experts.
- It is essential that initiating actors direct awareness-raising activities to other organizations, even if those organizations are not directly involved in TJ interventions.

b. Public awareness raising activities

- Include awareness-raising components and promote informed knowledge of the communities with which they are engaged as a starting point for context analysis, needs assessment, and participatory planning activities.
- Public awareness campaigns through the media, social media etc.
- Awareness-raising activities – trainings, workshops, etc. - directed to the public.
 - It is important to designate community groups such as youth, community activists, academics, and moral authority holders to such activities to play a role in public awareness and in the implementation of interventions and initiatives.
 - Awareness-raising activities for feminist activists and women in general, especially mothers, because of the pivotal role they play in the community impact, especially at the level of victims and their families.

c. Direct engagement activities with official entities

- Community-based initiatives and CSOs' interventions must not be built on the basis of confrontation with or replacement of the role of the official framework by the state, but on the basis of complementarity with and support for it.
- Organizations play an essential role from the earliest stages of any plan to undertake TJ measures in engaging positively with relevant authorities.
- Open channels of dialogue, share ideas and developments with official bodies, invest in existing communication channels and work to find new points of contact.
- Design awareness-raising interventions for these entities such as roundtable discussions, publications, dialogue meetings with experts with practical

experience, and gradual participation in appropriate activities at the community level.

d. Participants in the dialogue activities also deduced a series of key interventions to provide informed knowledge:

- Giving the media an active role, through media debates, print or electronic journals, radio, broadcasting, workshops, seminars, with the community in cooperation with the Human Rights Commission, tribal leaders, and clerics, in addition to influential leaders.
- Preparing an electronic or printed guide
- Develop a special site on the website of the Ministry of Justice or some relevant authorities
- A guide to the procedures followed on a particular case
- Join efforts with specialized institutions to allocate hotlines for consultations
- Use knowledge in universities in the subject of human rights
- Involve the Human Rights Commission in the knowledge process, especially as it falls within their mandate and they have field teams working on this matter, and they submit reports to certain official entities.

4. Restoring Community Ties

Throughout the previous activities with representatives of CSOs and government officials, the authors of this guide concluded a consensus on the existence of a vertical and deep rift between many components of society in Iraq at the national and local levels, according to those affected by particular periods of time or experiences.

This has led to a significant loss of mutual trust and confidence in authority on the one hand, and to the reinforcement of the mentality of rejection and punishment as revenge on the other. This indicates the impossibility of achieving a participatory approach to thinking and implementing TJ measures.

According to the participants in the previous dialogues, addressing these rifts and restoring community ties/trust is an essential and indispensable step that precedes or paves the way for any other interventions. Activities that address this issue may be part of context analysis, needs assessment and development of theories of change activities, and may be preparatory activities prior to this to ensure that any negative impacts on the actual steps of developing TJ interventions are avoided. It is presumed that effective investment is made in the uniqueness, customs, management methods and internal interaction of local communities. A tribe may be the most suitable entry point in one area, while it is the youth in another. Hence the importance of context analysis, as mentioned above, emerges to enable organizations to effectively identify their entry points. These types of core interventions require the availability of effective and active focal and access points at the local levels, where the interventions are built through them through levels like circles resulting from throwing a stone in a quiet lake and the centre would be these focal points where the circles expanded based on that towards the broader circles that reflect the local community and its components.

Apart from any other initiatives that can be tailored to suit the nature and specificity of each target community, the following can be considered:

- a. **Focus groups: Youth, professionals, political and community activists, eminent personalities, people with moral authority, feminist organizations and activists**

It should be noted that “people with moral authority” are individuals who are considered “community leaders” in their communities, regardless of whether they are clerics, tribal leaders, distinguished academics, mayors, *mukhtars*, civil society activists, women, etc. Even if they have religious or official characteristics, they belong to the community and its members deal with them not just because of that trait, but mainly because of their respected role and being accepted by the public and their impact on formal and informal frameworks.

Implementing the “experiment” of positive confrontation and bridging the gap through focus groups composed of some community elites, might result in their experience being a model.

- Based on the context analysis, a selected group is contacted, and the idea is discussed, and through this, the topic(s) are identified be it the most common and affecting or causing the rift/gap.
- A list of ground rules is drawn up for the sessions.
- Organizers take the role of organizer and facilitator only, based on the points identified for discussion.
- The organizers focus on evaluating and measuring participants' reactions as the session (s) end.
- Transfer the experience to other groups through participants and with the support and facilitation of the organizers.

- b. **Local initiatives to boost trust**

There is no specific model for such interventions, but its rule of thumb is to start from the members of the local community itself towards the wider community and its components, especially those affected by the legacy of the past, whether directly or because of stigma or marginalization.

A group of mothers making reciprocal visits to other mothers in the "other" community may constitute a form of confidence-building. A set of basic recommendations can be noted:

- Start with people with moral authority as catalysts for these initiatives.
- Start from the smallest "gaps" to the largest. It is particularly unwise in communities with the accumulation of harsh experiences and the spread of mentality to accuse the other to launch initiatives to directly address more sensitive issues such as sexual violence. It is useful to start with more restricted issues identified by community experience, to portray them as a successful model that can be progressively followed at the level of more sensitive and/or serious issues.
- Investing in the openness of the youth, their fresh thinking, and their involvement in public affairs, in order to take the initiative and design other initiatives.
- Giving the basic space to women, especially mothers, to develop their initiatives in this context.

- It is possible to invest in some institutions that represent spaces for diversity and meeting to launch this kind of community initiatives, such as universities.
- These initiatives could include the involvement of representatives of some government institutions in their capacity as community leaders to create an informal space for dialogue between citizens and local authorities.

c. Campaigns to combat and raise awareness of hate speech

Hate speech and incitement play a semi-central role - as confirmed by all participants in the dialogue activities - in perpetuating a state of distrust, fear of others, desire for revenge, willingness to violence, and a lack of aspiration towards a common future and a reconciled society. This discourse is more dangerous because it is often systematic, institutionalized and adopted by media outlets, platforms and other influential bodies. The participants found that there was spontaneous hate speech based on a stereotype, and hate speech based on evoking memory. Communities need another voice to counter this discourse so that they are not held hostage to unilateral violent instigation, and to have the opportunity to compare and interact with the two discourses. However, it is not realistic to believe that confronting the machine of hate speech and incitement will be easy, given the limited resources and access available compared to what is available to those engaged in hate speech. Hence it is important to consider the following recommended ideas:

- Sustainability and continuity of campaigns to confront hate speech through community-based human discourse.
- Intensify these campaigns in the design and implementation phases of other interventions such as needs assessments, the development of theories of change, and confidence-building initiatives.
- Avoid counter-hate speech campaigns that are directed against or in direct response to any party, but always make them public as to not be accused of alignment.
- Effective and intensive recruitment of high impact social media.
- Not to throw the messages of combating hate speech by NGOs only, but to involve actors at the community level so that the messages against hate speech are issued by them as members of the different society components.
- Choose messages and narratives that are not religiously, ethnically, or politically controversial – and do not provoke any such controversy. Promoters of hate speech and violence seek to exploit details and modify moderate speech through religious, ethnic, or political interpretations.
- To the extent possible, isolate the sources of hate speech and violence and seek to reduce the community's interest in following it. Always think about offering alternatives that are interesting, simple, and derived from people's interests and daily lives. A project to counter violent and hate speech based exclusively on a series of academic lectures would only reach a limited group of those interested in academic affairs and discourse.
- Media outlets that do not adopt this discourse play a central role in countering it by providing moderate material to the recipients that contributes, along with other efforts, to isolating and marginalizing that discourse. Those institutions should not get carried away with responding and indirectly promoting that discourse. In many cases ignoring is often the best way to combat that discourse

- and its narratives. These media outlets can offer artistic, literary/cultural, social, and recreational alternatives that interest and appeal to the recipients.
- Active investment in literature, art, sports, and their activities.
 - Design and implement pressure campaigns and interact directly with official authorities to push for effective legislation to combat and criminalize hate speech and violence.

5. Setting Victims and Families as a Centrepiece

It is often pointed out that the roots and beginnings of the concept of TJ can be traced back to the movement and struggle of mothers and families of victims mainly in Latin America. The demands of the mothers of the forcibly disappeared in Argentina have turned into the slogan "Never again", in reference to their quest for a society that ensures that its future generations will not be exposed to the tragedies they suffered in the past. Today, many countries where victims and families have played a pivotal role in TJ pathways are considered world leaders in the areas of justice, effective remedy, reparations, non-recurrence of the past, victim support, and the fight against forced disappearance.

Iraq needs the victims and families to take an advanced role in the design and implementation of TJ measures. They, despite the different stages and circumstances that led to their oppression, share the suffering of the past tragedies and need real reparation for the material and moral damage they suffered. Victims and families are considered the group most able to come together on what is common, unlike other forces that are governed by competition and political, partisan, or other interests, which naturally makes their concurrence on common points difficult.

CSOs should adopt a victim-centred approach since when they decide to develop interventions to build an effective TJ pathway in Iraq. Therefore, CSOs should not exclude the victims from any stage of analysis, needs assessment, and the development of theories of change. The choice should be left to them, based on their informed knowledge, to determine the extent of their involvement in the decision-making processes and implementation thereafter. This does not mean excluding them if they decide not to take a leading role in the process. Rather, they should always be informed of the developments of the process and the interventions they contributed to planning and share their feedback and assessment. Given the multi-level nature, phases, and patterns that Iraq has been exposed to at the general national and local community levels, it would be unrealistic to think of a single, inclusive framework for all victims and/or families.

The ideas below are initial suggestions inspired by other experiences.

- a. **Forming associations/communities for victims, families and/or mothers at the governorate level**
 - Starting from a common factor among a group of victims or families at the community level. This can be done at the national level as well, but taking into account communication, mobility and resource challenges in the early stages. For

example, a group of families of those who disappeared because of ISIS in the city of Mosul.

- Engage with a number of individuals within this group who have an impact and a distinctive network of community contacts and provide them with informed knowledge especially regarding the importance of the role of links and communities of victims and families.
- Supporting them in taking the initiative and approaching more victims or families with a common factor to put forward and discuss the initiative.
- It is not necessary in the early stages to aim at a large number of people joining such a gathering. The first stage is to establish the working nucleus.
- Support and facilitate a series of meetings between group members and start building informed knowledge.
- The goal should not be to set up an NGO even if at some point they needed such framework for administrative reasons.
- The goal should not be to turn these victims or families into legal experts, human rights activists, or literally political actors. They must maintain the nature of being members of society, families, and victims, with a voice that must be heard and a role that must be central.

b. Building engagement plans at the community and official levels

- Facilitate and support the founding activities, the most important of which is the development of theories of change based on the specificity of the group and the factors common to them: experience, need, and goal.
- It is essential to develop the group's core messages that include their demands inspired by what they decide as essential pathways to building genuine TJ.
- Facilitate the development of action plans and support their implementation at the community level, firstly reaching more individuals/families with the same common factors, and secondly to the wider community.
- It is essential that group plans intersect with those of other interventions so that, where appropriate, they have the primary role, especially at the level of community interventions to restore trust and community spaces.
- Hence, the supporting organizations need to have prepared in advance, based on context analysis, and needs assessment, their plans and areas of intervention to intersect with what these groups can do.
- Group plans should include pathways of engaging official bodies. This component has an important impact because this type of engagement cannot be claimed to be political, but is driven by neutral human and national motives, especially since it does not merely describe the problem and needs, but rather practically sets out the pathways of solution and aspiration towards the future for all.

6. Create Community Spaces Around Restorative/Transitional Justice Measures

In order for TJ measures not to be imposed on society and in isolation from the needs and aspirations determined by its components, the centrality of developing spaces at the societal level, through community initiatives, emerges. These initiatives discuss measures that can be

designed and implemented, without initially requiring formal or legal cover, and without conflicting or conflicting with official spaces, but rather supporting and complementing them. What results from these spaces establishes a solid base at the societal level, capable of interacting to a large extent with the official spaces, and can even encourage the authorities to design and implement those necessary spaces; to ensure a TJ process based on a participatory approach, characterized at the same time by its adoption of the rule of law.

In view of the pillars of RTJ, addressing the causes of the painful legacy and the damage it caused to Iraqi society in general needs to find spaces that allow for community openness and the involvement of all parties in the most appropriate measures to redress societal harm, including rehabilitation and integration for all parties.

The interventions presented below are a summary of the brainstorming carried out by participants in previous dialogue activities that, in their view, can contribute to the consolidation of RJ principles and pave the way for formal measures to fulfil the official entities' responsibilities.

a. Community hearing and openness sessions/conferences

The participants in the previous activities unanimously agreed that initiatives to restore trust and community ties will have a clear impact on moving to an advanced stage of community exchange at local levels to create enhanced readiness to address past issues directly among these communities.

The goal of community openness initiatives is to break down walls of fear and to advance the elimination of the stigma and guilt experienced by some communities, such as those that are stigmatized simply because their members have engaged in abuses against others.

These initiatives would also not merely describe what happened, but rather delve into the causes and explore ways to avoid recurrence. These initiatives also contribute to reducing the impact of hate and violent speech because they allow different community components to get to know the "other" closely, which is often "demonized" through hate and violent speech. Victims and families play an influential role in encouraging community participation in these initiatives, which is why the examples of initiatives below are based on their leading role.

- Initiative from associations / communities of victims, families, and mothers: as associations develop their theories of change and action plans, and based on the informed knowledge they have gained, plans to take the initiative to hold such sessions may be included. An initiative launched by the victims will most likely be more acceptable by the different actors of society, as it is apolitical and based only on shared suffering and a common goal towards a better future in which justice is achieved for all.
- Round Family Sessions (Round Tables): This type of initiative has its origins in the family conference system in some juvenile justice systems in some countries, such as New Zealand. The family of the victim and the perpetrator, as well as the victim and the perpetrator themselves, meet in the presence of a facilitator and an official. This system aims to make the perpetrator directly responsible and to contribute to planning the most appropriate reparation that he must carry out, while at the same time his family supports him in carrying out this. It may be too early in the Iraqi context and at local levels to aspire to this level of positive

confrontation, but families could take the initiative to arrange such sessions with other families who are directly involved or because those families are stigmatized because of the involvement of members of their communities/components. These sessions are an opportunity to provide a safe and unique space for families to calmly review the past and the present, agree on common needs, and come up with practical steps in which everyone contributes to push towards a better future.

- Support and coordination of CSOs: these organizations play a central role in these initiatives in terms of securing the necessary support and resources in addition to, undoubtedly, informed knowledge, as well as coordination. These families and members of society in general are not legal experts or in the field of institutional work, and they are not required to be, and therefore CSOs fill this basic gap without burdening victims and families with detailed procedures.
- Safe space(s) for women: for two purposes: first, to provide a real opportunity for safe openness on socially sensitive issues such as those related to gender, and second to ensure that any RTJ measures are based on an appropriate gender lens.

b. Spaces based on regional or community specificities (tribes, youth initiatives or gatherings, family initiatives, academic initiatives, and people with moral authority)

Similar to the initiatives of victims and families, some community specificities are an opportunity to implement interventions at a broader community level. Through the active involvement of CSOs, tribal leaders, youth groupings or groups of academics and other people with moral authority who are well-known and usually respected at the Iraqi local level, to take the initiative to establish local spaces, under their sponsorship and coordination, that open the way for the various community sectors to meet and be open. The use of such authority sometimes does not mean imposing measures on society, but it is an authority in a positive sense that responds to the need to find a common factor and be used to bring about change in the mindset of dealing with the past in a way that goes beyond mere accusation and blame for the other.

c. A series of open meetings at the governorate level

The abovementioned initiatives contribute to setting the stage for a broader framework of interventions targeting broader community scopes. It is useful to carry those initiatives intensively and continuously to create a kind of "normalization" of this pathway in the minds of members of society. Initiating organizations should choose the right moment after accumulating a series of local experiences in each of the governorates to organize meetings or more general activities. It would be wise not to make these meetings inclusive of all topics related to the tragic legacy, but to adopt a sequencing method starting from the most common and influential on the broadest community scale, such as the issue of missing persons, which the participants in the previous activities agreed to be a comprehensive issue in all governorates.

Choosing an issue or issues of common specificity as a starting point (the missing persons as an example) will contribute to:

- Giving a humanitarian character to the meetings themselves and the topic of discussion.

- Taking the pathway of dealing with the past from the mere claims of injustice and accusations to the observation of shared suffering.
- Creating an atmosphere to discuss other aspects of dealing with the past.
- The possibility of coming up with practical proposals to deal with the issue from the point of view of the immediate stakeholders.
- The possibility of coming up with joint plans of action aimed at the right to truth and disclosure of fate and not to discriminate between groups.
- Raise the interest of the official powers and their willingness to engage positively in this matter as an entry point for further interaction with other issues of RJ.
- Raise international bodies interest in this issue in particular and open channels of communication with them.

d. Community apology initiatives

The participants in the dialogue activities drew attention to the importance of employing some of the community measures used to resolve conflicts and address some issues such as family or tribe apology initiatives. These initiatives do not aim to stigmatize a group or component of society, but rather they are a means stemming from the tribal nature of some regions and communities that consider that the family or tribe bears moral responsibility for what some of its members may commit, hence the apology initiative to emphasize the responsibility of that individual and remove any hostile attitudes at the level of families or tribes.

It is possible that some communities, mainly through the symbols of their moral authority, take the initiative in the event that some of their members are involved in the harm caused to other components of the same society. This initiative contributes to national reconciliation and thus may open the horizon for other initiatives that address the causes of what happened and develop common solutions for its non-recurrence.

Participants in the previous activities referred to the centrality of the official role in these initiatives, especially in terms of law enforcement, and ensuring that these initiatives and their outcomes are consistent with the legal framework.

7. Establishing an Equal and Positive Relationship with the Authority

CSOs should not design their interventions with the intention of being isolated from or competing with official authorities. Since 2003, Iraq has created many measures and institutions related to TJ pathways. Where such measures or institutions exist, CSOs should not work to eliminate them or cancel their presence, but rather work to contribute to their activation and enhance their role and effectiveness in the context of an integrated and coherent TJ approach. The design of intervention plans from the stages of building trust and restoring community ties should be based on the logic of creating conditions, supporting, and partnering with official authorities. By doing so and beginning to implement its community interventions while establishing effective communication with the official authorities, it creates a relationship of trust and partnership that the authorities feel their responsibilities while at the same time overcoming many obstacles and challenges. The initiating organizations should make maximum use of their network of relationships and influence

accumulated over the years to open channels of communication and interaction with the authorities from the outset. The points below represent some of the suggested entry points.

a. Families and victims as a starting point

This is related to the interventions to crystallize the central role of victims and families mentioned above, as it is assumed that the plans of groups of victims and families include components of engagement and communication with the official authorities. Placing victims and families at the forefront of this communication and building a positive relationship with the authorities through the support and coordination of the initiating organizations achieves two added values:

- Avoid concern over political/partisan alignment and/or interference by the authority.
- Establish a leadership role of victims and families in the mindset of the authorities and their subsequent interventions.

b. Civil society and practical proposals

CSOs should not limit their role in interacting with the authorities to describing facts and analysing problems. This traditional approach will not make much practical progress. The basis for this intervention under the initiative of CSOs to build interventions for TJ measures, is to start from their community interventions with practical proposals for the authorities and action plans in which they have a key role to play. For example, instead of analysing and describing the impact of the absence of economic opportunities on the tendency of youth towards extremism and violence, organizations are supposed to submit practical and implementable proposals through distributed roles and allocated and realistic resources to provide vocational rehabilitation programmes and sustainable small projects and to secure the necessary funding for them as part of their projects. CSOs, victims' associations, and human rights organizations in Tunisia have succeeded in imposing that they must be represented with a quota of 4 out of at least 15 members of the Tunisian Truth and Dignity Commission. This indicates that these organizations are able not only to describe problems and challenges and hold the authorities accountable, but they also take upon themselves part of the responsibility through direct and practical involvement in solutions and remedial measures.

In order to ensure the logical sequence and coherence between community measures and what the authority must do at the level of official measures, in addition to the need to establish an interactive relationship with the authority from the earliest stages, CSOs should:

- Be aware of the pathways and stages of legislation
- Identify the existing or influential actors
- Choose the appropriate timing and entry points to persuade them to make the necessary legal and procedural amendments to ensure the codification of measures and give them legitimacy
- Reflect the needs and measures identified by community sectors, particularly victims and families, that they deem most appropriate to redress their harm, ensure non-recurrence of the past and achieve national reconciliation on the wider range.

c. The youth sector and the new political generation

Iraq has witnessed a unique experience with regard to the role and impact of youth on the political movement, especially in the October Movement, which led to a breach, if only a small one, in the entry of new young faces into the parliamentary political arena, which gives more formal political influence to younger generations. Youth have established themselves as a political voice that is heard, influencing the political elites, and trusted by the public. All this gives youth an active role in influencing decision-making in Iraq through their adoption of the concepts of RTJ and their participation in pushing for the design and implementation of its measures. Hence, it is important to pay special attention to youth through constructive communication, sharing aspirations and plans for community measures, and the resulting demands related to official pathways. It is necessary to pay attention to the need to engage with the youth on the basis of their responsibility to build something new and not just reject what is there. That is why their role is manifested in pushing for the activation of existing measures or proposing and working on other measures.

8. Formal Spaces and Measures

There is no golden rule for the most appropriate timing for the implementation of TJ measures by the state, but the most important thing is that there is no TJ without a formal framework in which everyone is under the rule of law. Given the specificity and complexity of the Iraqi situation, the community pathway will be an important factor in paving the way for and supporting the official pathway. It is necessary for the authority to interact with civil society initiatives from the outset in order to participate closely in assessing the needs and aspirations of the various components of society, and thus be able at the appropriate time to launch its interactive and formal - legislative and executive interventions.

For its part, the authority needs to implement interactive spaces that it sponsors. These spaces may be concurrent with community confidence-building and relationship-rebuilding measures implemented by CSOs, but they may target other groups in an official capacity.

The goal is to achieve a participatory approach in the design of the TJ scales, and through these formal spaces the points of intersection with the outputs of the community spaces are identified. Civil and community forces play a major role in encouraging the authority to officially release these spaces, perhaps through special legislation that gives power to a government body, whether a ministry or the Human Rights Commission, for example, to carry out this process from organizing official spaces to other executive measures.

a. Interactive spaces parallel to the community spaces by the authority

These interactive spaces aim to elicit the insights and perspectives of particular groups in society that are not usually the target groups of community spaces, such as academics, political forces, organizations, writers, journalists, think tanks, and other specialized and supportive international parties. These spaces represent a practical reflection of the state's political will to address the effects of the past and work with everyone to ensure its non-recurrence. The body mandated by the authority to organize these spaces by preparing for them through interaction with the targeted parties, with a permanent basic participation of the victims, develops action programmes and selects the main topics based on that initial interaction, and then facilitates the interactive discussion with an emphasis on directing it towards practical proposals and recommendations regarding the pillars and components of

TJ appropriate to the Iraqi context, proposing appropriate mechanisms and the general framework for the implementation of these recommendations and proposals to avoid the implementation of casual distracting interventions not controlled by agreed mechanisms.

It is imperative that these spaces are guided by the development of the community pathway and the interaction that entails, and to present this to the participants to ensure that interaction does not occur around issues and measures that do not reflect the community. The most appropriate description of these spaces is for the participants to suggest the ideal form to implement most of the measures deduced from the community spaces.

b. Officially supported spaces for families and victims

The direct interaction between the authority, victim groups, and families, particularly those who have shaped and contributed to the community's preparatory pathways for implementing TJ measures, is a practical model for a participatory approach and for building RJ. This interaction allows official institutions to listen directly, without political or other intermediaries, to the views of the victims, considering what they represent at the community level, as appropriate measures to respond to the legacy of the past and prepare for the future.

Specialized spaces are an important opportunity to determine the desired and potential scope of measures. For example, the authority sponsors and supports interactive meetings with the Iraqi Council of Representatives' Legal Committee, so the interaction focuses on the necessary legislation to ensure the implementation and completion of the required measures, which could be new legislation or the amendment of an existing standalone legislation that can be part of the measures. In addition, the state's support for interactive spaces with the Ministry of Justice, for example, frames the discussion of the challenges of measures and their proposed solutions at the level of justice.

9. Establishing the Formal Framework for Implementation

In the light of the conclusions drawn from the community pathway of the measures that those directly concerned - the victims and society - consider to be an effective response to the legacy of the past, ensuring its non-recurrence, and pushing for community reconciliation, and on the basis of the outputs and recommendations of the official spaces regarding the mechanisms for working on these measures and putting them into practice, the moment comes that requires transforming this into one or more official legal frameworks. The framework could be the formation of a truth commission – not necessarily under the name of a *commission* – that undertakes the implementation of measures or makes binding recommendations for their implementation, or for some of them, and this may be accompanied by a series of other actions taken by the authorities in conjunction with the work of the truth commission.

9.1 Justice and reconciliation commission/truth and justice commission (as an example of a truth and reconciliation commission)

Similar to truth commissions and based on lessons learned from their experiences throughout history, a truth and justice commission (or under any other name) will be the formal and legal

framework tasked with implementing or proposing executive measures in the RTJ pathways. The official formation and legislation required for this should not turn the commission into another mere ineffective or imposed body. It is essential that the academic sector, experts, and representatives of community pathways be involved in the development of the mandate and charter of the commission in light of the conclusions that have emerged from the official and community spaces and with an international advisory support that may be, for instance, through the Human Rights Council and relevant Special Procedures.

This framework needs its own legislation detailing its jurisdiction, membership, system, accountability, conferred powers, and more. With regard to membership of this commission, there is no political representation at all or a party quota or anything else.

Membership should only be on the basis of specialization and practical experience, and what the added value is expected from membership, not to ignore or neglect the membership of women, victims and CSOs. It is also assumed that the establishment and formation of the commission coincide with an awareness campaign through the existing spaces to circulate its official and community acceptance, especially as it is a framework that deals with what resulted from the participants in those pathways without imposing or forcing.

The media - especially the official - plays a key role in the awareness and promotion process. The formation of such a framework is considered a historical detail in the lives of peoples, as was the case in South Africa, Tunisia, Guatemala, and many others. Therefore, the state and CSOs should invest in all areas of access to the widest possible range of people through mosques, churches, universities, cultural gatherings, tribal guest spaces, etc. This awareness undoubtedly requires that it is not merely a declaration of the body or pathway, but must coincide with measures to ensure informed knowledge as mentioned above. Those in charge of awareness-raising activities should include in their plans the time and resources needed not only to inform people, but also to provide them with sufficient knowledge of these measures and pathways so that they can assess what is being offered to them and identify their needs and forms of participation.

The Commission shall be responsible before the authority and the community for the development of the implementation plans for the measures adopted in the official and community spaces. Below are several measures indicated by participants in previous activities that may be helpful in defining discussions and considering what is appropriate for specific sectors that have worked in informal spaces such as those in which they have participated.

The participants in the previous interactive activities came up with a proposed sequential proposal for the establishment of this entity:

- Forming a team of specialists (civil society, stakeholders, members of parliament, jurists, community leaders, victims' families, clerics, concerned institutions, Human Rights Commission, Martyrs Foundation, committees for victims of terrorism, Supreme Judicial Council) in order to prepare an action plan, prepare and raise awareness of the mechanisms of the committee and its work and TJ measures.
- Working on a draft reconciliation law
- Advocacy campaigns for the formation of a truth commission
- The establishment may be by an executive order or a legislation from the Iraqi Council of Representatives. It is better to be established by a legislation because the executive order is subject to cancellation in the event of a change in the executive authority.

- Membership of the committee: CSOs, academics, media professionals, journalists, jurists, representatives of victims, taking into account components, sects, religions, and social actors.

With regard to the powers of this commission (the committee), the participants in the previous activities unanimously agreed that the committee should have an executive power that would allow it to be directly responsible for implementing certain interventions, the most important of which is the search for the truth. They also agreed that its recommendations should be of a legally binding nature.

The participants based this argument on the fact that this committee is formally constituted and therefore its powers are derived from the law and its procedures accordingly reflect the law. The participants justified their point of view regarding the committee's powers to ensure impartiality in work, not to be under the influence of any political or security force or particular political party, and not to disperse work in multiple institutions and committees, and to reduce time and effort, especially since it is a non-judicial committee.

9.2 Media

- a. Legislative measures to criminalize hate speech and incitement to violence: Participants agreed on the fundamental impact of incitement to hatred and violence through much of the media on community willingness to move one step towards the "other". As these media practices continue and escalate, any measures of RJ will be fragile and under constant threat. These measures will not only firmly deter this rhetoric, but in conjunction with the community and official spaces, it is very likely that it will contribute to building more trust between the community and the authority.
- b. Establishing and supporting media observatories: In order for the authority to implement legislation related to the media and hate speech, it will need to establish media observatories that monitor the discourse and performance of the media and media professionals in this regard. There are many NGOs that are interested in the media and have sufficient experience that, in partnership with the authority, they can expand the scope of their observatories, if any, or establish new ones.
- c. Capacity development plan for existing media institutions in this context: it is not enough to enact laws in this context and monitor their implementation. The authority must launch a capacity-building programme related to freedom of expression and the discourse of violence and hatred, and to draw on local and international expertise and capacities.

9.3 The missing persons

The disclosure of the fate of the missing is the cornerstone of an effective dealing with the past, since we are talking about a humanitarian issue before it being political or judicial, and therefore it is not possible to plan for a future in which tragedies do not recur if one of the most emotionally sensitive issues, especially for families, is not addressed. Working on this issue usually constituted the first essential measure of TJ, as it lays the foundations for enhancing confidence and beginning a recovery from the past. The families of the missing persons need to know the fate of their loved ones, so it begins with search and investigation

operations to determine their whereabouts, and if they are found dead, then their remains must be exhumed and returned to the families with dignity and honouring them according to the families' traditions. This file in particular requires resources and capacities that are distinct from most other issues. Therefore, it requires specialization, dedication, comprehensiveness, and utmost care not to be selective. The state has a legal responsibility to deal with and address the issue of the missing persons. However, in the context of TJ, it is not just a commitment to responsibilities, but a fundamental pillar that must be started with to ensure an effective TJ pathway. Thus, there may be a specialized national framework that works as follows:

- a. Scientific and legal professionalism: Those in charge of this framework, members, and workers are not representatives of political and other forces. They are just specialists.
- b. Intersection of work with the truth and justice commission: This framework works under the inspiration of the commission and in full coordination with it if it is formed at the same time. It is essential that the measures are not conflicting or random, but complementary to each other.
- c. Coordination and communication mechanisms with families and victims: One of the most important conditions for working on the missing persons is to find effective mechanisms for communication, planning and sharing information with the families of the missing persons, which makes them more prepared to feel satisfied and cooperate in the work of this framework or any other TJ measures.
- d. International specialized technical, advisory and material support: As this issue requires unique skills and expertise such as research and identification of persons, including DNA testing, matching sequences, exhumation techniques, and other research and investigation skills, it is essential that the work is not isolated and does not disregard the experienced international bodies who are willing to help, especially in light of the political and national will to address the issue, including the Working Group on Forced or Involuntary Disappearance of the Human Rights Council, the International Committee of the Red Cross, and the International Commission of Missing Persons.

On the other hand, it is necessary to adopt and activate the law of enforced disappearance based on Iraq's international commitment through its accession to the International Convention for the Protection of All Persons from Enforced Disappearance. This, apart from being a fundamental progress in combating the phenomenon and holding the perpetrators accountable, it is a strong message in terms of guarantees of non-recurrence.

Participants in the previous activities suggested that the ideal form of handling the file of missing persons would be the responsibility of the "truth commission", and they developed a sequential proposal for this:

- Setting goals
- Identify team members according to the goals
- Benefiting from international experiences in this field, especially in training and consulting operations
- Collecting preliminary information from relevant parties

- Facilitate reporting mechanisms by publishing and printing a special guide on social media and government agency websites
- Scheduled implementation mechanisms according to specific periods and according to each working team
- Distribution of tasks to several teams: the secret prisons and the disappeared team, the mass graves team, the complaints, and information team
- Getting support from some international organizations and agencies, as well as abroad entities, such as the Interpol and consulates
- Simplifying the procedures for dealing with cases of missing persons to ensure the rights of their families
- Setting a national day for the missing persons
- Establishing a museum for the missing persons to document their cases

9.4 Memory preservation

With the multiple levels of legacies in Iraq, perhaps preserving the social memory and its role in revealing the truth, is much more important than in other contexts and experiences. Preserving history and knowing the truth is a very important measure in the context of TJ and may constitute one of the most valuable reparations for victims. Communities can create and innovate various forms of memory preservation, depending on experience, choice, and available resources. CSOs can take the lead in this area and, of course, play a pivotal role, as they did in many previous experiences such as Cambodia, Argentina, South Africa and many others. However, the responsibility to memory preservation must not be separated from the formal framework of formalization under the rule of law, provided to be within the framework of a coherent process. In complex experiences with various legacies, the search for truth and preserving memory cannot be a community affair alone, because it can lead to the loss and blurring of many facts, especially considering that some people may have been forced to deal with an oppressive regime, and others are victims in one case and involved as perpetrators in another. After the end of the Khmer Rouge era in 1979, the Cambodian government attempted to promote measures to discuss the community experience under the Khmer Rouge and encouraged local communities to engage in memory preservation activities without establishing formal measures in this regard. This, according to many observers, has led many Cambodians to be reluctant to accept the idea of reintegrating many Khmer Rouge fighters into society because existing measures, if any, did not provide a solid ground for the truth about the level of those fighters' involvement or non-involvement in the abuses that occurred during the Khmer Rouge regime. This in turn led to the isolation of these fighters and members once more and the Khmer Rouge remained a political and military power for another twenty years after the end of their bloody rule.

The ideas below are not exhaustive of what needs to be done, but rather reflect what previous participants have discussed in connection with the challenges they have identified.

- a. **Reviving and activating the role of the Iraqi Memory Institution:** Although the competence of this institution was limited to the pre-2003 phase, its mere official presence with what it aims for is very important. There is a real need to establish and complete a national archive that is responsible for collecting, preserving, and utilizing the Iraqi memory at all stages and levels. Instead of establishing other new bodies,

there is no better measure than reviving this institution and expanding its competence to include all stages of the tragic legacy in Iraq. Enabling this institution to play an official central role in the collecting and preserving the Iraqi memory will be an indispensable element in using this memory in truth-seeking and reparation measures, especially when its role is in parallel with any other TJ measures. History should not be written according to the opinion of politicians and political forces, and therefore the importance of professionalism and independence of those in charge of this project and its goal is highlighted.

- b. **Coordination and cooperation mechanism with CSOs:** Since many human rights organizations and CSOs have either worked for many years or are continuously working on human rights documentation and memory preservation, the first task of the National Archives Project is to create a mechanism of cooperation and exchange of information and/or documents and materials with these actors.
- c. **Oral Documentation and Spoken Memory:** Not all facts and events are documented and written, and therefore oral documentation activities play a pivotal role in preserving history and employing this in measures to reveal the truth. This documentation can also be turned into documentary or artistic works, with the need to invest in modern technologies and the Internet to ensure wider access to the community.
- d. **Artistic and social projects:** The National Archive needs touches of creativity and the use of capacities and artistic and social activities to preserve and perpetuate memory. The project needs to support technical and social initiatives and those in charge of it that aim to contribute to preserving and perpetuating the memory.
- e. **A specialized body to review educational curricula:** Although educational curricula have always been one of the most difficult measures in many previous experiences, it is not impossible to review these curricula, especially if it is preceded by the stages of preparation and the involvement of a wide range of community and official sectors. It is necessary to start work on such a review based on a concrete basis. The findings produced by truth commissions may be the most appropriate, common, and acceptable basis for everyone, so those in charge of this review can adopt those findings as a logical basis to enable them to conduct further scientific research and work directly on the review process and propose amendments.
- f. **Responding to the findings of the community spaces with regard to the mechanisms of memory preservation:** Any framework that will work on the project of memory preservation at the national level, must incorporate the findings of the community spaces. Recalling the past and discussion about it will be one of the main elements of these spaces, and therefore measures to deal with and learn from the past will be essential to the process of national history preservation and remembrance.

9.5 Reparation

Compensation measures are among the most widely discussed and applied in Iraq after the various stages of the legacies of the past. However, according to what the participants concluded, they were not designed in an integrated manner within an effective TJ pathway that deals with the root causes and turns it into guarantees of non-recurrence. In many of the measures adopted in Iraq, reparations were not reparations in the sense of TJ, but in their entirety were made available to people as purely material reparations unrelated to any other measures that would enable the community to recover and reconcile with itself. Some also believe that the method of financial compensation in this isolated form may contribute seriously to the strengthening of community divisions, stigma, and discrimination, and therefore there is an urgent need to deal with the issue of reparations in a holistic and calm manner and not skip stages and haste so as not to spend huge amounts of resources, but at the same time society does not get the desired results.

- a. **Launching an international “workshop” with relevant specialists on other people’s experiences, and representatives of community spaces:** One of the reasons for the failure of reparations measures may be not relying on informed knowledge about these measures and not studying its possible negative and positive consequences in the future. In this particular topic, it is useful, and even important, that the work does not proceed without sufficient knowledge, experience, and analysis. It is possible to launch an integrated and ongoing “workshop” of which the Truth and Reconciliation Commission, the Human Rights Commission or others are mandated with, drawing its content from the outputs of the community and official spaces, as well as inputs from international experts and direct civil society actors during some historical experiences.
- b. **Develop and legislate an integrated project for financial and non-financial reparation measures:** Based on the foregoing, an integrated project must be developed for reparation measures, provided that they are not exclusively financial for the reasons mentioned above. Reparations can be individual or collective, but their determination requires preparation, direct discussion, and the active involvement of victims in the elaboration process. Legislation should be the final stage after all these points have been met.
- c. **Amend and develop existing compensation laws in the light of the reparation project to also include other measures:** In this context, some existing laws on financial compensation may be useful, though not in isolation, but in the context of what will be developed in the context of the integrated reparation project. It is possible to review and make the necessary amendments to these laws, but in the context of the approval and implementation of the integrated project.
- d. **Reintegration programs for the families of the “alleged perpetrators”:** The participants identified the issue of “marginalization” and perhaps the exclusion of the direct or indirect families of some of those involved in certain stages, such as the so-called ISIS era, as the biggest obstacle to any reparation process and TJ in general. Working to reintegrate these families into their communities through programmes that enable them to communicate and remove barriers of suspicion and accusation,

will undoubtedly contribute to the guarantee that the legacy of the past will not be repeated.

- e. **Comprehensive social, legal, and economic measures to facilitate the return of the displaced persons:** In a parallel and similar context, the same applies to the displaced persons in general, provided that the measures are not mere return in the literal sense, but are synchronized with a series of legislations and measures that guarantee their reintegration and social and professional rehabilitation, such as small economic projects and social and cultural activities, etc.
- f. **Reparation measures for minorities respond to the tragedies they have experienced as minorities:** In addition to general reparation measures, which must be developed and implemented at the national level, minorities who have been subjected to systematic and widespread violations solely because they are members of those minorities, must be allocated special measures to ensure that they maintain their identity and national belonging at the same time. The harm caused by discrimination against their minority needs additional measures of positive discrimination to enable them to enjoy the same level of rights as the rest of society.

Participants in the previous activities unanimously agreed on the need to combine individual and collective reparation measures. They unanimously agreed that measures of recognition, formal apologies, memory preservation, rehabilitation, fair financial compensation, fair criminal justice measures involving victims and the community, and institutional reform are both individual and collective measures of reparation.

The participants also attached special importance to measures of economic reform and development, and the provision of basic services to communities as one of the effective forms of collective reparation, achieving satisfaction and guaranteeing non-recurrence. This approach has played a pivotal role in the recovery of Rwandan society during the decades following the genocide and has led to a concerted effort by the community and the authorities in the country that the World Bank expects Rwanda to be in 2050 a high-income country.

9.6 Institutional reforms

Communities decide to pursue TJ pathways with a primary goal of ensuring that the tragedies of the past are not repeated, and that national reconciliation is achieved. To achieve this, communities seek to carry out reforms at various levels of the state and society, especially in those sectors that have directly and indirectly contributed to causing these tragedies, or whose remaining unchanged may be a factor in the recurrence of those tragedies. This does not mean that any legacies are caused specifically by these institutions, and therefore those sectors or institutions have to be identified as the most affecting or may affect the guarantees of non-recurrence of those legacies. Reparations measures are linked to non-recurrence measures, particularly institutional reform, as they ensure that reparations are sustainable and can be used to develop a more stable future and a reconciled society. Participants in previous activities found through their dialogues that the areas listed below are of paramount importance in the Iraqi context at the level of institutional reform.

- a. **Amending the laws on the formation, membership, and accountability of the security forces:** it is not enough for the security institutions to be strong in society to maintain security and protect its members, but the legislation on their formation, membership, performance, and accountability needs to be consistent with the principles of the rule of law and human rights and not have any direct or indirect role in the violation of human rights. Therefore, the membership of these forces should not be on the basis of political, regional, or sectarian distributions and quotas, but on scientific and professional grounds, and be subject to conditions of adherence to the approved code of conduct - which must be compatible with international standards.
- b. **Impose a training curriculum and performance monitoring programme related to international standards in law enforcement:** Security forces staff must undergo intensive programmes on international standards governing the work of law enforcement officials, not only at the beginning, but periodically to ensure that the level of knowledge and application of those standards by the staff are maintained. The security forces must develop effective monitoring systems for the performance of these individuals compared to the training programmes they have received, and that are capable of providing the necessary information for the appropriate accountability mechanisms.
- c. **Setting up a civilian national monitoring body with branches at the national level:** In a society governed by the rule of law, it is not enough for the security forces to be legally established on professional bases and their personnel are subjected to training and internal monitoring, but the civil sector must be involved in the monitoring process to ensure its objectivity. The civil monitoring body should be made up of specialized and legal individuals, and should be deployed at the level of governorates and regions.
- d. **Review and amend effective remedy laws through clear and easy mechanisms that enable access to administrative and legal/judicial procedures:** The state bears the responsibility to provide the population with means for effective remedies for the practices and abuses to which they may be subjected by the security forces. These means include the mechanisms of complaint, prosecution, investigation and awareness of its developments, as well as the presentation before the appropriate judicial bodies, as well as the necessary measures to redress the harm of those proven to be victims of such practices. These ways must be clear, public, and accessible to all.
- e. **Launch a national economic reform project at the policy and practice level:** The economic sector and its failure to provide suitable opportunities and gradual growth is one of the main reasons for the increase in violence, extremism, and revenge. The economic system needs to be reconsidered at the level of policies, legislation, and practice, to ensure the maximum utilization of resources and achieving economic growth and opportunities for all.
- f. **Allocate resources and international relations for a “workshop” to develop sustainable economic and professional initiatives for youth and other marginalized sectors:** the simple but useful equation is that young people with economic

opportunities are less likely to be radicalized and violent. The idea of micro projects and capacity building related to them and the labour market in general, coupled with plans for sustainability and expansion, do not only constitute an opportunity for the youth to refrain from extremism or violence, but it is an additional economic resource for the country in addition to contributing effectively to their inclusion in community life and a strengthening their sense of citizenship.

- g. **Review and amend controversial laws, such as the terrorism laws and the law of accountability and justice, in light of the findings of the community and official spaces:** Iraq has attempted since 2003 to implement multiple measures as part of a justice and TJ pathway, some of which were - and still are - undoubtedly important, but the fact that these measures were put into practice in isolation from other measures and plans to implement them in a coherent and logical manner, may contribute to exacerbating some community gaps by sometimes feeding into discrimination. In addition, some measures that are limited to specific aspects cause a generalized misconception of broader and more effective concepts and measures in their holistic form, such as justice and reparations. It is necessary to take into account, as a priority, the outcome of the views emanating from the community and formal spaces.
- h. **National, social, and occupational/economic rehabilitation and integration programmes for current and former members of armed groups:** At some point, there is supposed to be no power in the state other than its regular forces. Proceeding from the logic of RJ, which is based in one of its pillars on integration and transformation, a high priority must be given to this issue as one of the essential measures to, firstly ensure non-recurrence, secondly contribute to genuine national reconciliation, and thirdly benefit from this group by taking its active and productive role in society. Neglecting this issue exposes the current and former members of non-state groups to cruel marginalization, and pushes them to the only option of continuing violent activity, as they find it the only available pathway for safety and an alternative for society's rejection. Several experiences have witnessed such "pushbacks", such as Uganda, where TJ pathways have largely failed to rehabilitate and integrate fighters, especially tens of thousands of children who were recruited. This contributed to the formation of other armed groups, some of which are in conflict with the authority, and other groups that are in part engaged in criminal activities. Failure to work hard to rehabilitate and integrate these people contributes strongly to the continuity of the community rift, even at the family level, and will have the most serious impact on the rest of the measures. This category should not be dealt with solely on the basis of condemnation, but on the basis of what they can do at the level of contributing to reparation and achieving economic growth and services for communities.

VIII. Recommendations

Inspired by the pathways and measures that this guide provides for RTJ in Iraq, inspired mainly by interactive dialogues at the joint community and official levels, the authors of this guide draw the following key recommendations

1. CSOs

- Initiate context analysis and needs assessment activities, ensuring a collaborative approach between organizations according to specialization and geographical operation.
- Strengthen and intensify effective communication channels with relevant government bodies to discuss the issue of RTJ and possible measures.
- Develop theories of change and the accompanying basic strategic plans for implementation.
- Allocate the necessary resources and ensure a logical justification to advocate for long-term programmes with supporters and donors.
- Intensify awareness-raising and capacity-building activities for the staff in organizations on RTJ and the Iraqi context.
- Initiate activities and interventions to restore community ties and trust between communities on the one hand and with the authorities on the other.
- Initiate support to groups of victims and families to rehabilitate them to take a leading role in all measures and interventions.
- Intensify dialogue activities on existing laws and measures related to TJ and actively engage with official authorities in discussing them and putting forward alternatives or practical improvement proposals.

2. Official Institutions

- Initiate the launch of primary official spaces to discuss the TJ pathway in Iraq and focus on engaging specialized and directly relevant groups of academics, community actors, youth, women, representatives of the relevant official bodies, as well as representatives of victims and their families.
- Assign a specific government body to handle the communication and interaction with civil society initiatives to be a clear and formal link to share information and plans.
- Prepare and publish easy and accessible illustrative materials on the procedures required for the access of victims, families, and others affected to the existing measures.
- Active and intensive participation in civil society activities aimed at restoring community ties and other measures that contribute to uncovering the truth and achieving satisfaction.
- Review the legislation on combating violent and hate speech and make the necessary amendments to criminalize it and work to spread awareness against it through official frameworks and in cooperation with the private sector and civil society.
- Review the mechanisms and plans for dealing with mass graves and the issue of missing persons in general and take the necessary legislative and executive measures

to launch a national programme to address the issue, on the grounds that this step will have a significant positive impact on the various sectors of society that share this painful legacy.

3. Media

- Interact with CSOs in order to spread informed knowledge about RTJ and contribute to the process of dissemination, awareness-raising and substantive dialogue.
- Adopt SMART strategies to deal with violent and hate speech and providing alternatives desired by the community.
- Launch field-based media programmes that interact with communities and specialists to address RTJ issues and measures, in a way that contributes to identifying needs and achieving an effective participatory approach.

4. Youth

- Initiating activities to enhance youth knowledge of the historical context of Iraq by drawing on the expertise of specialists who can provide this in the context of disseminating informed knowledge and ensuring non-recurrence.
- Intensify community activity, not just political activity, and invest in the case of acceptance to contribute to activities to restore community confidence and provide ideal models for measures such as openness.
- Include proposals and ideas related to the pathway of RTJ in the youth political discourse as well as in the parliamentary work of the parliamentary youth forces.

5. Women's and/or feminist organizations

- Positive engagement and taking a leading role in civil society efforts to ensure gender-sensitive interventions that enhance women's inherent role.
- Launch programmes to break down community barriers and restore trust where the main actors are women.
- Take the initiative in discussing and drafting legislative or executive proposals regarding possible measures at the levels of truth-disclosure and individual and collective reparation measures.

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