



The  
Federal Government



# Interministerial Strategy to Support “Dealing with the Past and Reconciliation (Transitional Justice)”

in the Context of Preventing Crises, Resolving Conflicts and Building Peace





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# Contents

1. Introduction	4
2. Conceptual foundations and principles of action	6
2.1. Concept and aim of transitional justice	6
2.2. Challenges and areas of tension	12
2.3. Principles of action	15
3. Goals and fields of action	18
4. Strengthening interministerial action	25
4.1. Establishing a cross-strategy working group	25
4.2. Promoting links with civil society and academia	27
4.3. Analysis: Strengthening interministerial understanding	27
4.4. Interministerial strategy development	27
4.5. Interministerial approaches for monitoring and evaluation	29
5. Expanding international and national partnerships	30

# 1. Introduction

When violent conflicts end or systems of injustice are replaced by legitimate governments, societies reorganise the way their people coexist. The acts of violence and human rights abuses that many people suffered are present in this transition. Victims demand justice. As a first step, trust in the state, its legitimacy and its protective function must be (re-)established. In this type of situation, targeted efforts to come to terms with the past can have a stabilising effect in the short term, and can thereby help in the medium and long term to secure peace, build democratic and rule-of-law institutions and facilitate reconciliation at various levels.

In its Guidelines on Preventing Crises, Resolving Conflicts, Building Peace (2017), the Federal Government pledged to create an interministerial strategy for dealing with the past and reconciliation (transitional justice). This strategy should strengthen Germany's engagement in transitional justice and position it on a clearer conceptual foundation. In particular, the aim is to help ministries act more coherently and in a more coordinated manner, to use synergies between different policy areas and to create closer links between relevant stakeholders. Action in the field of transitional justice also always includes the equally important field of reconciliation.

In recent years, as part of their peace and human rights policies, the United Nations, the European Union, the African Union and bilateral donors have adopted concepts and strategy papers on transitional justice or – as it is also known in international circles – dealing with the past.

There is a growing awareness that processes of transitional justice must also consider refugees and internally displaced persons. Their needs and experiences – not only as victims of violence, but in particular as refugees and displaced persons – must be taken into account with regard to their return, their reintegration and the reconstruction of society.

In terms of its foreign, security and development policy, Germany can now look back on two decades of state and civil-society approaches in the field of transitional justice and reconciliation in numerous countries. Germany itself has many and varied experiences of processes for confronting and dealing with

the past; of particular note are its efforts to deal with the National Socialist dictatorship and the rupture in civilisation that was the Shoah on the one hand, and the SED regime in East Germany on the other. These experiences, which involved controversies, weaknesses, fractures, contradictions and individual compromises, are key points of reference for the Federal Government's international engagement.

In preparing this strategy, important suggestions and ideas were incorporated from the Federal Government's PeaceLab blog on transitional justice and reconciliation. The blog brings together over 30 articles written by civil-society authors, academics, and practitioners from Germany and abroad.<sup>1</sup>

In 2025, the Federal Government will review this strategy for transitional justice and reconciliation, and adjust it as necessary.

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1 <https://peacelab.blog/debatte/vergangenheitsarbeit>

## 2. Conceptual foundations and principles of action

### 2.1. Concept and aim of transitional justice

The Federal Government follows the European and international conceptual understanding of transitional justice. According to a UN Secretary-General report, **transitional justice covers all processes and mechanisms associated with a society's attempts to come to terms with a legacy of massive human rights abuses and large-scale violence** (cf. UN Doc. S/2004/616).

#### International reference documents with a special focus on *transitional justice* (selection)

**United Nations (2004):** Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies. UN Doc. S/2004/616.

**United Nations (2005):** Basic Principles on the Right to a Remedy and Reparation. UN Doc. A/RES/60/147.

**United Nations (2005):** Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher. UN Doc. E/CN.4/2005/102/Add.1.

**United Nations (2005):** Report of the Special Rapporteur on Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons, Paulo Sérgio Pinheiro. UN Doc. E/CN.4/Sub.2/2005/17.

**United Nations (2008):** Nuremberg Declaration. UN Doc. A/62/885.

**United Nations (2010):** Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice.

**United Nations (2012):** Resolution on the creation of a Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence. UN Doc. A/HRC/RES/18/7.

**Resolution adopted by the General Assembly of the United Nations (2014):** Right to the truth. UN Doc. A/RES/68/165.

**European External Action Service (2015):** The EU's Policy Framework on support to transitional justice.



**United Nations (2018):** Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparations and Guarantees of Non-recurrence. A/73/336.

Other international frameworks are also relevant to the topic. These include the human rights conventions in general, UN Security Council Resolution 1325 on the role of women in peace processes, UN Security Council Resolution 2250 on the role of youth, the Guiding Principles on Business and Human Rights (A/HRC/17/31) and the Sustainable Development Goals contained in the 2030 Agenda for Sustainable Development (in particular SDG 16).

The **Joinet Principles** provide important **conceptual guidance** for transitional justice. French diplomat Louis Joinet formulated these “principles against impunity” in the late 1990s, in the wake of the wars in Rwanda and the successor states of Yugoslavia. His aim was to strengthen victims’ rights and fight against impunity.

The principles encompass the following:

1. The right to know
2. The right to justice
3. The right to reparation
4. The guarantee of non-recurrence

Joinet was a member of the Subcommission on Prevention of Discrimination and Protection of Minorities, which was part of the United Nations Commission on Human Rights. The subcommission had tasked him with writing a report on impunity for human rights violations. Joinet presented his principles to the UN Economic and Social Council in 1997 (E/CN.4/Sub.2/1997/20).

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*Legal, social and political initiatives are needed to address past injustice. A core challenge is that transitional justice must be designed in such a way that it supports conflict transformation and reconciliation, rather than creating new conflicts.”* MARTINA FISCHER

The Joint Principles provide the foundation for all other UN initiatives that aim to strengthen victims' rights. In 2005, they were re-affirmed and further fleshed out using examples of best practice, as part of another report for the UN. The report (E/CN.4/2005/102/Add.1) was produced by Diane Orentlicher, an American law professor who had been appointed as an independent expert. As a result, the principles are sometimes referred to as the **Joint/Orentlicher Principles**. They have become established with many other bilateral and multi-lateral stakeholders (such as the European Union).

Fundamental to the Joint Principles is the idea of **synergies between different stakeholders, judicial approaches** (e.g. criminal prosecution, court-ordered return of property, and compensation) and **non-judicial approaches** (e.g. truth-finding processes, remembrance work, dialogue, and joint efforts to work through perceptions of history by historians and various social stakeholders in line with the notion of "public history") based on the four areas listed above. The term "reparations" (in German "Wiedergutmachung") is to be understood as a goal while recognising that the pain and injustice people have suffered can never be undone.

A diagram (see next page) produced by the Swiss Peace Foundation (swisspeace) and the Swiss Federal Department of Foreign Affairs provides a good overview of the transitional justice **measures typically linked to the Joint Principles**.

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*An ambitious transitional justice process should focus on any structural violence that predated a conflict as a separate human rights violation to assure that socioeconomic justice addresses these historical inequalities.”* LISA LAPLANTE

The Federal Government advocates a **comprehensive understanding of confronting past injustices**. It is based on the universality, inalienability and indivisibility of human rights and, in addition to violations of civil and political rights, also considers violations of economic, social and cultural rights. It includes various dimensions of justice (such as retributive, distributive and

restorative justice); structural, political and socioeconomic causes of conflicts, violence and fragility; and the vulnerability of victim groups. Transitional justice is therefore part of **social transformation processes**.

### Conceptual Framework for Dealing with Past



*In a society emerging from conflict, the context determines the timing and sequencing of transitional justice processes in any given situation. There is no ‘one-size-fits-all.’* ANNAH MOYO

The **primary goals of transitional justice** include providing the victims and survivors of violence and human rights violations with a modicum of justice, (re)strengthening the population's trust in the state's legitimacy and protective function, and (re-)establishing social relations. In **times of immediate political transition**, state institutions should gain democratic and rule-of-law legitimacy by addressing, acknowledging and prosecuting past injustices, and by deriving reforms from these efforts. By promoting **access to justice**, social, ethnic and cultural tensions can increasingly be resolved peacefully, and pathways for individuals to actively pursue material justice and reparations can be opened up. **In the long term**, transitional justice measures help to develop inclusive cultures of remembrance that promote peace, and reconcile the often deeply divided societies. In essence, therefore, transitional justice is also about **prevention**. It should help to prevent violence, atrocities and human rights violations from occurring again. This preventive aspect is also key to opening up opportunities for refugees to return home. Impetus for **political processes and institutional reform** is therefore just as important as **building trust and the capacity for dialogue, transforming conflict narratives and restoring relations**. **Including the young generation** in transitional justice lays a key foundation for a society to peacefully coexist in the future. Young people's attitudes are important for, among other things, **transforming victim and perpetrator identities** so that groups and individuals are no longer perceived solely in terms of their roles as "perpetrators" and "victims". People and communities who have been particularly affected by injustice and violence, and who were often marginalised even before violence broke out, should be given the chance to **participate** in political, economic and social life.

### Dimensions of reconciliation as a goal of transitional justice

Reconciliation is a primary goal of transitional justice. This strategy views reconciliation as a process that enables the *restoration of social relations* on the basis of *fundamental values* such as human dignity, respect, the right to life and the right to physical and psychological integrity. With that in mind, anyone who speaks about reconciliation must not remain silent about violations. In terms of the depth of the reconciliation process, the spectrum ranges from simple coexistence all the way to the regaining of mutual trust. It can be separated into the following – not fully distinct – levels:

### 1. The individual, interpersonal level

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The individual or interpersonal level of reconciliation focuses on restoring interpersonal relationships following experiences of physical, psychological or other forms of violence and human rights violations. This level is primarily about the relationship between victims and perpetrators. At the interpersonal level, participants can vary widely in what they expect and need from processes of reconciliation. In addition to general psychosocial support, religion and faith can help people individually process the past and reconcile with others.

### 2. The societal, sociopolitical level

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The societal level of reconciliation refers to relations between groups who are affected by – or involved in – a conflict. These groups may differ in terms of social, political, ethnic, religious or other characteristics. Generally speaking, reconciliation at this level means that **these groups become willing to jointly shape the future by peaceful means**. Reconciliation processes take place in a variety of forums, such as parliamentary structures, informal dialogue platforms, places of remembrance and spaces provided by religious communities.

### 3. The institutional level

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The institutional level of reconciliation concerns processes that aim to restore **the foundation of trust between state institutions and the population**. It is primarily about creating trustworthy, legitimate and effective state institutions such as courts, administrative bodies, police forces and ombudspersons that protect and strengthen basic freedoms and individual and collective rights. This applies all the more so if, under regimes of injustice, these institutions contributed to, or were directly or indirectly responsible for, injustice and suffering that affected the population. When the state actively makes a full break with past injustices, it lays an important foundation for individual and social reconciliation processes, and in the long term, contributes to an awareness among the population of the (regained) value of democracy and a state based on the rule of law.

## 2.2. Challenges and areas of tension



*The Columbian context teaches us patience and pragmatism. After decades of mass atrocities in Columbia, it would be inappropriate to place exaggerated expectations on transitional justice. Instead, we should courageously pursue a peace process based on small steps.”* KRISTINA BIRKE-DANIELS

When supporting transitional justice measures in complex and often highly sensitive political contexts, international stakeholders are confronted with numerous **challenges and areas of tension**.

- As well as addressing past conflicts, **transitional justice** also **encounters new conflicts as it seeks the appropriate path for addressing, acknowledging and prosecuting past injustices**. It frequently involves issues that go to the very heart of group identities. After a society has lived through a period of violence and injustice, a key challenge is to conduct transitional justice in a way that makes it possible to peacefully deal with the associated questions and conflicts.
- **Notions and understandings of “justice”, “truth”, “guilt” and “reconciliation”** can vary significantly. On the one hand, perceptions can differ between Germany and its partner countries. On the other, they can be poles apart within the partner countries – among different social, religious and ethnic groups in the conflict region. Even within groups heavily affected by the violence – refugees and internally displaced persons, torture victims, people who were unlawfully detained victims of armed conflicts, survivors of sexual violence, and also their relatives – people typically differ in what they expect from the transitional justice process and what they consider to be prerequisites for reconciliation.
- Processes of addressing the past often run **contrary to the interests of former and new elites, and can be affected by political dynamics**. The processes take place in societies that are deeply fragmented and traumatised by dictatorial rule and violence. Within highly fragmented societies, it is **very difficult to overcome contradictory “truths”**, the victim identities associated with these, people’s efforts to block out their own actions as

perpetrators and the attempts by social and political elites to exploit narratives about the violent past. Furthermore, social media's ability to sway social narratives, mobilise groups and influence conflict dynamics presents a new challenge.

- **It is often hard to clearly differentiate between perpetrators and victims of a violent conflict.** This complicates matters such as clarifying claims within compensation programmes. In many cases, a person's perspective on the conflict influences how they assign roles. Moreover, individuals can be forced into a perpetrator role (e.g. the forced recruitment of child soldiers) or roles can change during a conflict. Then there is the question of distinguishing both perpetrators and victims from those who, as "bystanders", either did not prevent violence and human rights violations, or were incapable of doing so.
- **Weak or non-existent civil-society structures**, such as a complete absence of victims' associations or their lack of capacity and organisational structures, or increasingly **limited spaces for involvement in civil society** ("shrinking spaces") often make it hard to ensure that people or groups particularly affected by violence enjoy broad participation in reconciliation processes.
- In fragile and violent contexts, widespread **poverty, corruption, nepotism** and "**economies of violence**" (which involve transnational trafficking of weapons, drugs and humans; the exploitation of natural and mineral resources in a manner that causes human rights violations; and supply chains) hamper peace and reconciliation processes in multiple ways. On the one hand, private-sector stakeholders at the local, national and international level are therefore important for developing an inclusive and sustainable economy. At the same time, it is crucial that they are involved in transitional justice measures if they played a role in the violent conflict and cooperated with political elites in repressive regimes.
- Another aspect is that, especially after lengthy violent conflicts, people need to relearn how to resolve conflicts non-violently. Such efforts are hampered by the fact that **small arms are often readily available** in these situations.
- In addition, **social norms** can exclude **certain people and communities** from participating in transitional justice and other social and political processes because of their gender, sexual orientation, ethnicity or religion.
- When a society has experienced extensive violence, **legal prosecution** can play an important role in restoring justice. However, such efforts face multiple challenges. These include the limited capacities of national courts, guaranteeing an independent judiciary, complying with standards

regarding human rights and the rule of law, taking account of locally recognised and traditionally legitimate conflict resolution mechanisms, and communicating individual convictions as part of an overall process of transitional justice.

- However, **legal prosecution quickly reaches its limits**, partly because often just a small number of alleged primary perpetrators are held accountable. Furthermore, law enforcement concentrates on alleged perpetrators; the victims of war and crime, and their relatives, are often overlooked. Their needs with regard to establishing justice also go much further than convicting the perpetrators. Measures to address such needs include searching for missing persons, compensating survivors and affected communities, and protecting the property of displaced persons. The judiciary can play an important role here, too. In addition, when a region has been marginalised for decades, it can have other needs, such as the development of infrastructure and schools.
- Particularly in contexts involving identity-based conflicts, there is a danger that one group can politically **exploit** institutions and processes of transitional justice.
- The **role of religion** in transitional justice processes is also ambiguous: it can foster a sense of identity, but it can also be used to marginalise people; religious authorities can either extinguish or fan the flames of a conflict; and religious communities can persecute others or be persecuted themselves.
- Supporting **truth commissions** often involves a balancing act to avoid disappointing the hopes and expectations that the population place in them. Both an overly narrow mandate and an overly wide mandate – one which cannot be fulfilled due to limited resources – can cause frustration and retraumatisation, introduce a hierarchy among victims and foster a culture of impunity.
- A violent conflict can often leave large sections of the population **traumatised**, but structures for addressing the psychosocial burdens are very often lacking.
- Finally, the **time frame** also poses significant challenges for transitional justice. It often takes decades before a **culture and policy of secrecy and impunity** is replaced by a responsible remembrance policy, prosecution, compensation for victims and recognition for those who opposed injustice and violence. Even if measures come into effect quickly, transitional justice will typically remain socially relevant for decades after a conflict or change



of system. In addition, certain issues will only be addressed after a significant amount of time has passed and will then possibly need (renewed) international support.



### 2.3. Principles of action

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*One should not lose sight of the balance between what is desirable and what is possible.”* MIRIAM SALEHI

In order to respond to these challenges and areas of tension, the Federal Government will be guided by the following **principles of action** regarding transitional justice and reconciliation:

- The most important principle is that every contribution to transitional justice must be **context-specific**. A simplified approach based on models should be avoided. Decisive factors for shaping transitional justice and for **choosing the appropriate time** for measures are the type of conflict, the forms and structures of the violence, the way the conflict ended, the diversity of the protagonists of violence and groups of victims, and the socio-economic impacts of the conflict. The immediate, violent past is not the only issue that plays a role here – historical events, related discourses and the exploitation of such narratives are also important. As a starting point for further differentiation, a basic distinction can be drawn between two contexts:
- (i) contexts that involve limited violence and specific, mostly clearly definable, victim groups;
  - (ii) contexts that involve wide-ranging, long-running violence, an almost incalculable number of perpetrators or blurred lines between perpetrators and victims, and poverty, marginalisation and weak state institutions. Addressing the structural causes of the conflict as well as economic, social and cultural human rights violations is especially relevant in these contexts. The regional and international dimension of processes for dealing with the past are particularly complex in this second category.
- Besides the aspects mentioned above, a context- and culturally specific approach also requires **a critical reflection of Germany's role**. Furthermore, consideration must be given to our (state and civil-society) **partners' perspective** on the context, the conflict and what constitutes adequate handling of the past and reconciliation. **Local ownership** is therefore of vital importance to the Federal Government. This involves ensuring that there is political will to address processes of transitional justice, as well as **using and promoting local expertise**. As a partner, Germany can help to encourage and assist with strategic reforms, but it must ultimately place its trust in **internal social forces**.
- **Participative processes with a broad scope** are also important to ensure that transitional justice is not perceived as a project of the elites, and that the expertise and political ideas from civil-society organisations and groups (particularly those that represent victims and survivors, or have direct access to them) can be put to use.

- Since transitional justice usually takes place in fragile and violent contexts, **conflict sensitivity** – and in particular respect for the do-no-harm principle – is another extremely important principle. In view of the widespread experiences of violence, adopting a **trauma-sensitive approach** is advisable. Furthermore, the principle of **gender-sensitive** planning and implementation of programmes applies, and must also take into account multiple discrimination (intersectionality).
- Given the complexity of the context and political dynamics, **realistic goals** and clear communication of the overall conditions (e.g. with regard to limited resources) are important. This can avoid overly high expectations and counteract resultant disappointment as well as mistrust of transitional justice processes and the stakeholders involved.
- It is also crucial to find a **balance between the various fields of action** involved in transitional justice. In particular, if international stakeholders focus exclusively on prosecution and truth commissions, they can weaken the legitimacy and sustainability of processes for dealing with the past. It is also problematic when large sums of money flow into disarming, demobilising and reintegrating former combatants, while resources for compensation programmes are lacking. When reintegrating perpetrators into society, the victims' feelings of frustration, powerlessness and marginalisation will increase if their expectations are not taken sufficiently into account. As another example, in addition to investing in international courts, it is important to also strengthen national legal systems and ensure that witnesses receive psychosocial support.
- Particularly in post-conflict situations, the often lengthy, complex and setback-afflicted social transformations require **trusting relationships with partners**, flexible assistance with processes (including taking advantage of windows of opportunity) and **long-term support** for initiatives by various state and civil-society stakeholders.

### 3. Goals and fields of action

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*Many find it encouraging to know that, rather than being alone in being ignored, marginalised and treated with hostility, they are actually part of an (inter)national community, and their problems are often universal and overarching. It's very important for them to experience solidarity through networks.” ANNA KAMINSKY*



The Federal Government will strengthen its engagement in the field of transitional justice and reconciliation through bilateral cooperation, at the multilateral level and by promoting civil-society initiatives; in addition, it will further develop its instruments. In doing so, the Federal Government is helping to implement the 2030 Agenda, particularly regarding the promotion of peaceful, just and inclusive societies (SDG 16), the principle of universality, the principle of “leaving no one behind”, and the promotion of global multi-stakeholder partnerships (SDG 17). With its support measures for transitional justice,

the Federal Government aims to sustainably support peace and reconciliation processes, and to strengthen human rights. In particular, it hopes to help prevent renewed dynamics of violence emerging in post-conflict situations.

**The Federal Government is acting on all four Joinet Principles (see Section 2).**

Based on its basic conceptual understanding and the principles of action, the Federal Government supports processes and initiatives for dealing with the past in a holistic way, and pays special attention to synergies between different policy areas. **Germany's engagement** is oriented towards **country-specific needs and added value from Germany's contribution**, which is planned in consultation and coordination with national partners and the international community.

**The Federal Government sees particular potential for setting its own priorities in the following areas:**

1. **linking transitional justice with a prevention agenda**, i.e. supporting reform processes to prevent renewed violence and repeated injustice (known as **guarantees of non-recurrence**);
2. strengthening and promoting participation among **people and communities particularly affected by violence**, and **transforming conflict narratives**;
3. promoting **gender equality** in processes of transitional justice and reconciliation;
4. **using the multifaceted experiences gained from addressing Germany's past** (in particular the injustices committed by the National Socialists and the SED regime) in a context- and needs-oriented way.

Specifically, this concerns the following fields of action:

1. **Guarantees of non-recurrence** will mainly be promoted by:
  - providing support for incorporating the issue of transitional justice at an early stage in peace negotiations and peace treaties, especially with a view to preventing future violence;
  - strengthening political reform processes that address the causes of past violent conflicts and in particular reduce structural inequalities (e.g. inclusion of minority rights in the constitution, land reforms, education reform, and decentralisation);
  - strengthening national mechanisms and initiatives that prevent violence and are a direct response to past injustices (e.g. national human rights institutions, measures for dealing with hate speech, and support for key stakeholders with particularly strong communication skills that enable them to broker transitional justice in a de-escalating manner);
  - addressing the role played by security and armed forces in the conflict and if necessary suggesting ways of reforming them;
  - supporting an independent and functioning judiciary as an institution for peaceful conflict resolution and – where necessary – supporting judicial reforms that also specifically address the role of courts in regimes of injustice;
  - supporting better access to justice as an instrument for peacefully resolving social, cultural and ethnic tensions;
  - screening of existing public servants, new recruits and candidates for political office regarding the roles they played during armed conflicts or in previous systems of injustice, which might result in individuals being dismissed, re-assigned or not employed, and to candidates being excluded (known as vetting or “lustration”);
  - addressing the role that national and international private economic stakeholders played in the conflict (including, where relevant, assuming responsibility within the context of reparations), and promoting economic activity that respects human rights;
  - strengthening relevant multilateral mechanisms and initiatives, and in particular UN special rapporteurs;
  - further developing the concept of the preventative approach as part of transitional justice.

2. **Participation of people and groups particularly affected by violence in processes of transitional justice , and the transformation of conflict narratives** will primarily be strengthened by:
  - supporting material and symbolic, and individual and collective compensation programmes, and their interfaces with development policy programmes (including promoting access to state services such as health and education);
  - supporting victims of violence and their relatives, e.g. in terms of their representation in truth commissions or their involvement in designing compensation programmes;
  - providing psychosocial support for survivors by building and expanding relevant structures at various levels (schools, hospitals);
  - promoting measures that cater to the immediate needs and strengthen the rights of victims and their relatives (e.g. efforts to find and identify missing persons, inheritance law, land rights proof of identity, social services); this also includes (re-)integrating refugees and internally displaced persons, and strengthening property rights and returning property;
  - promoting measures that enhance dialogue capabilities about the conflict and that incorporate a wide public, especially the younger generation and their specific needs and potentials;
  - taking into account the specific needs and roles of veterans and former combatants in relation to re-integrating them into society and supporting them to play a constructive role in peace and reconciliation processes;
  - promoting dialogue spaces for refugees and diaspora communities in Germany.
  
3. **Measures for promoting gender equality and women's rights, and for ending sexual and gender-based violence (SGBV)** will be systematically integrated into programmes and projects by, for instance:
  - strengthening the participation and representation of women in peace processes and in designing transitional justice measures;

- introducing measures that raise awareness of the significance of gender roles and gender equality in relation to armed conflicts and processes of transitional justice, with consideration for multiple discrimination (intersectionality);
  - raising awareness and building capacities within the security sector, as well as in other service and administrative sectors, for dealing with SGBV survivors in a gender-sensitive way;
  - promoting measures that will help to reduce the stigma of SGBV and will provide survivors with psychosocial support and assistance for re-integrating into society;
  - taking account of the needs and roles of people who have experienced discrimination and violence because of their sexual orientation, gender identity or sex characteristics.
4. **Germany's experience with its own intergenerational processes of addressing and dealing with the past – including the associated controversies, weaknesses, fractures, contradictions and compromises** – should systematically feed into its international cooperation. The approaches that Germany chose for addressing its past have received both praise and substantial criticism. Overall, however, these experiences form a credible body of expertise that is increasingly in demand from other countries. Key approaches in these types of supportive measures include:
- using Germany's expertise in bilateral and multilateral cooperation programmes;
  - participating in and promoting international networks, knowledge partnerships and learning partnerships, particularly in order to improve existing processes of transitional justice through exchange and mutual learning, and to strengthen individuals and groups who want to initiate and foster transitional justice and reconciliation in their countries;
  - contributing experience and expertise regarding reparations to political reforms and legislation that aim to ensure the non-recurrence of injustice, and promoting a pluralistic, democratic culture of remembrance that incorporates different perspectives;
  - promoting multidisciplinary research and academic work on processes of addressing the past in partner countries, in Europe and internationally.



## Examples of transitional justice in Germany

Over the years, numerous state and civil-society initiatives have emerged in Germany that seek to help the country deal with the violence and injustice in its past. This shows that reflecting on Germany's past is not a completed process, but rather one that is continuous and ongoing.

One measure worthy of note here is **the promotion of memorials and documentation centres**.

The Federal Government's memorial sites concept provides the framework for a pluralistic remembrance policy and establishes principles such as an orientation towards historically proven facts, appropriate ways of commemorating victims of both dictatorships, and imparting knowledge about historical contexts. Apart from this, the memorial sites function autonomously and independently of political instruction. Another aspect of Germany's wealth of experience concerns **its historical confrontation of the role of ministries and authorities in National Socialism**, and its efforts to deal with this element of the past in the early years of the Federal Republic of Germany via research projects and exhibitions. This involves, for instance, giving presentations abroad about insights from addressing the judicial injustices of the 20th century, and inviting delegations from other countries to Germany to share information about topics such as the function of criminal law in overcoming state injustice. Germany has spent decades on this process of addressing the past, and it is still continuing today. As recently as 2010, for instance, the Federal Foreign Office published a study on its role during the National Socialist dictatorship and on its efforts to deal with this past after the office was re-founded in 1951. In 2016, an independent academic commission appointed by the Federal Ministry of Justice and Consumer Protection published its final report on how content and personnel from the National Socialist judiciary continued within the newly established Federal Ministry of Justice.

In terms of **acknowledging and providing reparations for past injustices**, Germany began in the 1950s developing a diversified structure for providing reparations and compensation for National Socialist injustices. The structure is now founded on legal and non-statutory regulations and considers compensation from an individual and group perspective (in particular for Jewish Holocaust survivors, but also for a wide variety of other groups who were persecuted under National Socialism). Its evolution could serve as an exemplary model for reparations in the context of international peace and conflict management. Given its decades-long and multifaceted experiences in this policy area, Germany can provide information about basic requirements, problems and mechanisms for the development of state and civil-society reparation efforts. The project entitled "Transformation der Wiedergutmachung" (Transforming Reparations) now provides central, comprehensive access to the associated documentary heritage, which is unique in the world.

In the early 1990s, Germany passed rehabilitation laws in order to acknowledge, rehabilitate and compensate the **victims of the SED dictatorship in East Germany**. The practice of continuously revising the laws to improve the victims' rehabilitation rights continues today. With regard to **addressing the injustices committed under the SED**, the **Stasi Records Act** regulates, in particular, access to the files that were kept by the secret service.

Germany also has extensive experience of **supporting civil-society initiatives** that promote civic education, antiracism activities, advice for victims of hate crimes, measures to prevent radicalisation, and deradicalisation both within and outside the prison system.

As a **State Party to the Rome Statute of the International Criminal Court**, the Federal Republic of Germany has laid the foundations for prosecuting genocide, crimes against humanity, war crimes and crimes of aggression.

Germany has carried out numerous reforms in the **security sector**, particularly within the context of consciously dealing with the two dictatorships that existed on German soil in the 20th century and the cultures of violence rooted in two world wars. **When the Bundeswehr was founded**, special attention was paid to ensuring parliamentary control over the armed forces. Establishing a selection board for higher-ranking applicants from the pre-1945 era helped instil a sense of democracy among the personnel. The Bundeswehr's specific leadership culture and its concept of Leadership Development and Civic Education ("Innere Führung") are defined by the constitutional principle of being bound to justice and the law, and the clear commitment to the free democratic basic order. The inviolability of human dignity is the ethical core of this. During the unification of the German state and its society, members of the **National People's Army of the former GDR** were successfully integrated into the Bundeswehr.

## 4. Strengthening interministerial action

The Federal Government will intensify the interministerial links to share its expertise on this topic, and will strengthen collaborative action using the following approaches:

### 4.1. Establishing a cross-strategy working group

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To strengthen interministerial action and implement this strategy, the Federal Government will continue the practical, interministerial discussion of Federal Government action in the fields of security sector reform, promotion of the rule of law, and transitional justice and reconciliation by merging the three current strategy-specific working groups into a single cross-strategy working group.

The cross-strategy working group will become operational in 2019.

Its major tasks will include supporting the interministerial implementation of the approaches formulated in the strategies for security sector reform, promotion of the rule of law, and transitional justice and reconciliation, and driving interministerial action. In particular, it will aim to increase links with country-specific, interministerial task forces and with other relevant bodies and working groups and make their work more effective.

Instruments, approaches and initiatives should be further developed on the basis of learning experiences and in line with the professional debate at the national and international levels.



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*Deconstructing prejudice and narratives about “enemy” groups, including narratives rooted in the collective identity, must be at the core of all peacebuilding efforts.”*

NENAD VUKOSAVLJEVIĆ

## 4.2. Promoting links with civil society and academia

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The Federal Government will promote learning and exchange formats with civil society and academia, including with the participation of international experts and state and civil-society representatives from partner countries. The formats will address experiences, and current issues and processes. The government will also use the contacts and networks established within the context of the PeaceLab blog.

## 4.3. Analysis: Strengthening interministerial understanding

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The Federal Government is increasingly adopting a country-driven approach that is based on an interministerial analytical understanding particularly of conflict-sensitive contexts. The approach seeks a collaborative assessment of the required action, risks, and approaches.

The interministerial understanding of transitional justice and reconciliation should be facilitated by developing general operational guiding questions that address relevant factors of transitional justice. The guiding questions should make it easier to approach transitional justice in a way that is suited to the context and culture, and also sensitive to issues regarding conflict, gender and trauma. They can also serve as the basis for joint context analyses.

## 4.4. Interministerial strategy development

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In selected countries and regions where several Federal Government ministries are significantly engaged in transitional justice and related fields of activity, the Federal Government considers developing joint goals or a topic-specific strategy (if necessary, in coordination with similar strategy processes for security sector reform and promotion of the rule of law) This type of strategy should help to use synergies in interministerial action and promote links with

related fields of activity. A plan agreed between the government ministries makes it easier for different instruments to mutually reinforce each other (including in terms of timeframes).

Synergies can emerge within a joint strategy under circumstances such as the following:

- when a variety of forms of expertise and instruments are deployed in peace talks or when setting up truth commissions;
- when funding provided for courts of justice is combined with advice from witness protection programmes or with the formation of special units in public prosecution offices and the police force, and with psychosocial support for victims of violence, persecution and injustice;
- when humanitarian and development policy measures coordinate their consideration of the needs of victims and of people and groups particularly affected by violence so that, for instance, they receive support for participating in processes of transitional justice;
- when overall approaches for vetting the public service receive support.

As a cross-cutting issue, transitional justice is also relevant for cooperation programmes that are not primarily concerned with achieving transitional justice. Examples include the following: reconstruction programmes; programmes that promote good governance and especially the rule of law, administrative reform and decentralisation; programmes for reforming the security sector; and programmes linked to compensation for affected people and groups or regions. Taking account of transitional justice or relevant issues of reconciliation can also foster and secure success and sustainability in these fields.

## 4.5. Interministerial approaches for monitoring and evaluation

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In general, responsibility for the conflict-sensitive monitoring and evaluation of measures for transitional justice and reconciliation lies with the ministry implementing those measures. Reviewing and integrating learning experiences, and monitoring and regularly evaluating projects strengthens the effectiveness of the Federal Government's engagement in transitional justice. The Federal Government will therefore do the following:

- increase its efforts to ensure that monitoring processes by the ministries consider jointly agreed goals for transitional justice and reconciliation, and that they set uniform criteria in this regard; longer-term effects of Germany's engagement should increasingly be examined from an interministerial perspective;
- regularly exchange relevant monitoring reports on ministry-specific measures for transitional justice and reconciliation;
- in the future, increasingly assess whether the interministerial monitoring and evaluation of transitional justice and reconciliation is being carried out with the aim of pursuing joint project goals, counteracting undesirable developments, identifying scope for innovation quicker, and defining interministerial criteria for improving, realigning or discontinuing the collaboration.

The Federal Government will systematically assess the experiences of interministerial cooperation in order to establish good practices and promote interministerial learning, for instance by including the topic in ministry-specific and interministerial further training measures. It will also discuss further development of capacities and expertise.



*Germany should strengthen its particular credibility in this field by sharing its own experiences in a more systematic and critically reflected way.* RALF POSSEKEL

## 5. Expanding international and national partnerships

In recent years, the **United Nations (UN)** has established international standards for transitional justice (see Section 2). In partnership with other UN member states, the Federal Government will push for the topic to be further elaborated and will strengthen the prevention agenda in particular. The following aspects are among those that should receive support:

- UN special rapporteurs with specific mandates for transitional justice (particularly the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and Special Advisers on the prevention of genocide and on the responsibility to protect);
- multilateral funding mechanisms and structures, for instance for compensation programmes or documenting war crimes;
- global multi-stakeholder platforms such as the UN Global Compact, the Global Action Against Mass Atrocities, and Pathfinders for Peaceful, Just and Inclusive Societies;
- collaboration with other international organisations and programmes (such as the UN's Mediation Support Unit, the United Nations Development Programme, UN Women, and the International Organization for Migration), as well as the World Bank and the International Monetary Fund.





The **European Union (EU)** addresses the topic of transitional justice in its Action Plan on Human Rights and Democracy 2015–2019. It has also defined key points for EU engagement in relation to serious violations of human rights and international humanitarian law (The EU’s policy framework on support to transitional justice [2015]). The European External Action Service has been a leader and key partner in the area of transitional justice since 2015. Its mandate includes coordinating a holistic approach to transitional justice between all relevant EU bodies and member states. Germany will support the EU in further elaborating the topic and in implementing the EU’s policy framework.

The Federal Government will also step up its dialogue with other multilateral and bilateral partners that in recent years have gathered experience with developing and implementing their own strategies and programmes in the field of transitional justice. In particular, the Federal Government aims to build on the experiences of **Switzerland, Sweden, the Netherlands, France** and the **African Union (AU)**. The African Union Transitional Justice Policy (AUTJP) is a key reference document in this context. The document contains current measures and principles for transitional justice and is designed to help AU member states that have experienced violent conflicts to achieve sustainable peace through an effective judiciary and effective reconciliation processes.

Furthermore, the Federal Government has set itself the goal of strengthening transitional justice in other organisations, bodies and networks – for instance within the **International Network on Conflict and Fragility (INCAF)**, which is part of the Organisation for Economic Co-operation and Development (OECD).

The Federal Government will also expand national partnerships so that, in line with Section 3, it can systematically enhance its international cooperation with experiences of intergenerational processes for addressing the past and the expertise resulting from these. Learning processes should be promoted through collaborations with German and international **universities, research institutes and research networks**.



*Because of its resources and own experiences, Germany is in a privileged position to strengthen the transitional justice agenda as a crisis prevention and peacebuilding tool.”*

PABLO DE GREIFF

The Federal Government can also rely on the diverse experiences of **political foundations, churches and non-governmental organisations**, which often have many years of experience in Germany and its partner countries. Their concepts, working methods, and established networks and partnership structures play an important role, especially in the way they strengthen civil society at the local level and provide political education for the public in Germany. The Federal Government will continue to support these programmes in the future.

Working on behalf of the Federal Government, the **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)** carries out important consultancy projects and capacity building in the area of transitional justice and reconciliation, while the **Kreditanstalt für Wiederaufbau (KfW)** provides financing mechanisms and funds. Another key instrument is the placement of peace experts under the auspices of the **Civil Peace Service (CPS)**. In addition, the **Working Group on Peace and Development (FriEnt)** plays an important role by promoting knowledge and learning partnerships.



**Published by**

German Federal Foreign Office

Werderscher Markt 1

10117 Berlin

Phone: +49 30 1817-0

Find out more at: [www.diplo.de](http://www.diplo.de)

Email: [poststelle@auswaertiges-amt.de](mailto:poststelle@auswaertiges-amt.de)

July 2019

**Picture credits**

Title: Centro para la Acción Legal en Derechos Humanos (CALDH)

p. 16: Archivo Histórico de la Policía Nacional (AHPN), p. 19: Center for Nonviolent Action (CNA),

p. 26: ZFD/GIZ, p. 33: Center for Nonviolent Action (CNA)

**Printed by**

MKL Druck GmbH & Co. KG, Ostbevern

**Layout**

[www.kiono.de](http://www.kiono.de)