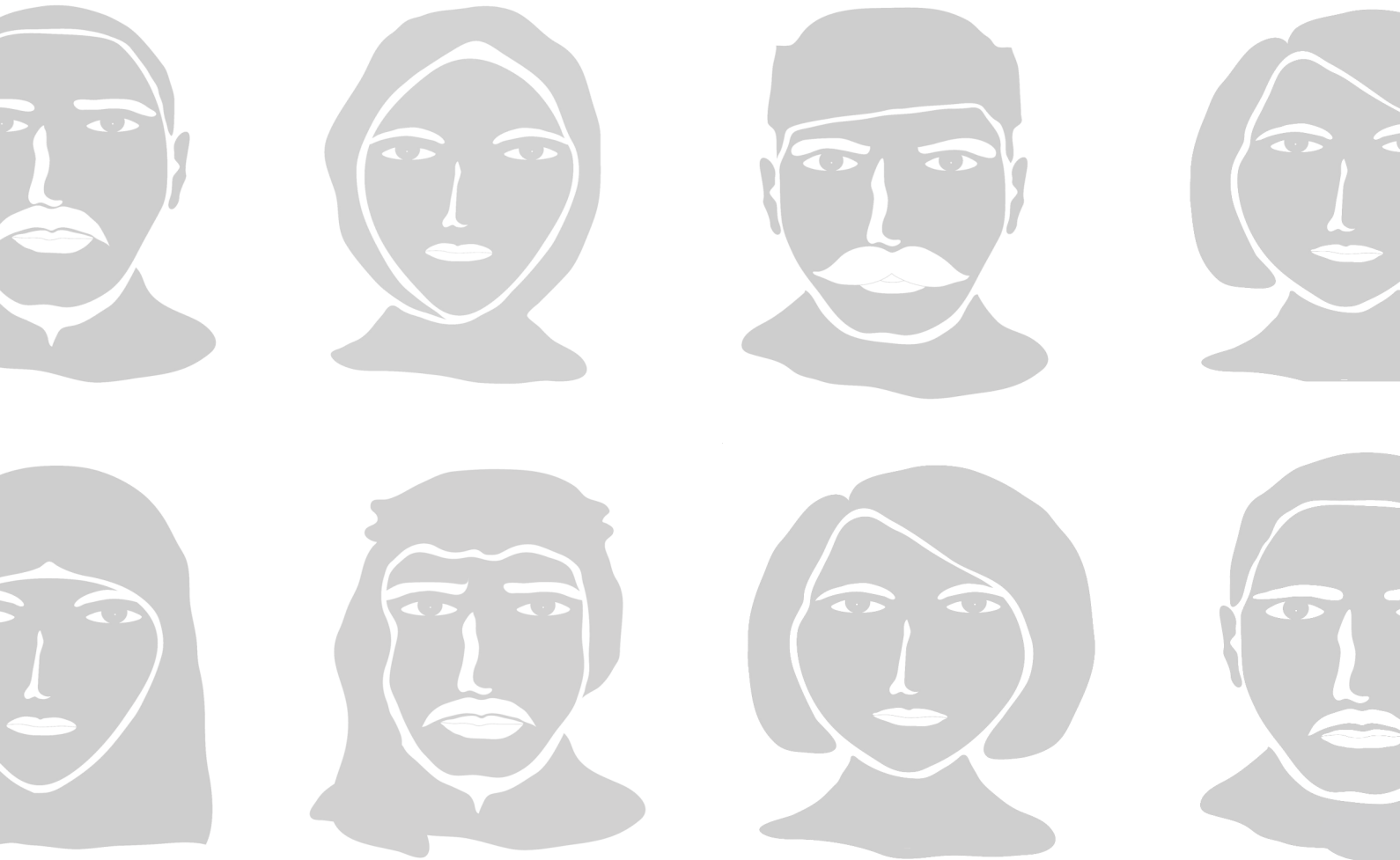# MOVEMENTS BEFORE MECHANISMS:

COMMUNITY GRIEVANCES & WINDOWS OF OPPORTUNITY FOR RESTORATIVE JUSTICE IN A TRANSITIONAL JUSTICE CONTEXT

SUMMARY FINDINGS | MARCH 2022

التعاون الألماني
DEUTSCHE ZUSAMMENARBEIT

Social Inquiry

"[Q]uite frankly, we have not found any solution other than promises . . . [but] I'm satisfied with my action because I didn't shut up."[1]

"There is no way to deal with the issue because all problems are inter-related . . . I don't care about participating because society doesn't care anymore."[2]

The path toward just and lasting societal change often may feel like being caught in a cycle of defiance against an unjust status quo and a despair that this status quo will never change. Transitional justice measures may serve as a guide on this path and an avenue to channel defiance and to staunch despair toward bringing some modicum of accountability and redress to victims of mass human rights (and increasingly socio-economic rights) violations, recognizing the dignity of victims as citizens and offering a potential means to come to terms with an entrenched and unjust past (or present).[3] In a similar vein, restorative justice as a separate practice which centers on the idea that justice must involve an effort to address the harm caused by wrongdoing and that penal sanction is not the only or best way to achieve this, also seeks participatory processes involving victims, perpetrators, and the wider community to identify and address underlying social and political causes of offending acts or violations.[4] The aim generally is to restore or make whole not only direct victims, but the wider community at large as well as perpetrators themselves, taking into account the non-linearity of harm, recovery, and change.[5]

As such, these two discourses and approaches – transitional justice and restorative justice – though distinct, are increasingly seen as paradigmatically complementary vehicles for change. Both focus on inclusive and non-adversarial frameworks that seek to prevent the past from being repeated through overlapping values including truth, accountability, reparation, reconciliation, conflict resolution, and participation.[6] In addition, both can be viewed as responses to vacuums of social control created by conflict or upheaval. Restorative justice may also be used as a complementary strategy of transitional justice facilitating approaches to dispute resolution that contribute to changing the attitudes of actors and cultures of institutions. This contributes to increasing the legitimacy of state institutions by ensuring their reform to more adequately reflect the norms of a democratic and non-coercive society.[7] And finally, the temporal flexibility inherent in restorative justice approaches may serve to create more open-ended, context-relevant transitional justice processes that are responsive to the multiplicity of experiences of victims and society as they stop and start toward wider transformation.[8]

Despite these linkages, challenges remain in connecting transitional justice and restorative justice in practice in transitional contexts. It is not particularly clear how to define how restorative a transitional justice measure is and whether this is determined by the process by which it takes place, its outcomes, or some combination of both.[9] It is also not clear how to "scale-up" restorative justice processes, whose aims tend to be more localized and focused on individual issues, to meet the aims of transitional justice, which are traditionally linked to broader, collective narrative setting or nation-building after violence and conflict, repression, and/or systemic injustice and inequity, and where the lines between victims and perpetrators can be quite blurred and the involvement of the state and wider community more complex.[10]

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[1] Interview #7 with a Sunni Arab female community member, Samarra Center, Salah al-Din Governorate, September 2021.
[2] Interview #3 with a Sunni Arab male community member, Khanaqin Center, Diyala Governorate, October 2021.
[3] UNSC, *Report of the Secretary General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S/2004/616, 23 August 2004, para. 8.
[4] Kerry Clamp and Jonathan Doak, "More than Words: Restorative Justice Concepts in Transitional Justice Settings," *International Criminal Law Review* 12 (2012): 341.
[5] Marit de Haan and Tine Destrooper, "Using Restorative Justice to Rethink the Temporality of Transition in Chile," *The International Journal of Restorative Justice* 4, no. 2 (2021): 207.
[6] Clamp and Doak, "More than Words," 341.
[7] Ibid.
[8] UNHRC, *Joint study of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser to the Secretary-General on the Prevention of Genocide on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, particularly to the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence,* A/HRC/37/65, 1 March 2018, para. 27.
[9] de Haan and Destrooper, "Using Restorative Justice," 223.
[10] Klamp and Doak, "More than Words," 343.

These complementarities and challenges are particularly resonant for a context like Iraq, where multiple transitions and upheavals, one of the most recent being the IS conflict from 2014-2017, have occurred in relatively short succession and the justice response for violations that have taken place over time remains partial at best in terms of what and who it corresponds to and how it is implemented. Because accountability and redress efforts to date are time-bound and pertain to specific communities, they also do not necessarily grapple with the underlying root causes that have led to the current grievances to begin with.

Recent research on accountability and redress in Iraq is similarly constrained, with the most detailed and comprehensive work found in Ninewa Governorate specifically, Mosul city and some of its surroundings as well as the ethno-religiously diverse districts of the Ninewa Plains east of the city and Northern Ninewa west of it. While there are growing efforts to capture justice perceptions across the wider swath of IS conflict-affected areas – and to communities that do not fall under the purview of Iraq's formal investigative and reparations measures – there is less information on their preferences and priorities for accountability and redress (beyond the return of families with perceived IS affiliation) nor how they see these grievances connecting to older ones that remain unaddressed.

The aim of this in-depth qualitative study then is to fill this gap in research and analysis to identify where to start in durably addressing multi-layered harms, particularly beyond a specifically punitive framing, by establishing a better understanding of what different communities in more understudied areas of the country are focused on as priorities, the ways in which they have engaged in resolving these issues already, and what outcomes they would like to see for positive change to identify contextually and culturally relevant openings for restorative transitional justice that not only look back at past harms, but forward in preventing them from happening again as well. Salah al-Din, Kirkuk, and Diyala governorates are of particular interest here because of their diverse populations, their being part of the disputed territories, and as sites of conflict and repression pre- and post-2003 and during and after the IS conflict. The focus is to contribute to way in which to widen the gap between defiance and despair to include hope.

TECHNICAL FACTSHEET

The cross-cutting themes and windows of opportunity for engagement presented herein draw from the qualitative analysis of 211 study participant interviews:

- 178 structured interviews with community members across districts and geographic corridors in Salah al-Din, Kirkuk, and Diyala governorates conducted between September and early October 2021.

- 33 semi-structured interviews with key informants from each of these governorates conducted between November 2021 and January 2022.

CROSS-CUTTING THEMES

Five cross-cutting themes span the analysis of Salah al-Din, Kirkuk, and Diyala governorates. They relate to priority grievances; participation and engagement; remedies and spaces for restorative processes; linkages to other social movements; and recreancy and social cohesion.

1. Structural marginalization as a first priority grievance undergirds other more recent ones

We find that community members and key informants alike raise the same priority grievances across the three study governorates. Exclusion, marginalization, and neglect is the most important issue to resolve by far, followed by dynamics stemming from the IS conflict and particularly its aftermath related to the current and future risks of not allowing the return of families with perceived IS affiliation and the entrenchment of current security configurations in study locations. The specific contours of these grievances vary by governorate, but there remains considerable overlap between the three and certainly their impacts across target locations or geographic corridors in each is described relatively consistently. Further to this, interview data highlights how interconnected these grievances are – how the secondary grievance is a symptom of the primary one and serves to further exacerbate it.

In other words, underlying the emergence of IS and the emergence and entrenchment of current security configurations – and all the material and psychological destruction reported in their wakes – is corruption, exclusion, marginalization, and neglect stemming from the creation of an identarian and non-representative political system set in place since 2003. Thus, while perhaps facilitating the return of families with perceived IS affiliation may be an initial issue to engage with through restorative processes, as some key informants note, the sustainability and impact of such efforts even in the immediate-term are reliant on addressing more structural concerns that have so far impeded critical initiatives for all conflict-affected communities, including reconstruction and reintegration support to say nothing of the political motivations behind blocked returns in the first place. Similarly, addressing issues related to the conduct and presence of current security configurations and the associated political power they have in the aftermath of conflict will also circle back to structural issues linked to poor governance.

"Exclusion and marginalization are not the result of today. The government practiced it before 2003 . . . and after the fall of the regime, religious and political parties walked on the same approach and even expanded it."[11]

"In short, whoever comes to power, exercises an exclusionary policy against other groups."[12]

"The overall takeaway from what I presented is that the marginalization, exclusion, and neglect are felt based on who is in power and since Kurds and Arabs have alternated power grabs since 2003, their respective communities have been the most impacted."[13]

"The political blocs, parties, and politicians who came on the backs of the occupier [US] [are involved], society is suffering between the hammer of the armed parties and the anvil of politicians who have nothing but their pockets and stomachs."[14]

"There is no real government (security, administration, or services) that combines the tribes and sects that inhabit the area . . . [this is the case] from all successive governments since 2003 and to this day. . . . [E]veryone who is in the same relationship works for personal interests and to satisfy their masters outside of Iraq."[15]

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[11] Interview #10 with a civil society member, Salah al-Din Governorate, January 2022.
[12] Interview #3 with a civil society member, Kirkuk Governorate, November 2021.
[13] Interview #2 with a civil society member, Kirkuk Governorate, November 2021.
[14] Interview #1 with a Sunni Arab male community member, Al-Muqdadiya Center, Diyala Governorate, September 2021.
[15] Interview #1 with a Shia Arab male community member, Abu Saida, Diyala Governorate, September 2021.

2. Similar grievances but isolated efforts to address them

We find that community members are relatively active in their communities in general with respect to civic activities (e.g., volunteering or giving charity) and to a bit of a lesser extent in relation to public affairs (e.g., contacting authorities, posting about issues on social media, or participating in public meetings or demonstrations). Respondents in Salah al-Din Governorate indicate the highest levels of public participation and in Diyala Governorate the lowest, based on those in the sample overall who chose to answer these questions – the fraught political and security landscape seemed to hinder respondents' willingness to disclose any such activities. Most of this engagement in public affairs relate to respondents' stated priority grievance, namely exclusion, marginalization, and neglect and to a lesser extent the IS conflict and its aftermath. And as such, many community members interviewed describe their own efforts to seek remedies for it as well as broader efforts at addressing the issue that they may or may not themselves have participated in.

Despite the relatively widespread nature of these priority grievances within each governorate of study, the efforts at remedy-seeking described tend to be focused on the particularly local level, either at subdistrict or district level, usually directed toward district or provincial authorities. They are deemed to have limited effect, with community members pointing out that there is only so much they and local officials can do without greater pressure on higher-level actors in the current political landscape. It is unclear how much cross-subdistrict or cross-district organizing is being carried out between citizens or other actors in seeking to resolve entrenched, governorate-wide issues, particularly as relates to exclusion, marginalization, and neglect, concerns over present security configurations and their conduct, and the prevention of returns. Nor is it clear from this data how much higher-level government efforts ("track 1") related to local peace agreements or reaching political settlement over the governorship of Kirkuk, for example, engage with civil society-level ("track 2") or more grassroots ("track 3") constituencies in raising concerns, monitoring processes, and bolstering outcomes.

Indeed, key informants for their part indicate that reform efforts to date have lacked unity and coherence to affect meaningful change and further to this is the need to connect localized efforts to each other and to higher levels to not only ensure comprehensiveness of change processes but generate pressure for their proper implementation. This is not to negate the impact of local initiatives or the imperative for them, but to highlight the importance of broader potential collective action as well, particularly considering the outcomes respondents across study locations seek.

"These local operations must be related to intermediary processes in order to be strengthened to expand the effort, so procedures are within national programs as well and not only at a local level because the local effort alone is worth nothing at all."[16]

"No attempts to solve this problem are unified, and on the contrary are working in reverse."[17]

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[16] Interview #11 with a former provincial government official, Salah al-Din Governorate, January 2022.
[17] Interview #1 with a former provincial government official, Diyala Governorate, December 2021.

3. A desire for justice and reform and an openness to restorative processes (with caveats)

We find that across governorates, priority issues, and population groups, criminal accountability is the first outcome community members (and indeed key informants) find necessary to sustainably resolve their grievances. That is, respondents wish for perpetrators to be punished to the full extent of the law based on the level and type of wrongdoing they have been fairly assessed to have committed. This seems like less a need for revenge than for a genuine desire to end the longstanding impunity of those in power and those most responsible for harm, the so-called "decision-makers" of violations be they related to IS perpetration, conduct of current security forces and powerful parties, or large-scale socio-economic crimes, particularly as some feel these actors either do not recognize they are the cause of harm or do not care. A focus on ending impunity rather than exacting revenge is further supported by the fact that most respondents feel that all sides of a grievance have victims and that the best way to ensure criminal accountability is through participatory community mechanisms involving multiple stakeholders (i.e., using restorative justice) or a combination of courts and tribes. While not asked directly, this preference for more community involvement in the adjudication of criminal sanctions may potentially be seen as a refutation of the practice of using counter-terrorism laws and protocols for certain violations that cut defendants off from due process and victims and witnesses from testifying – and which have disproportionately affected Sunni populations in the target locations since their enactment in 2005. It may also be a way to mitigate political interference in high-profile cases within standard criminal proceedings as well.

Furthermore, preference for criminal accountability through more participatory means seems to fit within some of the traditional contours of restorative justice where it is often (though not exclusively) used within criminal justice settings in recognition of the fact that penal sanction may not the best way or the only way to sustainably redress harm and ensure its prevention going forward. That reforms to guarantee non-repetition is the second most needed outcome underscores this point. As described by community members and key informants, the reform process could entail learning the full truth of the problem including through sharing experiences as a first step; changing laws, regulations, or structures; enforcing existing laws, plans, or agreements; monitoring authorities, institutions, or processes and societal outcomes; and removing bad actors and replacing them with those who have been vetted. These efforts, per interview data, entail engaging at all levels of society and, while containing elements of transitional justice, also fit within a

"Perpetrators should be punished to the full extent of the law] to be a lesson and for all victims to feel that there is a force that monitors, holds accountable, and deals fairly with all issues. It is necessary for all citizens to feel that no matter how powerful or respectable a person is that if they think or try to commit a crime, they will know that there is a law that will punish them and there is a force that protects the law and that the voice of truth is higher than the power of corrupt criminals."[18]

"Reform is needed to correct the mistakes of the past and take advantage of such learning and change in the coming period."[19]

"Yes, they know what they have done, insist on it, and stick to it . . . and we know what is happening but can't do anything for fear of being killed."[20]

"If we find a real guarantee of our safety and we are not punished [for our concerns] and our words are taken into account, we will participate. All those harmed must be present to know the extent of the problem and the perpetrators too must be there to know what harm they caused, but governmental authorities or other forces must also attend to prevent chaos."[21]

"I don't think it's going to work because those that benefit [from the current situation] have weapon power and won't accept any attempt to change the situation."[22]

"The obstacles cannot be overcome in the presence of political parties."[23]

[18] Interview #2 with a Sunni Arab female community member, Tikrit Center, Salah al-Din Governorate, September 2021.
[19] Interview #3 with a Sunni Arab female community member, Baiji Center, Salah al-Din Governorate, September 2021.
[20] Interview #1 with Shia Arab male community member, Al-Khalis Center, Diyala Governorate, September 2021.
[21] Interview #4 with a Sunni Arab female community member, Samarra Center, Salah al-Din Governorate, September 2021.
[22] Interview #3 with a Sunni Arab male community member, Yathrib, Salah al-Din Governorate, October 2021.
[23] Interview #2 with a Sunni Kurd male community member, Daquq Center, Kirkuk Governorate, September 2021.

restorative paradigm, either as a precursor to penal sanction or in tandem with it.

Given these preferences, it is perhaps not surprising that community members here, by and large, seem to be willing, and in some cases especially keen, to participate in restorative justice processes related to addressing exclusion, marginalization, and neglect and to a lesser extent addressing post-IS conflict dynamics. Their participation is predicated, in some cases, on the sincere engagement of other higher-level stakeholders to address issues as too often previous attempts to raise concerns have been met with promises that never materialize. Acknowledgement is seen as a first step, but at this point, it is not enough without firmer commitments and actions. More critically still, and for far more respondents overall, their participation is predicated on guarantees of their safety and protection in doing so. There is considerable concern among respondents over closing civic space and the ability to publicly express critical views without severe repercussions to themselves or their families.

As such, the picture is mixed with respect to the feasibility of restorative justice processes in general and under these specific conditions taking place to say nothing of yielding change over time among respondents. While change will invariably take considerable time, even in ideal conditions, the only way it seems possible is with more, not less, public engagement to push others into action.

4. Demands and possible solutions unwittingly reflect the Tishreen Movement

We find that community members are increasingly frustrated and upset with elites. This spans identity groups, with respondents expressing anger at those in power regardless of whether they are the same ethno-religious or tribal identity or not. There seems to be a growing class divide and respondents are seeking significant change in governance and how they are represented. Based on their responses, the representation they desire is focused more on need and wider public interest than on identarian terms and that such decisions need to be made at local and provincial levels by citizens more directly.

Key informants here echo this, noting that there is a need to rebuild the whole political process in order to address the priority grievances raised. Some critical points they highlight in doing so include further amendments to the electoral law to make it more representative including through more direct citizen decision-making in selecting provincial leaders and less gerrymandered electoral units, more

"The powerful and those in control have all the cake."[25]

"The love for money and power has made them inhuman."[26]

"The ruling class only cares about themselves."[27]

"I do not believe in any of these parties that are the basis of the problem in the governorate."[28]

"One of the most important solutions is to demand broader representation of young people, bring fresh blood in all fields, and give a greater role to women."[29]

"The spoilers are politicians, parties, and militias . . . their influence can be mitigated by the wide participation of segments in society in elections and the entry of new

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[25] Interview #3 with a Sunni Arab female community member, Baiji Center, Salah al-Din Governorate, September 2021.
[26] Interview #4 with a Shia Arab male community member, Abu Saida, Diyala Governorate, September 2021.
[27] Interview #3 with a Sunni Arab male community member, Khanaqin Center, Diyala Governorate, October 2021.
[28] Interview #1 with a Sunni Turkman male community member, Kirkuk Center, Kirkuk Governorate, September 2021.
[29] Interview #5 with a Sunni Arab female community member, Samarra Center, Salah al-Din Governorate, September 2021.

independent and impartial journalism, training of citizens to better engage in making rights demands, and perhaps related to the latter point, broader public participation in general at all levels through elections and in running for public office in particular. The rationale here being that these factors together can over time mitigate the impact of spoilers (e.g., political elites at the provincial and central levels, their parties, and linked armed groups and media operations).

These calls for less identity-based rule, changes in electoral laws and political process, and more space for independent candidates also reflect demands that came out of the Tishreen Movement,[24] though no one referenced the 2019 and 2020 protests or the recent elections. What this indicates perhaps is that regardless of these communities' views of that protest movement in general, the underlying message resonates because these feelings are widespread and have been for a long time. Indeed, many locations targeted in this study were sites of mass protests against the government in 2012 and 2013 that were themselves violently put down with little to no accountability or redress. For key informants, it may be that the recent national elections, with its low voter turnout, diminishing returns for certain political blocs and their affiliated armed groups, and the victories of a small number of independent candidates gave further clarity on a path forward, provided it is possible to re-engage citizens in these efforts.

and national faces [in this space]."[30]

"We have to change the way decisions are made and hand over the government and decision-making to the people of the governorate."[31]

"It requires rebuilding the whole political process, including limiting weapons to the state and following the rule of law and isolating political parties."[32]

"The corrupt are the current politicians who . . . cannot be neutralized or reduced in their influence unless [others] come forward as responsible candidates that can replace these ancients. Don't be surprised if I tell you that the process of this solution is almost impossible but correcting the course of elections to choose real candidates instead of as a formality for the legalization of the same people is the only way forward because rights need those whose position is strong, clear, and honest."[33]

5. Recreancy and breakdown of community cohesion

We find that while across the data it seems clear that both citizen engagement and the involvement of formal, customary, and informal institutions on priority grievances is critical for justice and redress, there is also a deep unabating belief in pervasive recreancy – that is, the failure of institutions to uphold the public's trust that they will act and operate responsibly, if at all.[34] While recreancy is generally seen as the cause of major, man-made technical disasters, it seems relevant to raise as a concept here as most respondents and key informants tend to attribute the post-2003 political system in the country for installing the institutions and actors that keep failing society by not acting reliably and competently as they should nor in consciously serving the best interest of the public.

"Confidence isn't low, it's non-existent."[37]

"I have no confidence that the elections will change a thing in reality because they are settled for the same names and entities."[38]

"There is no solution because of the control of the ruling parties and nothing has changed."[39]

"I don't have hope for change."[40]

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[24] International Crisis Group, *Iraq's Tishreen Uprising: From Barricades to Ballot Box*, Middle East Report No. 223 (Brussels: ICG, 2021): 6.
[30] Interview #4 with a provincial government official, Salah al-Din Governorate, December 2021.
[31] Interview #2 with a subdistrict government official, Diyala Governorate, December 2021.
[32] Interview #1 with a former provincial government official, Diyala Governorate, December 2021.
[33] Interview #11 with former provincial government official, Salah al-Din Governorate, January 2022.
[34] Liesel Ashley Ritchie, Duane A. Gill, and Courtney N. Farnham, "Recreancy Revisited: Beliefs about Institutional Failure Following the *Exxon Valdez* Oil Spill," *Society & Natural Resources* 26, no. 6 (2013): 655-71; and William R. Freudenburg, "Risk and Recreancy: Weber, the Division of Labor, and the Rationality of Risk Perceptions," *Social Forces* 71, no. 4 (1993): 909-32.
[37] Interview #1 with a former provincial government official, Diyala Governorate, December 2021.
[38] Interview #2 with a Sunni Arab male community member, Samarra Center, Salah al-Din Governorate, September 2021.
[39] Interview #1 with a Sunni Arab male community member, Hawija Center, Kirkuk Governorate, September 2021.
[40] Interview #1 with a Sunni Kurd male community member, Kirkuk Center, Kirkuk Governorate, September 2021.

This sentiment is seen in the extremely low levels of trust community members report in formal, customary, and informal actors, with the exception being courts, and the low levels of belief that elections can bring change – particularly since the same people keep running and winning, there is limited voter decision-making power, and no one has reportedly experienced improvements over time. The need to staunch and rectify these feelings is critical as prolonged recreancy (and perceptions of it) has the capacity not only to reduce state legitimacy but also to engender apathy and weaken social cohesion and social capital as people retreat from society.[35] This seems to already be happening considering the growing concern all study participants express toward what they feel is a fraying and disjointed social fabric. This is most starkly seen in the low levels of trust respondents indicate having in other members of their respective communities as well. These latter findings as well as those related to trust in institutions and elections also hold true for IS conflict-affected communities in Ninewa Governorate as well with negative results remaining steady over time.[36] A central element for accountability and redress will be to begin shifting these feelings over time in a more positive direction.

"There's societal disintegration and rivalry between people."[41]

"Many influences have killed every ambition and made life unfavorable in the eyes of most people."[42]

"[We are] a society that's become weak and can't make a difference."[43]

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[35] Liesel Ashley Ritchie, "Individual Stress, Collective Trauma, and Social Capital in the Wake of the Exxon Valdez Oil Spill," *Sociological Inquiry* 82, no. 2 (2012): 187-211.
[36] USIP and Social Inquiry, Conflict and Stabilization Monitoring Framework, Rounds 4-6.
[41] Interview #4 with a Sunni Arab male community member, Al-Duloeya, Salah al-Din Governorate, September 2021.
[42] Interview #6 with a Shia Arab male community member, Abu Saida, Diyala Governorate, September 2021.
[43] Interview #2 with a Sunni Turkman male community member, Khanaqin Center, Diyala Governorate, September 2021.

WINDOWS OF OPPORTUNITY

The voices and ideas emanating from Salah al-Din, Kirkuk, and Diyala governorates help further confirm the need for transitional justice interventions in Iraq to expand the time periods, types of violations, and victims and perpetrators they seek to engage with. It does not seem possible to focus on accountability and redress for violations of the previous regime or those of the IS conflict and have sustainable outcomes to build upon without examining what happened in the period between the latter conflict and the end of the former regime, particularly as these long unaddressed harms continue to perpetuate themselves into the present. The current data also presents openings for ways in which restorative justice can help facilitate transitional justice, with respect to both punitive and non-punitive remedies (specifically criminal accountability and reforms).

The central tension within the analysis, however, falls around community member and key informant views on the impact citizens can have in making society more just, peaceful, and equitable. Community members, while still interested in potentially engaging in participatory processes, seem also to be retreating from civic space given the growing threats they face and limited impact their efforts to date have yielded; their defiance is shifting toward despair that they have the power to make change or that conditions will improve. Key informants, on the other hand, seem keenly aware that citizens are the critical agents for change; without their pressure, their decision-making, and their entrance into public office, the status quo remains if not worsens.

Thus, any transitional justice efforts may need to focus less on building toward specific mechanisms to start with than building toward the citizen-led movements that can advocate for them. Restorative justice can support transitional justice in this way by helping to harness the power of the people to create the change they wish to see. The following points provide further explication of what this could look like in practice.

- ## Corruption and economic and social rights violations as transitional justice concerns

    The data here highlight how unaddressed past grievances create new ones while also further amplifying themselves into the present. Thus, seeking to resolve issues related to the return and reintegration of families with perceived IS affiliation and/or the installation of current security configurations in the target locations (new grievances) without also seeking to address issues related to corruption, marginalization, neglect, exclusion, and unrepresentative governance (previous and ongoing grievance) would contravene the aims of both transitional justice and restorative justice to identify and address underlying social and political causes for violation and prevent them from occurring again – this is a risk that both key informants and community members have pointed out in this data and it conforms to the literature on the links between overt and covert corruption and the commission of atrocity crimes as well as state corruption, neglect/exclusion, and the worsening of social cohesion and inter-personal trust.[44]

    Given this, it is important to note that large-scale corruption and violations of economic and social rights are increasingly being incorporated into transitional justice. The truth commissions in Kenya, Tunisia, and Gambia, for example, all had remit over investigating and detailing the extent of corruption, its impacts, and violations ensuing from it.[45] The difference between those contexts and Iraq is that, in the former, the corruption and exclusion being examined were all part of past regimes or administrations, while the issues here are primarily coming from the current political system, established after the old regime fell in 2003 and entrenched to date. This makes seeking to address it particularly difficult but, given how big a priority it is for all study participants and how they see it negatively impacting their lives

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[44] UNHRC, *Joint study on the contribution of transitional justice to the prevention of gross violations,* para. 68; and Ritchie, "Individual Stress, Collective Trauma, and Social Capital."

[45] Ruben Carranza, *Truth, Accountability, and Asset Recovery: How Transitional Justice Can Fight Corruption* (New York: ICTJ, 2020).

and wider communities, it is necessary to include and strategize around in relation to just and equitable change.

- ## "Framework approach" to transitional justice and prevention / non-repetition

  While the priority grievances detailed here seem at the surface particularly intractable, key informants and community members alike recognize that there is space and need for multiple actors across society to engage with sustainably resolving and redressing them, and that penal sanction, while a priority, is also not solely able to bring durable change without other efforts and inclusion of more of the public. As such, key informants seem to recognize a "framework approach" to justice and prevention as described in a recent UN Human Rights Council study on transitional justice and atrocity prevention. This approach delineates that addressing root causes and guaranteeing non-repetition of violations involves three rubrics: government institutions (including constitutionalism, institutional reform, and security sector reform), a robust and representative civil society playing a wide role in helping steer public power and participation, and initiatives in the domain of culture and personal disposition to also change individual minds and norms on a broader scale.[46]

  This tracks with study data that describes, for example, not only the need for central government support and/or transformation for any governorate-level (or higher) change in terms of holding those most responsible to account and enacting reforms, but also roles for strong and independent journalism, monitoring and oversight of institutions and processes, and a population "trained" on citizenship rights and how to demand them within these efforts as well. The international community's role is seen in helping to convene stakeholders for regular participatory meetings and workshops to discuss issues, leveraging their expertise, and applying pressure on the government.

- ## Restorative justice may facilitate transitional justice and generate broader collective action in Iraq

  The outcomes that the majority of study participants seek in relation to the priority grievances detailed here, criminal accountability and reform to prevent harm or violation from reoccurring, connect very directly to transitional justice. Furthermore, study participants indicate that these outcomes are most likely to stem from participatory community processes and dialogues involving all concerned parties and segments of the community, in other words, from restorative justice settings. Criminal accountability may be restorative in such a setting because it allows the space for broader understanding of harm and wrongdoing and additional ways to heal from it. The process and concept of reform may be restorative as well, as it could entail forms of truth-seeking as well as participatory mechanisms for their development, implementation, and monitoring and oversight, and in opening more civic space for debate and electoral participation. This seems to be how key informants indicate they see potential ways forward in relation to corruption, exclusion, marginalization, neglect, and unrepresentative governance and, to a certain extent, the ways in which to address concerns linked to the presence and actions of current security configurations.

  Regarding the reintegration of families with perceived IS affiliation, respondents and key informants, in particular, seem to similarly take a more participatory and broader view, seeking not only to restore residents and IS victims, but also those families who are eligible to return. This is line with emerging best practice regarding local peace agreements developed in Iraq for this purpose.[47] Improving implementation of existing agreements in this vein or initiating new ones will likely require significant dialogue efforts to eventually remove blockages and bring various parts of the community together. Regular and iterative engagement with stakeholders toward accountability and redress for this issue at a

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[46] UNHRC, *Joint study on the contribution of transitional justice to the prevention of gross violations*, paras. 28-58, paras. 59-71, paras. 72-84.
[47] Jacqueline Parry and Olga Aymerich, "Local Peace Agreements and the Return of IDPs with Perceived ISIL Affiliation in Iraq," Policy Research Working Paper 9961 (Washington, D.C.: World Bank Group Social Sustainability and Inclusion Global Practice, 2022).

more localized level given the specificity of the IS conflict and dynamics across geographies may also potentially start laying the basis for how various actors can begin seeking avenues for mobilization for addressing the more structural issues related to exclusion, marginalization, and neglect, even amid an entrenched status quo. This study helps to further make clear that these latter concerns traverse all communities and districts in a governorate, and it may be possible to start "scaling up" restorative efforts to eventually cross district and perhaps even governorate lines.

A further case to be made for the utility of restorative justice within the Iraq transitional justice context is that the outcomes these communities want to see will take significant time to achieve, if they happen at all in the foreseeable future. Progress may be incremental at best to start with and will likely face both setbacks and stagnation over time before there is space and resources for any kind of meaningful transitional justice mechanism (whether official or unofficial) to be developed and implemented. Restorative justice processes are well-suited to supporting the advancement of transitional justice in this kind of context precisely because they involve regular and iterative engagements with stakeholders over time and support space for dealing with the non-linear nature of progress, the multiplicity of experiences people have of harm and recovery, and how to address violation and wrongdoing at both smaller- and larger-scales in a community and society as a whole. These aspects of restorative justice should be capitalized upon in this context to manage expectations for change, offer ways to initiate and try out different strategies for accountability and redress over time as contexts and communities evolve with the aim of seeking to repair harm at each step, and build connections among stakeholders to be able to create wider networks and coalitions for collective action.

- ## Movements before mechanisms

Restorative outcomes and positive social change take time and often require having to deal with setbacks or lack of progress while trying to push ahead with accountability and redress as noted above. The data here (and elsewhere in Iraq) show that there are consistently low levels of trust in formal, customary, and informal institutions and in other community members, growing apathy regarding participation, and pessimism about prospects for justice, redress, and positive change to the status quo. It also confirms that people seek justice at this point for violations from the entrenched post-2003 status quo as well as that stemming from the IS conflict and its aftermath.

Any efforts toward restorative transitional justice will need to address these issues as well as begin to shift the negative views associated with them and, while managing expectations, slowly engender hope again. It is here that there may be space for intervention with respect to civil society's role in steering public power and participation and in the realm of culture and disposition change. The focus may need to be less on specific transitional justice mechanisms per se and more on movement building as a start to address topics of concern, particularly in the face of strong spoilers.

Robust and representative civil society is critical in justice, prevention, and change processes. Their contribution to these through advocacy, monitoring, reporting, education, conflict prevention and resolution and reconciliation initiatives, among others, is well-recognized. However, in the current context where focus is not only on human rights but on economic and social rights and freedom, it may be critical to not only rely on these methods and the so-called "old civil society" that privileges them, with the state and state institutions as their main frame of reference, but to also cede some ground to or incorporate in so-called "new civil society" that insists on independence and autonomy from the state and whose horizontal and leaderless structure enable different kinds of mobilization, engagement, and collective action.[48] This may be particularly useful in building citizen-led pluralistic, inclusive, and flexible coalitions and networks that can enable the in-depth community organizing and engagement

[48] Zahra Ali, "From Recognition to Redistribution? Protest Movements in Iraq in the Age of 'New Civil Society,'" *Journal of Intervention and Statebuilding* 15, no. 4 (2021), DOI: 10.1080/17502977.2021.1886794.; and Paul Gready and Simon Robins, "Rethinking Civil Society and Transitional Justice: Lessons from Social Movements and 'New' Civil Society," *International Journal of Human Rights* 21, no. 7 (2017): 956-975.

needed to harness and direct public power.[49] Such efforts are critical now as it seems community members are retreating from public affairs and need to be drawn back into them; the risk in not doing so is that civic space itself codifies around the "same faces" as the political one has already done. These interventions may also open space and offer opportunities for individual change at a larger scale as well through, for example, bottom-up storytelling,[50] participatory theatre work geared toward enabling people to rehearse strategies for engagement on issues and scenarios for change,[51] and other forms of local cultural production.

[49] Gready and Robins, "Rethinking Civil Society."
[50] Ruba Ali Al-Hassani, "Storytelling: Restorative Approaches to Post-2003 Iraq Peacebuilding," *Journal of Intervention and Statebuilding* 15, no. 4 (2021): 510-527.
[51] Nadia Siddiqui and Hjalmar Joffre-Eichhorn, "From Tears to Energy: Early Uses of Participatory Theater in Afghanistan," in Transitional Justice, Culture, and Society: Beyond Outreach, ed. Clara Ramirez-Barat (New York: Social Science Research Council, 2014), 369-394.