

# Why participatory justice matters: Key principles and interventions

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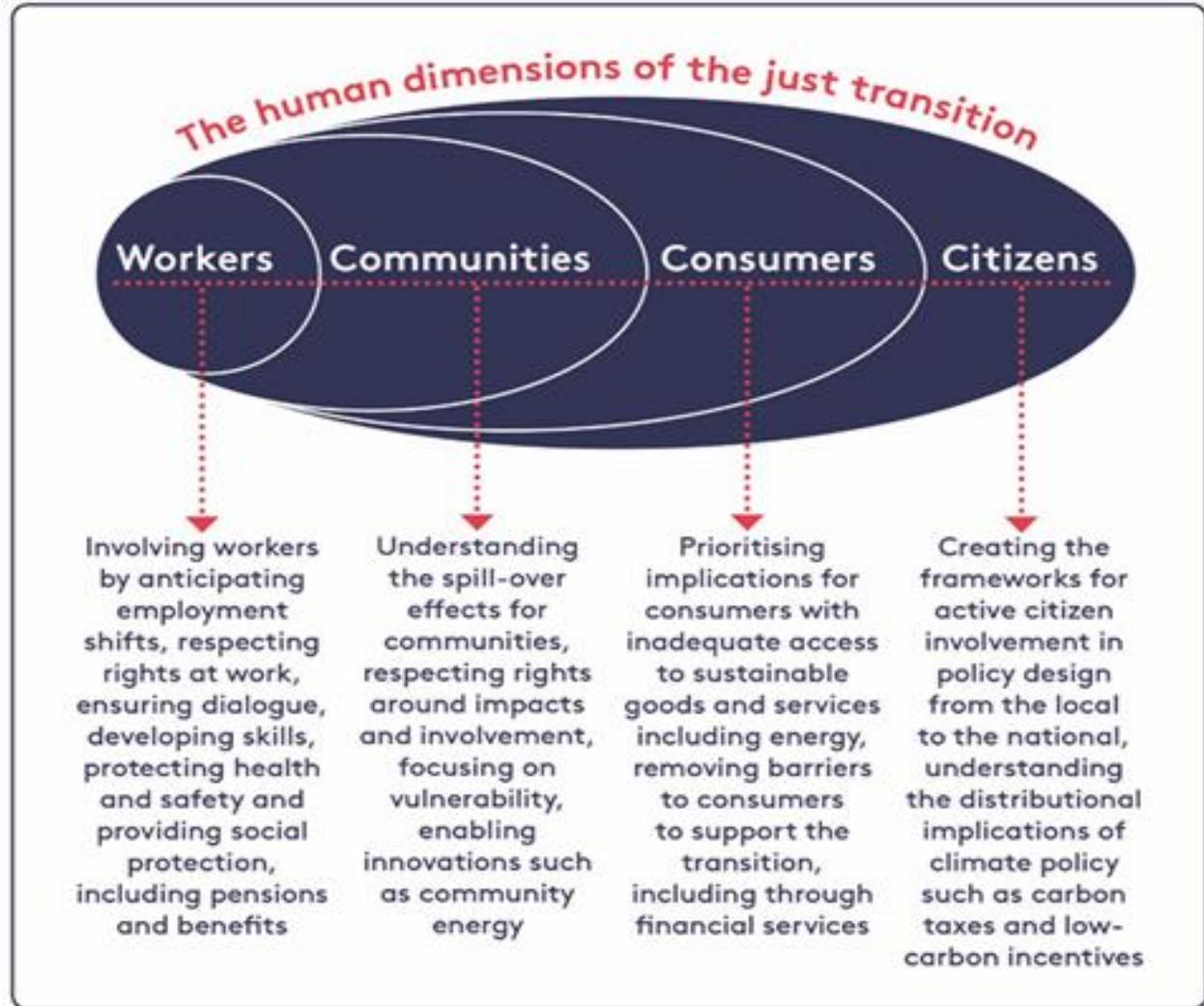
*Trade & Industrial Policy Strategies (TIPS)*



# Just transition is about people

*People at risk of losing:*

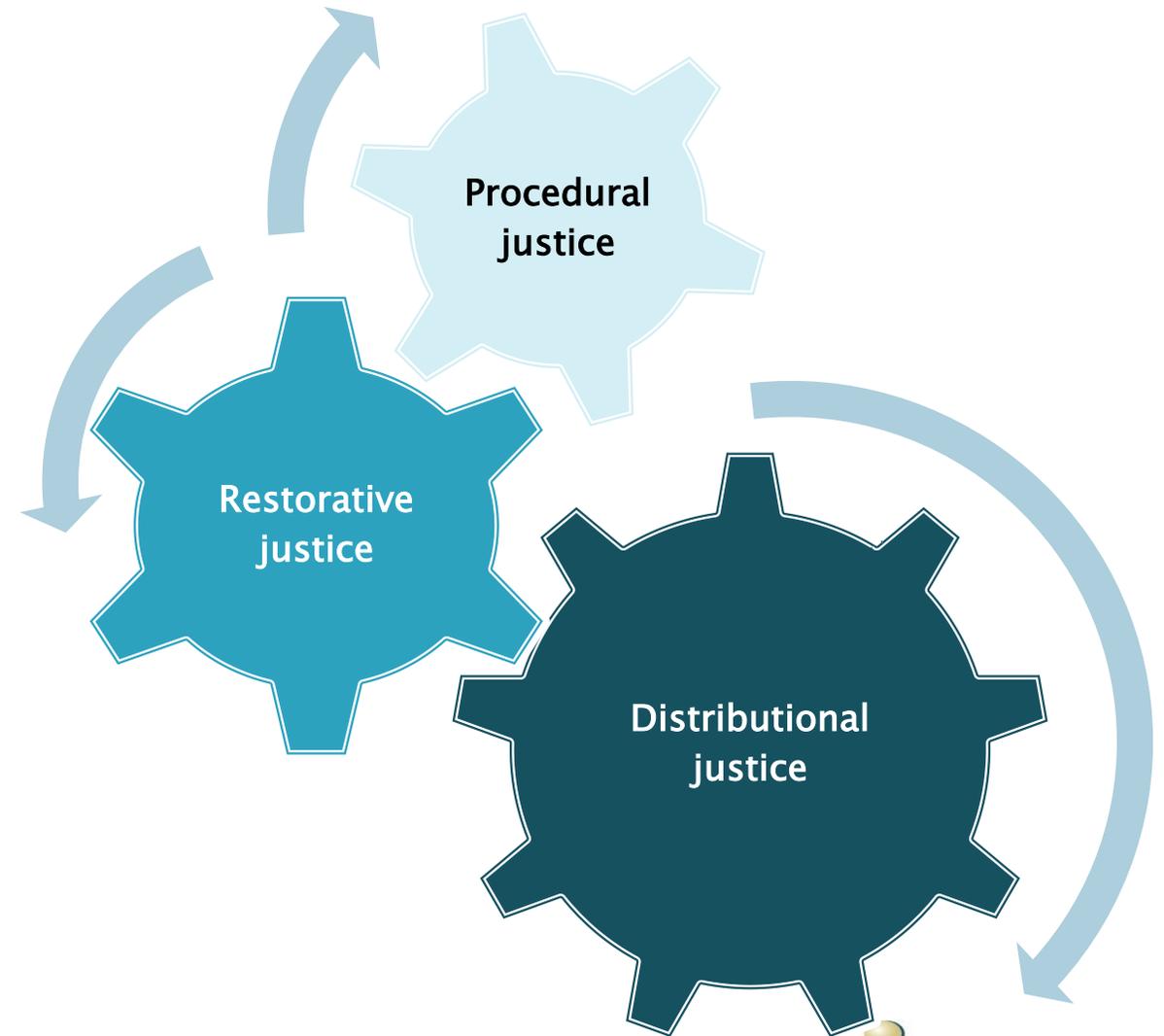
- ▶ *their jobs*
- ▶ *their livelihood*
- ▶ *their lives*



# Dimensions of a just transition

## 3 dimensions of transitional justice

- ▶ *Procedural justice* focuses on the form and aims at facilitating an inclusive process
- ▶ *Distributive justice* deals here with the distribution of risks and responsibilities, and focuses on addressing the direct impacts resulting from the transition process
- ▶ *Restorative justice* considers damages against individuals, communities and the environment, with the goal of rectifying or ameliorating the situations of harmed or disenfranchised communities



# What is procedural justice?

A key underlying assumption in JT discussions is that a just outcome can only emerge out of an inclusive process.

Focuses on facilitating an inclusive decision-making and implementation process, paying particular attention to enabling and empowering vulnerable and oft-neglected stakeholders to take part.

In practice, a spectrum of complementary formats for participation are possible:

- ▶ open, direct democracy
- ▶ representative democracy

- ▶ To enact participatory justice, varied formats should be used in parallel and in a way that they build on each other.
- ▶ A central difficulty is always to balance
  - the power of organised constituencies,
  - the desire for participatory and open procedures, and
  - the need to bring in expertise to test diagnostics and proposals against the evidence, and to identify the necessary resources.
- ▶ The multiplicity of platforms is also fundamental to build trust both between stakeholders and in the transition process itself.

# What is procedural justice?

## Dignity and respect

- All individuals are treated with dignity and respect

- ▶ Inclusive public participation
- ▶ Equal weight for all
- ▶ Participatory (and not extractive) process

## Voice

- Individuals are given a chance to express their concerns and participate in decision-making processes by telling their side of the story

- ▶ Bottom-up process
- ▶ Empowerment / capacity building / skills dev.
- ▶ Support for participation
- ▶ Firm- and community-level participation

## Neutrality, impartiality and transparency

- Decisions are unbiased and guided by consistent and transparent reasoning

- ▶ Evidence-based
- ▶ Equal, unrestricted access to info
- ▶ Support for evidence gathering

## Trustworthiness

- Decision-makers convey trustworthy motives and concern about the well-being of those impacted by their decisions

- ▶ Ongoing public engagement
- ▶ Permanent community / grassroots / firm forums
- ▶ Clear, explicit proceedings

# A long walk to freedom

- ▶ SA has a rich history of grassroots, bottom-up mobilisation
- ▶ The notion of all people having a voice can be traced back to the struggle against apartheid
  - 1956 Freedom Charter
  - 1994 Reconstruction and Development Programme
  - 1996 Constitution
- ▶ Public participation was integrated into many of the democratic government processes and policy development
  - Ward committees
  - School Governing Bodies
  - Clinic committees
  - Community Policing Forums

- ▶ A legacy of exclusion and oppression, perpetuated by an extractive model
- ▶ Participatory policymaking in SA has taken a downturn
  - Lack of trust towards representative democratic processes
  - Established structures have not proven to be effective and credible vehicles of participatory democracy
  - Public participation processes are often not meaningful (SLPs, IEAs, etc.)
  - Community-level capacity and capability have materially eroded
  - The democratic transition also led to a recomposition of the civil society landscape, weakening grassroots ties of many civil society organisations

# Procedural justice for just transition in SA

Both open, direct democracy and representative democracy have been explored to foster a social compact for a just transition in South Africa

Representative stakeholder engagements are the primary mechanism used to promote social dialogue in SA

- ▶ Multi-stakeholder NEDLAC (1994)
- ▶ ‘Social partners’ also form the basis of most nationwide agreements
- ▶ The representativity and effectiveness of NEDLAC has, however, been questioned over the years, calling for a recommitment to institutionalised social dialogue.
- ▶ Multi-stakeholder Presidential Climate Commission

A diverse and wide set of grassroots engagements aims to foster a bottom-up procedural justice.

- ▶ Local NGOs and CBOs play a central role in stimulating engagements at the grassroots level.
- ▶ Problematically, no structured channels exist to feed (directly or indirectly) into more formal engagement and decision-making processes, or to empower stakeholders to meaningfully take part in ongoing discussions.
- ▶ NPC (2018–2019): extensive public process of consultation at provincial and national levels, which culminated with the compilation of a draft national vision for the country’s just transition

# Looking ahead

## Procedural justice for just transition in SA

- Conduct open and public engagement processes on key national just transition decisions (e.g. sector strategies and plans) through Parliament and NEDLAC
- Conduct open and public engagement processes on key national as well as local (e.g. site closure, new mine/plant, support package) just transition decisions, through a public dialogue and consultation process with relevant stakeholders, with a focus on vulnerable groups
  - Recognise and leverage existing local-level structures (e.g. municipal forums, Catchment Management Forums)
- Recognise and integrate indigenous and traditional governance and knowledge systems into just transition processes
- Set up and maintain public knowledge platform for open access to information on just transition (e.g. official documents, public announcements, research)

- Establish / re-ignite structured firm- and sector-level social dialogue in affected value chains
- Encourage unionisation in under-represented / new sectors
  - Expand / strengthen local chambers of commerce and industry in affected areas
- Establish / re-ignite community / grassroots structures in affected areas (e.g. climate change champions), including clear feedback loops with representative democracy processes
- Develop local capacity through collaborations with local universities and colleges, and through support for NGOs
- Provide publicly and transparently underlying assumptions and information / data leading to decision-making (e.g. impact assessments, modelling data, socio-economic analysis)
- Publicly and transparently monitor, report and evaluate implementation progress on just transition interventions

- Establish structured firm- and sector-level social dialogue in new value chains (e.g. renewable energy)
  - Foster employee representation at board level in affected value chains (and beyond)
  - Provide active support for participation of vulnerable stakeholders (capacity building, knowledge development, financial and technical assistance)
    - Provide technical materials into accessible, reader-friendly formats and language
  - Co-develop just transition plans with vulnerable stakeholders in affected value chains and/or regions
  - Set mechanisms for accountability and regular, collaborative update of just transition plans
- Extend labour market improvements to all

# Looking ahead

**There is no just transition without participatory justice**

People's voices matter

Many channels already exist in South Africa to foster participatory justice

But these need to be re-kindled and meaningfully harnessed

*The status quo is not inclusive*

# Trade & Industrial Policy Strategies

Supporting policy development  
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