Input from the International Center for Transitional Justice (ICTJ) to the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Submitted as a contribution to the thematic report on "Documentation of serious human rights violations in the context of transitional justice processes"

December 2024

ICTJ welcomes the opportunity to contribute this document in response to the Call for Inputs on "*Documentation of serious human rights violations in the context of transitional justice processes"* from the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and underscores the critical role of documentation in transitional justice processes. Documenting serious crimes is a fundamental **obligation of states**, and a **necessary step** to ensure accountability, acknowledgement, and redress. The importance of continued documentation efforts cannot be overstated.

ICTJ emphasizes the **contribution of documenting human rights violations** in supporting truth-seeking, criminal justice, and reparative measures; empowering victims and civil society actors to actively participate in justice initiatives; and ensuring that accurate historical records are maintained to help to prevent the recurrence of violations. ICTJ's approach involves working with victims and civil society to develop strategies for change, which often entails documentation efforts to support victims' demands for justice and to inform responsive and feasible solutions.

ICTJ advocates for a comprehensive approach to justice, emphasizing that while criminal accountability remains crucial, other complementary and innovative uses of documentation can bring immediate benefits to victims and facilitate and/or lay the groundwork for **a range of ongoing and/or future transitional justice mechanisms**. Collaboration between ICTJ and civil society organizations (CSOs) in past years has demonstrated a positive trend towards these goals, but engaging the international community is key for its implementation.

Documentation can play a pivotal role in supporting victims' right to truth and ensuring that crimes committed during conflict and repression are remembered, even **in the face of authoritarian suppression and ongoing violence**. Immediate applications of documentation can address critical issues such as property rights, civil status, and the plight of the missing and forcibly disappeared, which are vital for future justice efforts and the eventual return of displaced persons. Furthermore, increasing victim participation and including their narratives in documentation efforts are essential for ensuring that justice processes are meaningful and inclusive.

Many CSOs lack the resources, training, or capacity to collect forensic evidence to the standard required for legal proceedings. **A lesson learned from CSO initiatives is the need to reframe the purpose of documentation**. While legal proceedings often set high evidentiary standards, documentation can also serve broader objectives, including advocacy, supporting humanitarian interventions, shaping policy, and preserving the narratives of survivors. Organizations must be encouraged to adjust their approach and methodologies, focusing on objectives that align with their capacities while ensuring their efforts remain impactful. This **multi-purpose approach** ensures that

documentation efforts remain relevant and impactful even in the absence of immediate pathways to criminal accountability.

Technical and financial support is crucial for enhancing the capacity of CSOs to manage, archive, and analyze their data effectively. Alternative justice pathways should be promoted by leveraging documentation for advocacy, storytelling, reconciliation, public acknowledgment, and reparations. Moreover, it is vital to align these processes with the needs of displaced populations, particularly in areas like housing, land, and property rights, as well as addressing the concerns of families of the missing and forcibly disappeared. Support can be tailored to the specific approaches to documentation developed by different groups.

In contexts where documentation is needed, the **institutional and security environments** often pose significant **challenges** to documentation efforts. Governments may be constrained by a lack of capacity, willingness, or prioritization amidst ongoing emergencies to systematically document violations and fulfill their duties. Civil society organizations and human rights defenders working in such contexts often face harassment, intimidation, and targeted violence, severely constraining their ability to document violations and preserve evidence. Ensuring their safety and security is a critical challenge that must be addressed to sustain these efforts.

Both **states and the international community** face challenges in timely and sufficient integration of documentation mechanisms into transitional justice processes. The absence of such mechanisms during the design and implementation stages risks further impunity and weakens the foundation for future justice initiatives. By incorporating documentation as an essential component of transitional justice from the outset, states can strengthen truth-telling initiatives, reparative programs for victims, and historical record-keeping, while also addressing gaps in state capacity.

In **Colombia**, since 2018, ICTJ has supported several civil society organizations in **documenting and presenting cases** to the **Special Jurisdiction for Peace** (SJP), established by the 2016 Peace Agreement. In the early years of the SJP, ICTJ's technical assistance focused on helping organizations present reports in ways that could uncover the macro-criminal patterns through the most representative cases and identify those most responsible for them. A notable example of this work includes the submission of one of the first CSO reports by a consortium of organizations working in Antioquia. The report uncovered international crimes committed by a collusion of state agents, corporations, and paramilitary groups aimed at illegally seizing the land of ethnic and farming communities.

ICTJ also supported the case documentation of LGBTI organizations, whose reports were later cited in SJP decisions that indict gender-based persecution as a crime against humanity in 2023. Building on its initial work in case documentation, ICTJ expanded its support to organizations providing psychosocial assistance and legal representation to victims accredited by the SJP. This support proved crucial for victims to present demands for truth, justice, and acknowledgment of responsibility in dialogue with their perpetrators in restorative processes.

Since 2014, ICTJ has been supporting **Syrian civil society and victims**, focusing on documenting human rights violations, advocating for justice and accountability, and building the capacity of civil society to advance sustainable peace and an inclusive democracy in Syria

(https://www.ictj.org/latest-news/ictj-statement-historic-moment-syria-and-path-ahead%C2%A0). ICTJ consultations in 2016-17 with Syrian civil society organizations working on issues related to transitional justice, with a specific focus on documentation, showed that each organization has a distinct mission, with the notion of documentation understood differently among them. Some focused on collecting quantitative data and qualitative analysis, with others working mainly on advocacy and creative approaches to storytelling. Their collection methodologies, level of detail, and the selection of violations for documentation also differ, depending in part on organizational capacities and resources, access to information, security risks, and location. See: https://www.ictj.org/publication/justice-syrian-victims-beyond-trials

In 2018, a collaborative project led by 10 Syrian civil society organizations and ICTJ produced the report "'We Didn't Think It Would Hit Us:' Understanding the Impact of Attacks on Schools in Syria." The report explored **attacks on schools**, their legal implications, and their impact on children, families, educators, and society. It gives voice to the victims of these attacks, helping them to shape the narrative of the conflict, contributing to truth-seeking, and providing an example of effectively using documentation to pursue justice beyond criminal accountability. The project brought together a diverse set of organizations and fostered a collective sense of ownership. See: https://www.ictj.org/publication/%E2%80%9Cwe-didn%E2%80%99t-think-it-would-hit-us%E2%80%9D-understanding-impact-attacks-schools-syria

In the context of the ongoing digital transformation, ICTJ also emphasizes the importance of developing **digital tools and strategies** for documenting human rights violations. In 2024, ICTJ's partner Afghanistan Human Rights and Democracy Organization (AHRDO) opened a **virtual museum and victim-focused documentation center** dedicated to Afghan victims of conflict and human rights abuses. The **Afghanistan Memory House** both preserves the memory of these victims and helps pave the path for truth and justice.

The Afghanistan Memory House acts as secure repository of information that preserves the individual stories of victims and survivors. It includes government documents, photos, and other data sources, as well as images of victims' personal items that loved ones collected and donated to AHRDO. It also aims to contribute to any present or future transitional justice process. Its collection of documentation and artifacts can serve as evidence of crimes committed and testimony of lived experiences in any number of formal or informal justice-related initiatives, including criminal proceedings, truth seeking, reparations, and other public awareness and memorialization campaigns. By digitizing the information sources, AHRDO has also better preserved them for use in any such effort in the near future or in generations to come. See: https://www.ictj.org/latest-news/new-virtual-museum-afghan-victims-human-rights-violations-lays-foundation-truth-and

In collaboration with the Human Rights Center at the University of California–Berkeley, ICTJ has led trainings for human rights activists in conflict-affected countries such as **Yemen and Libya** on **digital, open-source investigation techniques**, enabling them to more effectively document and investigate human rights violations. ICTJ plans to continue this work and offer further trainings to cultivate a group of Arab-speaking open-source investigators, ensuring that local contexts, languages, and nuances are understood and respected in the documentation and investigation process. This approach will empower local CSOs and victims' groups to better document and

investigate human rights violations, preserve the evidence they gather, and advance accountability and justice even in the most challenging contexts. See: https://www.ictj.org/latest-news/new-digital-approach-human-rights-documentation-and-advocacy-libya-and-yemen%C2%A0

At a broad level, documentation is relevant not only to transitional justice but also to sustainable peace and development. As highlighted by the **Working Group on TJ and SDG16+**, public access to information is an element of **sustainable development** (under SDG 16.10), one that is closely linked to the right to the truth. Documentation, archives, and related digital technologies are therefore tools that can help to democratize **access to information** about the complex dynamics of repression and violence and connect efforts with the broader public. See: https://www.ictj.org/resource-library/toward-victim-centered-change-integrating-transitional-justice-sustainable-peace