



Global Initiative for  
JUSTICE, TRUTH +  
RECONCILIATION

## **BUILDING A LEARNING COMMUNITY:**

Lessons for a Holistic and Sustainable  
Approach to Transitional Justice



International Coalition of  
**SITES of CONSCIENCE**

### About The International Coalition of Sites of Conscience

The International Coalition of Sites of Conscience (ICSC) is a global network of museums, historic sites and grassroots initiatives dedicated to building a more just and peaceful future through engaging communities in remembering struggles for human rights and addressing their modern repercussions. Founded in 1999, the ICSC now includes more than 230 Sites of Conscience members in 55 countries. The ICSC supports these members through seven regional networks that encourage collaboration and international exchange of knowledge and best practices.

Learn more at [www.sitesofconscience.org](http://www.sitesofconscience.org).

#### Cover photo:

Women in Nepal observe a mural, which they helped paint, in honor of their missing loved ones. (Photo credit: National Network of Families of the Disappeared and Missing in Nepal)

Unless otherwise noted, all photos were taken by the International Coalition of Sites of Conscience.

Designed by Lori J. Dawson

## ABOUT THIS MANUAL

This manual, *Building a Learning Community: Lessons for a Holistic and Sustainable Approach to Transitional Justice*, shares lessons learned from the different collaborations among members of the Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”). Each chapter or section lists the individual and institutional author, which is also the lead partner of that project, while acknowledging the contributions of all the partners on the project. An editorial consultant with transitional justice and evaluation expertise developed an evaluation framework and methodology for each chapter, guided the lead authors in identifying lessons learned and recommendations, and streamlined the chapters to ensure accessibility and consistency throughout the manual.

## ACKNOWLEDGMENTS

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Finally, the GIJTR is extremely grateful for the feedback from Sara Bradshaw, Emily Kimler, Ereshnee Naidu-Silverman, Ashley Nelson, Elizabeth Silkes, and Risa Zoll of the ICSC and for the hard work of the editorial consultant, Anjali Manivannan, in integrating the chapters into a cohesive manual.

# ABOUT THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH AND RECONCILIATION CONSORTIUM

Around the world, there is an increasing call for justice, truth, and reconciliation in countries where legacies of grave human rights violations cast a shadow on transitions. To meet this need, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth and Reconciliation (GIJTR) in August 2014 with the support of the Bureau of Democracy, Human Rights, and Labor at the U.S. Department of State. The goal of the GIJTR is to address new challenges in countries in conflict or transition that are struggling with their legacies of past or ongoing grave human rights violations.

The GIJTR facilitates the GIJTR Consortium (“the Consortium”), which is comprised of the following nine partner organizations:

- International Coalition of Sites of Conscience, in the United States (lead partner);
- American Bar Association Rule of Law Initiative (ABA ROLI), in the United States;
- Asia Justice and Rights (AJAR), in Indonesia;
- Centre for the Study of Violence and Reconciliation (CSV), in South Africa;
- Documentation Center of Cambodia (DC-Cam), in Cambodia;
- Due Process of Law Foundation (DPLF), in the United States;
- Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG), in Guatemala;
- Humanitarian Law Center (HLC), in Serbia; and
- Public International Law & Policy Group (PILPG), in the United States.

In addition to leveraging the different areas of expertise of the Consortium partners, the ICSC draws on the knowledge and longstanding community connections of its 230-plus members in 55 countries in order to strengthen and broaden the Consortium’s work.

The Consortium partners, along with the ICSC’s network members, develop and implement a range of rapid response and high-impact programs, utilizing both restorative and retributive approaches to criminal justice and accountability for grave human rights violations. The Consortium takes an interdisciplinary approach to justice, truth, and accountability. On the whole, the Consortium partners possess expertise in the following areas:

- Truth-telling, memorialization and other forms of historical memory and reconciliation;
- Documenting human rights violations for transitional justice purposes;



The Forensic Anthropology Foundation of Guatemala (FAFG) applies multidisciplinary forensic scientific methodologies to investigations into the circumstances, whereabouts and identity of missing and disappeared persons to provide truth to victims and their families, assist in the search for justice and redress, and strengthen the rule of law.

Photo credit: FAFG

- Forensic analysis and other efforts related to missing or disappeared persons;
- Advocating for victims, including for their right to access justice, psychosocial support, and trauma mitigation activities;
- Providing technical assistance to and building the capacity of civil society activists and organizations to promote and engage with transitional justice processes;
- Reparative justice initiatives; and
- Ensuring and integrating gender justice into these and all other transitional justice processes.

Given the diversity of experiences, knowledge, and skills within the Consortium and the ICSC's network members, the Consortium's programming offers post-conflict countries and countries emerging from repressive regimes a unique opportunity to address transitional justice needs in a timely manner while simultaneously promoting local participation and building the capacity of community partners.



Young Children Reading a Book; Veal Rinh Village, Cambodia.

Resource dissemination is a tool in the fight against extreme poverty. In rural Cambodia, there is very little distribution of printed materials, which makes it hard to spread key knowledge and insight. By providing people with more information and better education, they can begin to pull themselves out of extreme poverty.

Photo credit: Documentation Center of Cambodia (DC-Cam) / Makara Ouch

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# FOREWORD

The chapters that follow speak to the lessons learned from an innovative approach to transitional justice programming: a consortium of organizations that conceptualizes and implements programs to challenge impunity, reveal truth, redress legacies of gross human rights violations, and prevent their recurrence by utilizing a range of justice tools while rooting these programs within national and local contexts.

The concept for the Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”) was conceived during my tenure leading a team within the U.S. Department of State’s Bureau of Democracy, Human Rights, and Labor (DRL) that focused on designing and funding programs to advance human rights and promote justice in conflict-affected settings. The Consortium was a response to the following two insights.

First, our experience and the research it prompted on funding transitional justice (see, for example, <http://fundingtj.org>) demonstrated that international donor funding to transitional justice overwhelmingly supports international tribunals and criminal prosecutions. Justice and accountability can be served in a variety of ways—through trials, memorialization, the preservation of cultural heritage, trauma healing and psychosocial support, reparation, and truth-telling, for example. Appropriate processes for each context should balance core concepts of transitional justice, including the rights to justice, truth, effective redress and restitution, and guarantees of non-recurrence. Such strategies should be determined through a process led by and engaging those who have been affected by violence. Criminal accountability, while crucial and important to many victims, is only one tool and faces well-documented challenges: it involves resource-intensive processes that often take decades, at times even outlasting the lifespan of the architects of abuses, and focuses on a small number of perpetrators and not the whole of conflict-affected societies. Victims require criminal accountability as one aspect of a broader set of needs and processes that are prerequisites for preventing cycles of conflict and building sustainable peace. It is incumbent upon donors to support a range of processes that prioritize victim needs in addition to addressing society’s needs more broadly.

Second, a “systems approach” to supporting transitional justice is useful. Systems thinking, which is popular in the social sciences and increasingly in certain fields of international development, assumes that

a system comprises an intricate web of interactive and interdependent elements and examines the linkages between them. Attempts to influence and improve some aspects of the system inexorably produce ripples of reactions in other parts and at other levels. In this case, the system is a specific post-conflict society in which the levels—individuals; communities; civil society; and local, regional, and national government and institutions—are obviously connected. Rather than focusing on prescriptive mechanisms that are not context-sensitive, which is a long-standing critique of the transitional justice field, one approach from a programming perspective involves supporting actors, not specific tools, and funding interconnections that ideally help create movements, sustainable networks, and ultimately, the collective impact required to stabilize post-conflict settings. This approach would create channels and linkages through which victims and conflict-affected communities can express their needs and build collective platforms and agendas. Hopefully, these perspectives are then reflected in local and national justice mechanisms, and this feedback loop enables victims to better understand the purpose and function of transitional justice processes and tools. This also means mechanisms must make a concerted effort to provide more consistent support directly to victims and conflict-affected communities, who are often located outside of capital cities and are among the most marginalized and vulnerable, to enable their participation in and ownership of these movements.

Led by the International Coalition of Sites of Conscience (ICSC) and comprising nine organizations with deep



Visitors gather at Maison des Esclaves in April 2017. A founding member of the International Coalition of Sites of Conscience, the museum tells personal stories of a private home and its involvement in the slave trade. Since its founding in 1962, the historic site has welcomed thousands of visitors, from school children to Nelson Mandela, Pope John Paul II, and Barack Obama.

ties to every region of the world, the Consortium started in 2014. It was launched as a pilot effort focused on programming in two countries. Since its founding, the Consortium has engaged over 255 civil society organizations in 17 countries, supported 58 community-driven transitional justice projects through sub-grants to local project participants, and enabled the collection of over 1,100 testimonies of human rights violations as part of civil society-led documentation projects. The Consortium's programs share a fundamental approach and provide many lessons learned that will be discussed throughout this publication from the perspective of the implementing Consortium partners. It is, however, worth highlighting a few of the emergent best practices.

### INTERDISCIPLINARY, SYSTEMS APPROACH

The Consortium developed specific guidelines to implement this interdisciplinary methodology; for example, it requires the collaboration of at least two or more partners in every project. Programs strive to operationalize a systems approach to the extent possible in each context, connecting governments, civil society, local communities, and victims in a range of transitional justice processes. Additionally, each program includes key elements that may or may not be considered essential by various actors within donor governments, such as training on trauma, psychosocial support, and community-based processes; memorialization; the preservation of culture; and community archiving. Officials focused on specific countries often have certain priorities: for example, the documentation of human rights abuses for the purpose of collecting "evidence" or providing technical support through civil society to government and institutional actors. The Consortium's model ensures that these important elements are addressed while also utilizing an approach that includes programming components that may be less familiar to desk officers or embassies but are essential to effective victim engagement and broader transitional justice efforts.

### INNOVATION

For our team at the DRL, having a standing mechanism like the Consortium enables rapid response and programmatic shifts without having to go through the nine-month process of openly issuing a request for grant proposals every time there is a need to launch a program. This flexibility and capacity to mobilize quickly helps us respond to political shifts, requests from embassies, and information and feedback from partners. The goal of the Consortium is both to respond to the need for transitional justice programming on the ground and to further the fields of transitional justice and conflict response. To this end, the DRL can ask the Consortium to design certain programs, and partners can also put forth innovative program concepts to the DRL. This two-way stream



A training on trauma and self-care led by the Centre for the Study of Violence and Reconciliation, a Consortium partner in South Africa, at a violence prevention workshop in Conakry, Guinea hosted by the GIJTR Consortium in May 2017.

reflects our belief that organizations with deep knowledge of local contexts and a vast wealth of accumulated experience are best situated to articulate new programming approaches to the complex problems in conflict and post-conflict settings. The donor community can facilitate their ability to do so by creating streamlined processes, structured to elicit and support their ideas.

## LEARNING

The structure of the Consortium provides new opportunities to learn about effective transitional justice programs in conflict and post-conflict settings. Drawing on expertise of the Consortium partners and the ICSC's 230-plus members in 55 countries, exchanges between organizations and participants are built into many of the Consortium's programs. For example, Cambodian partners and the ICSC's network members hosted documenters from South Sudan. This learning is demonstrated in greater detail in the coming chapters. In addition, the Consortium has implemented programs in many major conflict-affected settings around the world, which provides a rich opportunity for the reflection exhibited in this publication. Finally, the Consortium hosts regular all-member calls, and members come together outside of their individual project teams during an annual meeting hosted by one of the partners in their home country. All of these activities feed into an effort to understand both the impact of particular programs and the effectiveness of this new model for approaching transitional justice programming and also to encourage donors and other stakeholders explicitly to value these activities and dedicate resources to them.

## PROCESS AND COLLABORATION

The processes inherent to this model—convening actors, building trust, and forging a coordinated approach from a multitude of perspectives and priorities in complex environments—are time-consuming and often painstaking. Key successes of many of the programs discussed here, such as in South Sudan and Sri Lanka, are related to centering programs around conflict-affected communities, victims, and institutional actors as well as building trust and consensus among these diverse stakeholders. For a variety of reasons, some of which are deeply structural and others of which are simply related to workload, donors can be focused on outcomes, outputs, and specific objectives and be less concerned with the ways in which grantees reach those objectives. With a consortium of this nature, the work can and should be “measured” in meeting such objectives and outcomes. However, it is equally important to facilitate processes that enable a holistic, flexible, and more inclusive—and therefore, more sustainable and effective—programming approach, which is requisite for operating in conflict-affected and fragile settings.

The creation and implementation of these processes should also be explicitly valued, supported by donors, and evaluated, which will legitimize the time, skills, and interdisciplinary, complex, and collaborative approaches required.

The Consortium partners deserve tremendous recognition for their willingness to take risks and engage in new methods and the sometimes difficult work of forging a collective approach to transitional justice programming. The ICSC must be particularly commended for their leadership and approach. We hope this publication will stimulate further discussion about effective transitional justice programming based on the firm ideal that decades of combined expertise from many disciplines and every region of the world will better assist conflict-affected victims and societies in finding peace.

### Riva Kantowitz, Ph.D.

Dr. Riva Kantowitz's work focuses on the prevention of conflict and violence, the promotion of human rights, community and individual resilience, the protection of youth and children, and organizational support in fragile and developing environments. From 2011 through 2016, she founded and led a team at the U.S. Department of State that provides strategic direction and oversight to a global programming portfolio in order to promote human rights in conflict-affected countries. Part of the portfolio included the creation of numerous special initiatives, such as the Global Initiative for Justice, Truth and Reconciliation Consortium.



# INTRODUCTION

Transitional justice is the set of measures and processes that aim to end impunity, redress victims of grave human rights violations, and re-establish the rule of law. Despite a wealth of literature and practice, especially since the 1990s, there is a lack of empirical research on what works and does not work in transitional justice. Gathering such evidence, however, is hindered by different understandings of core concepts of “justice,” “truth,” and “reconciliation.” Given the recent uptick in conflicts around the world, it is important that accountability-seeking measures are as successful as possible. Namely, transitional justice should empower victims to take ownership of changing the conditions under which their rights and dignity were violated, among other steps. Accordingly, transitional justice should be a bottom-up, context-specific endeavor that centers on the lives, needs, agency, and future of the affected population. Since there is no one-size-fits-all solution, transitional justice must take a holistic approach that attacks impunity from multiple angles—not only from criminal justice or truth-telling perspectives. This holistic approach should involve different measures, processes, and strategies to achieve various goals related to criminal accountability, truth, memorialization, structural reform, and reconciliation.

## Achieving Successful Transitional Justice

Unfortunately, transitional justice cannot be successful without defeating various challenges to its legitimacy and effectiveness. Key hurdles include the failure to address structural violations, the internationalization of interventions, the lack of inclusivity, and the promulgation of prescriptive best practices. Overcoming these obstacles is all the more difficult because of the lack of evaluative evidence on transitional justice measures, making it nearly impossible to systematically improve programs. The Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”), led by the International Coalition of Sites of Conscience (ICSC), was established in 2014 to design—and evaluate—solutions to these prevailing challenges.

## TRANSITIONAL JUSTICE MUST ADDRESS STRUCTURAL VIOLENCE.

It is impossible to end impunity without problematizing the structures that enable and cause conflict. In fact, post-conflict accountability is actively inhibited by the inability of traditional transitional justice measures to address structural, systemic violence and discrimination. Instead, typical transitional justice mechanisms foreground “extraordinary” physical violence, even ignoring entrenched inequalities and social exclusions. Overlooking “ordinary” structural violence discounts contributing root causes and the priorities of local communities. For example, with respect to gender issues, transitional justice measures tend to place a premium on sexual violence. This neglects gender dynamics that are often the root causes of violations, including sexual violence, as well as the other gendered, non-sexual ways that women experience conflict.

To increase its potential and relevance, transitional justice efforts should interrogate root causes and strive to end all forms of impunity by understanding and addressing the vulnerability of certain populations to human rights violations. In this manner, transitional justice can treat the causes—not just the symptoms—of grave human rights violations. The meaningful engagement of local inputs and participation in transitional justice interventions is an important way of identifying different forms of marginalization in a conflict-affected society. However, the internationalization of many efforts largely precludes local involvement.



GIJTR Consortium members attend a Mayan ceremony in October 2016 at Comalapa, a former military installation in Guatemala, where FAFG recovered the remains of 220 victims.

## TRANSITIONAL JUSTICE MUST BE LOCALLY OWNED AND INCLUSIVE.

Since World War II, transitional justice, particularly the use of criminal prosecutions and truth commissions, has greatly evolved and become increasingly internationalized. The internationalization and expertization of the transitional justice field assigns international actors extremely influential roles, particularly in initiating transitional justice efforts. The dominance of the field by elite, international professionals and funders overshadows inputs by local actors and victims. This internationalization even forecloses opportunities and political spaces for locals to develop and implement transitional justice interventions outside the agenda of the international community, from which most funding comes.

Unlike many international projects, locally owned efforts are closely informed by and respond to local needs, including those regarding their larger lived experiences. In addition, locally owned transitional justice is able to situate impunity within the local and national context. Therefore, in order to increase its effectiveness and impact, transitional justice efforts should be broadly inclusive. Simply consulting with civil society and managing expectations is not enough. Instead, victims and affected communities must be involved from the outset, from the design to implementation stages. Participatory approaches identify wide-ranging needs, which in turn helps determine which transitional justice processes will best satisfy those needs. Such inclusive participation ensures a more comprehensive record, which is essential during and after the transitional period, particularly in contexts in which exclusion was a root cause of conflict. In fact, the levels and meaningfulness of victim participation are two measures of the success of any transitional justice process.

Importantly, history has shown that locally led initiatives, particularly those spearheaded by victims, are often more successful than externally imposed solutions. This is partly due to the ability of locals to innovate solutions to challenges faced by traditional transitional justice processes, such as criminal prosecutions and truth commissions, and fill the gap in accountability. Endeavors resulting in greater benefits to the country and communities are marked by local ownership, and local ownership is likewise critical to the sustainability of programming.

## TRANSITIONAL JUSTICE MUST BE CONTEXT-SPECIFIC.

Contextualization is vital to transitional justice, and when locals own processes, they bring their contextual expertise to the table. This facilitates transitional justice programming's inclusion of the local context, needs, and understandings of accountability. Notably, ideas related to justice, truth, and reconciliation are context-specific and

their achievement requires transitional justice efforts to incorporate community norms and conceptions of accountability while mediating local and international understandings. Therefore, community contexts should be considered in addition to the national context since there is often a disconnect between government transitional justice programs (where they exist) and the needs of affected populations, such as ending structural impunity. This necessitates the recognition of the interplay between accountability and context at different levels of localization; however, transitional justice often delinks these two elements. For instance, due to geographic and temporal restrictions, traditional criminal prosecutions and truth commissions are forced to exclude important contextual information. The negative ramifications that follow the de-contextualization of transitional justice include the failure to address structural impunity and root causes of conflict.

Both the internationalization and de-contextualization of the transitional justice field have fueled attempts at standardization through the development of technical materials and "best practices." These best practices are created by international experts at the expense of local innovations and inputs. Additionally, due to the international emphasis on criminal prosecutions and truth commissions despite tenuous evidence of their impact, reliance on "expert" recommendations may overshadow other longer-term, holistic anti-impunity efforts. That said, comparisons between transitional justice efforts in different countries and contexts are useful guidance if they are situated within and applied to the specific context at hand. Furthermore, international outsiders should not impose recommendations but should educate local communities, especially victims, on the tools and technicalities involved in designing and implementing holistic transitional justice interventions. This approach to knowledge-sharing enables meaningful local-level participation, efforts, and innovation.

## TRANSITIONAL JUSTICE INTERVENTIONS MUST BE EVALUATED.

Evaluating transitional justice, which is a long-term process that is frequently affected by violence and volatility, can be extremely difficult. However, the field cannot evolve without thoughtful reflection on the challenges and potential ways forward. In the absence of evidence supporting or challenging the impact of specific measures, the transitional justice field is rife with unverified claims of the potential of different mechanisms, particularly prosecutions and truth commissions. Problematically, proponents tout the benefits of their favored process without evidence while arguing that there is insufficient evidence to prove its shortcomings. This highlights the positive qualities and glosses

over the negatives, preventing the identification of accountability gaps that must be closed. It also overemphasizes the advantages of certain measures over others instead of advocating for a holistic approach in order to reap the benefits of many distinct processes.

Rigorous reflection on the success of transitional justice measures necessitates some degree of consensus on terminology, including justice, truth, and reconciliation, otherwise they are unmeasurable indicators. In fact, justice, truth, and reconciliation remain contested concepts—perhaps mostly jargon in today’s age—and understandings of them differ among communities, people, and time periods. Consequently, a context-based approach that uses affected communities’ definitions ensures that transitional justice programming aims to achieve the justice, truth, and reconciliation desired by locals instead of prescribing internationalized and expertized conceptions that may not resonate with target stakeholders.

### Building a Holistic Transitional Justice Learning Community

The current international conception of transitional justice is goal-oriented with an emphasis on ends rather than means and standardization over local innovation. However, justice, truth, and reconciliation, which are the broad aims of transitional justice, cannot be reached through any one measure or strategy. In addition to using a holistic approach to project design and implementation, the concepts of justice, truth, and reconciliation must be debated, agreed upon, and defined by communities in accordance with their contextual understandings. The Consortium’s approach to transitional justice—one that is holistic, interdisciplinary, locally owned, and context-specific—centers on local needs and supporting local initiatives in order to address justice and truth as well as foster reconciliation. By working at the local level, the Consortium avoids imposing its conception of transitional justice and related ideas of justice, truth, and reconciliation.

The Consortium adopts an outcomes-based monitoring and evaluation (M&E) system to identify the specific elements that result in positive changes. Accordingly, in order to advance innovative programming and share lessons learned, this manual qualitatively evaluates the successes of and challenges faced by the Consortium’s programming in five contexts: South Sudan, Syria, Sri Lanka, the Middle East and North Africa (MENA) region, and Colombia. The Consortium hopes that its evaluation will contribute to the evidence necessary to understand the impact of transitional justice interventions, including why and how certain measures, processes, and methodologies were more successful than



Participants in a GIJTR Consortium violence prevention workshop in Guinea in May 2017.

others in different contexts. This can provide foundational knowledge for civil society, practitioners, governments, and other donors interested in initiating transitional justice programming or supporting existing endeavors.

In South Sudan, the Consortium provided interdisciplinary support to a locally owned human rights documentation initiative (**Chapter 1**). The Consortium established a locally led coalition and prepared them to document human rights violations for a range of transitional justice processes, including criminal accountability, truth, memorialization, and reconciliation initiatives. The lessons from the project are applicable to other highly volatile, multi-ethnic, and ongoing conflicts that require locally led documentation. To improve service provision, the Consortium took an interdisciplinary, multidisciplinary approach to conducting a needs assessment with Syrian victims and service providers (**Chapter 2**). The Consortium engaged local partners to assess psychosocial, medical, legal, and human rights documentation needs with a view to laying the foundation for a referral network among service providers and for reparations for Syrians. The assessment provides lessons on collaborating with local civil society to conduct a needs assessment regarding a

situation of active, high-intensity conflict. In Sri Lanka, the Consortium applied its participatory, inclusive methodology to needs assessments and capacity-building workshops with both civil society and government actors (**Chapter 3**). The project activities resulted in the establishment of a locally owned mechanism—involving representatives from different ethnic groups, religions, and regions—to coordinate local transitional justice and reconciliation efforts. Its lessons target post-conflict countries in which human rights violations, impunity, and mistrust of the government prevail. Finally, in the MENA region, the Consortium promoted a regional knowledge-sharing network and supported local innovations through sub-grants (**Chapter 4**). This MENA-level network was an output of a holistic, interdisciplinary academy that trained local actors on transitional justice theory and practice to empower community participation in contributing to and developing transitional justice programming. The project and its lessons are novel and rely on the use of holistic, interdisciplinary methods for building the capacity of local stakeholders in a conflicted region.

In addition to the four evaluative chapters with lessons learned, the Consortium makes further recommendations in two descriptive chapters. Given the increasing use of human rights documentation in criminal prosecutions, including in the aforementioned situations, the manual describes the documentation work of civil society organizations in Cambodia, the former Yugoslavia, and Guatemala and their contributions to criminal accountability (**Chapter 5**). The three respective local civil society organizations recommend that documentation should be objective, unbiased, and institutionalized while relying on informed consent and rigorous verification procedures. Their lessons also highlight the importance of empowering victims and their families, accounting for their needs and desires, and effecting change with documentation and evidence. Finally, the manual presents a summary of a detailed needs assessment in Colombia as a case study showcasing the Consortium’s ability to uncover many local needs in a complex situation and with limited resources (**Chapter 6**). The Consortium conducted the assessment between June and August 2016 against the backdrop of peace negotiations and sought to understand the needs and expectations for the government-led transitional justice process.

The Consortium’s different projects all relied on holistic, interdisciplinary, and multidisciplinary approaches that prioritize local needs and innovations to enable locally owned, inclusive, and context-specific transitional justice processes to overcome the challenges faced by traditional measures in ending impunity. At its end, the manual ties together the different lessons as factors to consider in developing and implementing transitional justice interventions. With the caveat that there



A woman visits a photo exhibition in July 2016 in the MENA region - one of the community advocacy projects supported by the GIJTR Consortium.

are no magic solutions, this type of knowledge-sharing and learning possesses high potential for improving the fight against impunity. In particular, it contributes to a global learning community focused on ensuring that those most affected by conflict can make decisions about their futures and experience the tangible benefits of transitional justice in their daily lives.

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A body mapping workshop held in August 2017 and led by the GIJTR Consortium for 20 female survivors of violence in Sri Lanka.

# METHODOLOGY

The four evaluative chapters on South Sudan, Syria, Sri Lanka and the MENA region are based on self-evaluations of the project as conducted by the lead Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”) partner. They are qualitative assessments of the project on the whole and of individual activities, generally based on feedback from local participants and partners as well as on the Consortium partners’ internal evaluation. The evaluation uses the criteria from the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC) Evaluating Peacebuilding Activities in Settings of Conflict and Fragility guidelines. The criteria are:

- **Relevance.** This criterion evaluates the extent to which the project responded to the needs of local stakeholders.
- **Effectiveness.** This criterion evaluates the extent to which the project met or is likely to achieve its objectives and goals.
- **Impact.** This criterion evaluates the wider direct and indirect effects of the project.
- **Sustainability.** This criterion evaluates the extent to which the project benefits will last over time.
- **Efficiency.** This criterion evaluates the economical use of resources to achieve the project results.
- **Coherence.** This criterion evaluates the extent to which the project activities are consistent with those of other similarly focused projects.
- **Coordination.** This criterion evaluates the extent to which the project coexisted alongside other similarly focused projects without duplicating them.

The Consortium is hopeful that the evaluation and lessons outlined here will contribute to innovating transitional justice solutions. In this manner, the Consortium intends to improve the existing models, which were developed over two decades ago, and fill their accountability gaps in order to better redress and address the broader needs of victims today.



A school at the Protections of Civilians (POC) site of the UN Mission in South Sudan (UNMISS), located in Juba, where all ages take primary-level classes in English, science, mathematics, social studies and history. According to USAID, South Sudan has the world's highest proportion of out-of-school children.

Photo credit: UN Photo / JC Mcllwaine / August 2014

[https://www.flickr.com/photos/un\\_photo/15251145855/in/photolist-pegeXv-peqf6B-peG7oz-oxjHL2-peG7B-oXbU92-ptAiCL-q7GmWV-r4pwcG-r2c8E7-r4urR-r4uqoR-qLUt6w-qM4BBR](https://www.flickr.com/photos/un_photo/15251145855/in/photolist-pegeXv-peqf6B-peG7oz-oxjHL2-peG7B-oXbU92-ptAiCL-q7GmWV-r4pwcG-r2c8E7-r4urR-r4uqoR-qLUt6w-qM4BBR)  
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# CHAPTER 1: SOUTH SUDAN HUMAN RIGHTS DOCUMENTATION INITIATIVE

## Situation in South Sudan

On July 9, 2011, South Sudan gained independence from Sudan after a referendum in favor of secession and became the world's newest state. In December 2013, tensions between the president, Salva Kiir, and his vice president, Riek Machar, erupted into violence. The violence soon spread throughout Juba and sparked the ongoing internal armed conflict in South Sudan. Both political alliances and ethnicity have been drivers of conflict, with supporters of Kiir (who is Dinka) aligning with the Sudan People's Liberation Movement/Sudan People's Liberation Army (SPLM/SPLA) and supporters of Machar (who is Nuer) aligning with the SPLM-in-Opposition (SPLM-IO). Historically, the conflict has been politically motivated, but there has been a recent increase in ethnic targeting, which has manifested through hate speech, incitement to violence, and physical attacks—all of which have also put South Sudan at risk of genocide. All parties to the conflict have violated international human rights law and international humanitarian law and as of February 2017, over 1.5 million are refugees and another 1.8 million are internally displaced persons (IDPs), most of whom are women and children.

The parties to the conflict signed a peace agreement, the Agreement on the Resolution of the Conflict in the Republic of South Sudan, in August 2015. It requires the Transitional Government of National Unity to establish



Part of a body map drawn by a survivor of the civil war in South Sudan at a GIJTR Consortium workshop in Uganda in November 2016.

both the Commission for Truth, Reconciliation, and Healing and the Compensation and Reparation Authority. It also grants the African Union Commission primary responsibility for establishing the Hybrid Court for South Sudan. However, none of these measures have been implemented as of June 2017. Given the government's problematic backpedaling, the future of transitional justice in South Sudan is increasingly uncertain.

## Overview of the Consortium's Support to the Human Rights Documentation Initiative

Four partners of the Global Initiative for Justice, Truth and Reconciliation Consortium ("the Consortium") – the International Coalition of Sites of Conscience (ICSC), the Centre for the Study of Violence and Reconciliation (CSV), the Humanitarian Law Center (HLC), and the Public International Law & Policy Group (PILPG) – focused on increasing the capacity of South Sudanese civil society organizations (CSOs) to document human rights violations in various ways, including by establishing and supporting the Human Rights Documentation Initiative (HRDI). The HRDI was a locally led coalition of several South Sudanese CSOs that documented information about human rights violations. The HRDI also undertook complementary interventions, such as reconciliation and truth-telling activities as well as psychosocial trainings.

Due to the dynamic nature of the situation, the Consortium partners took an adaptive approach to anticipate necessary shifts in programming. Before the project began, the Consortium conducted a needs assessment with South Sudanese CSOs in order to determine how best to support their transitional justice efforts. The subsequent project was divided into three phases that aimed at increasing public awareness of and support for transitional justice. Phase I brought South Sudanese CSOs together to develop the structure of the HRDI, agree on a secure location to store collected information, and define interview procedures. At the start of Phase I, the Consortium partners consulted with several representatives from South Sudanese CSOs about existing documentation efforts, challenges to documentation, and their needs and desires regarding transitional justice.<sup>1</sup> This information helped the Consortium partners tailor workshops and trainings to better address the needs and goals of their South Sudanese partners. During Phase II, the Consortium partners built the capacity of the HRDI to document human rights violations; worked with the HRDI to implement decisions made during Phase I; trained documenters in self-care and addressing the psychosocial needs of interviewees; and assisted the HRDI in developing community truth-telling and reconciliation initiatives, such as an exchange program in Cambodia for select HRDI members. The Phase III activities supported the HRDI by training documenters to be trainers,

providing assistance to documentation efforts, addressing psychosocial needs, and facilitating discussions on using documentation to promote transitional justice and reconciliation in South Sudan.

## Evaluation of the Consortium's Support to the HRDI

An evaluation and discussion of the Consortium's project to support the HRDI is informative because it is applicable to other highly volatile, ongoing, and multi-ethnic conflicts in which there is an urgent need for locally led human rights documentation efforts. This evaluation is based on feedback from over a dozen post-training and post-interview surveys completed by HRDI members. This evaluation includes recommendations based on the successes and lessons from the project. It is important to emphasize that because the goals of this project are long-term and no transitional justice measures have been implemented yet, the project's broader impact on transitional justice in South Sudan remains unclear.

## ESTABLISHING A LOCALLY DRIVEN COALITION TO DOCUMENT HUMAN RIGHTS VIOLATIONS

The Consortium partners successfully established a locally driven project with a focus on documentation by South Sudanese documenters. One of the first decisions the HRDI made was that a Steering Committee and Secretariat would lead the Initiative and facilitate the implementation of a guiding *Human Rights Documentation Roadmap*.<sup>2</sup> The HRDI, in consultation with the Consortium partners, the U.N. Mission in the Republic of South Sudan (UNMISS), and the South Sudan Human Rights Commission, developed the Roadmap in January 2016 as a framework for harmonizing their documentation efforts and coordinating capacities and resources. Since all members of the HRDI were South Sudanese, the entire documentation process—from the initial collection of statements to their storage in a central database—was locally owned. Through the HRDI, South Sudanese CSOs increased their capacity to share resources, coordinate documentation efforts, and amplify their advocacy. This approach gained the respect of

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*"[Facilitated meetings for the HRDI have helped] build trust and confidence among ourselves, though in most cases, the problems arising are purely the issues of mistrust among South Sudanese civil society."*

— Representative of an HRDI member

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the United Nations and other international actors who are interested in linking their efforts with those of the HRDI. The HRDI also connected with key advocacy targets to discuss using their collected documentation to advance transitional justice in South Sudan.

Before the birth of the HRDI, local CSOs did not coordinate their documentation. Instead, CSOs worked independently, partly because of the considerable mistrust within the civil society landscape in South Sudan. This tension stems from competition for limited funding and concerns that the government has infiltrated and is surveilling CSOs and their activities. Therefore, to promote trust-building, the Consortium partners brought together representatives from different CSOs operating in South Sudan and the region to establish the HRDI. This began with the first Consortium-hosted Human Rights Documentation Workshop, held in May 2015.

While the May 2015 workshop, together with other Consortium-led workshops, convinced CSOs of the importance of collaborating, mistrust and tensions persisted. For instance, the creation of the Secretariat was delayed in part because many HRDI members remained reluctant to share documentation for fear that it would be leaked. Increased violence and heightened government surveillance of South Sudanese CSOs in the country and the region exacerbated such concerns. The deteriorating security situation also hindered the ability of South Sudanese CSOs to fundraise. Against this backdrop, in May 2017, a group of experienced documenters participated in a training-of-trainers program to prepare them to teach new documenters how to conduct documentation missions and enable the HRDI's sustainability.

## COORDINATING PARTNERS' EXPERTISE FOR PROJECT ACTIVITIES

The project relied on each Consortium partner's specific skills and experiences in order to provide participants with a holistic, global view of transitional justice. To ensure the efficient use of resources, the partners consistently coordinated regarding the content of the trainings and the technical assistance given to the HRDI.

The Consortium partners have considerable expertise in initiating documentation efforts; maintaining centralized and coordinated documentation databases; and feeding CSO-collected documentation into transitional justice measures, including memorialization initiatives, truth commissions, and international and hybrid courts and tribunals. The Consortium partners incorporated their varied skills and experiences into trainings, allowing them to address the HRDI's needs in an interdisciplinary manner. For example, during documentation trainings led by the PILPG and the HLC, the CSVR conducted sessions on psychosocial care methods to use during documentation missions.



Members of the South Sudan Human Rights Documentation Initiative visited Youth For Peace, a Site of Conscience in Cambodia, on a GIJTR Consortium-organized exchange in 2016.

Furthermore, the Consortium partners actively coordinated and sought feedback from each other on their proposed activities and implementation plans, which enhanced the coherence and relevance of the project. For instance, the PILPG drew on its experience in providing technical support on establishing databases in Iraq and Syria while the HLC used its experience in creating and maintaining a database in the former Yugoslavia to help the HRDI regarding its centralized documentation database.

## BUILDING LOCAL DOCUMENTERS' CAPACITY TO INTERVIEW VICTIMS AND WITNESSES

The Consortium partners built the documentation capacity of the HRDI by leading intensive trainings and simulations on interviewing victims and witnesses, completing the standardized interview tool, and assessing psychosocial needs. The Consortium partners, assisted by the PILPG's local staff, drew from both global and regional experiences to develop a training curriculum relevant to documenters. The HRDI already had the necessary contacts within the target communities, and the Consortium's trainings gave them the tools to effectively document human rights violations.

The Consortium-trained documenters credited the trainings and simulations with improving their skills in interviewing victims, witnesses, and others whose stories should be recorded. They expressed significant growth in their ability to conduct narrative interviews with victims of a wide range of human rights violations, including mass and targeted killings, sexual and gender-based violence, disappearances, and property destruction.





A survivor of the Khmer Rouge discusses his experiences with members of the South Sudan Human Rights Documentation Initiative in Cambodia in 2016.

The Consortium partners evaluated and gave feedback on documenters' progress after the simulations, and documenters found the experiential learning approach to be extremely helpful preparation for fieldwork.

After a Consortium-led training, the documenters conducted their pilot missions in several locations in South Sudan in June 2016. During several days in each location, the Consortium-trained documenters collected hundreds of statements in narrative form, which had never been done before by local CSOs; surveys had been used instead. The HRDI used an interview tool that permitted semi-structured interviews, enabling narrative freedom while ensuring consistency in the kinds of information gathered, such as the types of violations, locations of violations, and descriptions of perpetrators involved. This allowed documenters to easily standardize information in the HRDI database and analyze large amounts of information. The methodology also required the HRDI documenters to obtain informed consent and conduct interviews in an objective manner. Consistency and standardization will assist with feeding documentation into both judicial and non-judicial transitional mechanisms.

The success of South Sudanese documenters in gathering narratives during the documentation missions—especially in contrast to the difficulties faced by international documenters—demonstrates the necessity of training and supporting local documenters who have the trust of communities and are not viewed as outsiders. To determine how to improve upon trainings, the PILPG assessed the information collected during the pilot missions and provided individualized feedback to documenters. Through the review process, the Consortium partners also identified exceptional documenters to prioritize giving their support to, in light of limited financial resources. After the pilot missions, additional documentation missions were conducted in South Sudan and the region.

Importantly, the Consortium partners encouraged gender parity in documentation missions. Since many victims and witnesses are women

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*“When one is trained on documentation and doesn’t have the necessary skill[s] on counseling, there is going to be danger in [the] sense of either the interviewer breaking down because of the level of the PTSD (post-traumatic stress disorder) of the interviewee or because the interviewee feels that the memories are still fresh [in their mind] and doesn’t want to talk about it.”*

— Representative of an HRDI member

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and girls, gender parity enabled the documentation teams to more effectively document their harms suffered, including rape and other forms of gender-based violence. Participants in the pilot missions reported that many victims of sexual and gender-based violence only felt comfortable sharing their experiences with female documenters.

### TRAINING LOCAL DOCUMENTERS TO MANAGE TRAUMA AND PSYCHOSOCIAL NEEDS

Many South Sudanese documenters were at high risk of re-traumatization because they are also trauma victims who work in environments surrounded by evidence of human rights violations. Thus, to minimize re-traumatization among documenters and interviewees, there was a strong need to improve documenters' understanding of self-care and sensitivity to victims. To address this, the CSVR instructed documenters on self-care, making referrals, listening skills, and containing their emotional reactions to others' trauma. Given the documenters' own trauma, they were especially receptive to learning techniques to manage their own post-interview trauma.

During the project, the Consortium strove to emphasize a comprehensive approach that addresses trauma and healing at the personal, community, and national levels. As part of this, the Consortium partners' trainings taught documenters the importance of explaining to victims that sharing personal experiences may be cathartic, which in turn helped them gain victims' trust. For example, before documenters approached individuals in one location, religious leaders had extolled the need for personal and national healing and explained how documentation serves these ends. After hearing such sermons, victims and witnesses approached documenters more willingly to tell their stories; prior to the sermon they were unwilling to do so.

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*“The training has really improved my ability to understand ... security measures when conducting the documentation process in the most volatile and diverse communities in South Sudan. It has not only made the process of human rights documentation more [sic] easier, but it has lessened the security threats that would have emanated if not for the training.”*

— Representative of an HRDI member

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The Global Initiative for Justice, Truth and Reconciliation led a week-long training for twelve survivors of the civil war in South Sudan on “body mapping” – a technique in which one relates accounts of trauma experienced through a life-sized drawing of her or his body. The workshop took place in Uganda in November 2016.



## ADDRESSING SECURITY CONCERNS FOR LOCAL DOCUMENTERS AND STORING COLLECTED NARRATIVES

Due to widespread violence and government surveillance, it was incredibly unsafe for local documenters in South Sudan to physically carry or store statements and other evidence. Because of surveillance, raids, and border searches by the government as well as the continued presence of all parties to the conflict in the area, the documenters preferred digital to physical storage. Therefore, the Consortium partners provided documenters with secure interim digital storage until the HRDI documentation database was finalized. The Consortium partners also trained the HRDI on both physical and digital security.

Additionally, the Consortium partners coordinated their different areas of expertise to help establish the centralized documentation database and train documenters on using it. The PILPG worked with the HRDI to select and customize a free and open source database where the HRDI could securely store its human rights documentation. The Consortium identified and recruited another international non-governmental organization to assist in designing the database to accommodate the HRDI's needs and methodology.

After finalizing the database in April 2017, each CSO uploaded its collected information to the centralized database. Because of concerns about sharing documentation in an insecure, mistrusting environment, each CSO could only access their respective documentation and could not view the documentation of other CSOs. While the database was being finalized, CSOs stored their collected documentation in a different secure online location.

Notably, the HRDI database also allowed the HRDI to run an analysis of collected narratives. This analysis function could be used to create maps detailing locations of human rights violations and to quickly compile information about specific events, types of violations, and specific perpetrators.

## COLLECTING AND MEMORIALIZING ORAL HISTORIES AS A MEANS OF RECONCILIATION

In addition to wanting the documentation to support criminal accountability processes, the HRDI valued non-judicial forms of justice in order to facilitate individual and communal healing. Accordingly, the Consortium partners trained documenters to collect oral histories, which are life stories that are often broader than evidence of human rights violations. The memorialization of stories preserves history and can provide a form of justice to those whose cases are not, for a variety of reasons, criminally prosecuted. Such a holistic approach is necessary to account for the inability of courts to redress all victims in the aftermath of atrocity crimes. Memorialization initiatives

may also foster community reconciliation by establishing a forum through which all elements of society can share their stories.

Moreover, the Consortium's methodology for collecting oral histories involved investigating the history and culture while engaging the community with a view to reducing intergroup tensions. The Consortium partners highlighted how this approach could bring communities together during the HRDI exchange program in Cambodia, where CSOs gave their examples of integrating pre-conflict and genocide histories into memorialization and education initiatives. Cambodian CSOs also shared best practices for gathering and storing oral histories, developing archives and public programs that use collected documentation, and doing community outreach in remote areas. Since oral histories are an important conduit of collective memory for South Sudanese people, they can be used to raise awareness of conflict-related grievances and issues.

The ICSC hosted a body mapping workshop in the region as another way of memorializing histories. These workshops, together with the CSVR's "river of life" exercise, illustrated the outbreaks of violence in Sudan (including the territory that is now South Sudan) that occurred roughly every decade since Sudan's independence in 1956.<sup>3</sup> Participants understood body mapping to be a valuable,



Paper files sit on shelves waiting to be digitized at the National Police Archives in Guatemala City in October 2016.

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*“The training has shown me that, despite the ongoing conflict in South Sudan, a concerted effort can still avert this situation—and the process must be a gradual one to deter future atrocities—and that non-state actors have a greater role to play to find justice [for] the victims of human rights abuses.”*

— Representative of an HRDI member

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non-traditional tool for healing and advocacy. For example, displaying body maps could prompt dialogue among the community and connect the body map depictions to collective narratives that may be absent from official accounts of the conflict, providing a measure of satisfaction and victim recognition. Because of ongoing violence and insecurity in South Sudan, plans to display the body maps for the purpose of generating conversations around issues of peace, justice, and reconciliation were delayed.

### PROMOTING INCLUSIVE, MULTI-PERSPECTIVE NARRATIVES OF CONFLICT

Through a March 2016 needs assessment of memorialization work with South Sudanese victims, witnesses, and civil society members, the Consortium partners learned that the line between victim and perpetrator is blurred in South Sudan because perpetrators themselves often are or become victims. Since non-judicial processes, including education and reconciliation initiatives, benefit from narratives from perpetrators, particularly those who had also been victimized, gathering their stories contributes to a more complete transitional justice.

During the exchange program in Cambodia, individuals from several HRDI members met with Cambodian CSOs that recorded narratives from low-level perpetrators to ensure a more thorough history of the conflict. Participants learned about the significance of collecting perpetrator narratives, including as a means of better understanding the underlying drivers of conflict; for example, individuals' motivations for perpetrating violations. This contributed to the HRDI's focus on inclusively collecting narratives from victims, witnesses, and perpetrators (many of whom claimed to be victims themselves) as part of building a comprehensive account that recognizes different—even opposing—memories and narratives. However, getting perpetrators to speak to documenters was very challenging since both the form of future transitional justice and how it will handle perpetrators remain unclear and undetermined. For instance, perpetrators may be wary of making statements that could be used against them by transitional justice mechanisms. Consequently, the narratives collected did not include confessions by low-level perpetrators, but the HRDI did gather narratives from perpetrators who identified as victims or witnesses of human rights violations.

### DEVELOPING AN ARCHIVE AND COMMUNITY CENTER

The Consortium partners assisted the HRDI in developing a coherent and coordinated vision for a locally led archive and community center in South Sudan through various activities, such as the exchange program in Cambodia. Previous project activities, including the body mapping workshop, will form the basis of the eventual archive and community center. During

the March 2016 needs assessment of memorialization work, locals indicated that they want a center to address needs for victim recognition, truth-telling, community healing, and reconciliation.

The exchange program in Cambodia demonstrated how CSOs from around the world had promoted effective collaborations in their transitional justice work. Participants heard from a founding member of the Liberation War Museum, a Bangladeshi CSO, which shared its experience in harnessing memory to build community engagement and alliances. They also heard from Kdei Karuna, a Cambodian CSO, about conducting cross-border dialogues as acknowledgement of shared experiences of suffering. The knowledge about these different experiences helped the HRDI conceptualize the direction of a center in South Sudan. Furthermore, strong relationships among South Sudanese CSOs and a global network of civil society actors could provide resources to sustain local ownership of South Sudanese interventions.

### RAISING AWARENESS OF THE DIFFERENT USES FOR DOCUMENTATION

The Consortium partners' trainings and workshops were effective educational tools for increasing local CSOs' potential for educating the public about documentation and its relationship to transitional justice, including beyond criminal accountability. For example, participants shared that the trainings and workshops greatly improved their understanding of the connection of documentation to advocacy.

The exchange program in Cambodia was particularly relevant because it connected the select HRDI members with CSOs like Youth for Peace, a Cambodian organization, which disseminated resources to give South Sudanese CSOs ideas for identifying their memorialization priorities.<sup>4</sup>

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# LESSONS LEARNED AND RECOMMENDATIONS

**Trainers should work with a small, core group of committed documenters.** The Consortium partners found that committed, handpicked documenters were the most effective. In fact, certain Consortium-trained documenters were individually able to collect more—and better quality—narratives than less experienced CSOs. Relying on a small group of documenters was also advantageous from a security perspective since convening groups was risky. Therefore, in highly censored, restrictive situations like South Sudan, it could be both safer and more efficient to use a small group than to coordinate a large-scale documentation initiative.

**Trainers should conduct training-of-trainers programs to efficiently expand and sustain documentation efforts.** To increase the number of South Sudanese people who are able to document narratives, the Consortium partners conducted a training-of-trainers workshop with experienced, committed documenters to prepare them to train new interviewers. The Consortium partners chose the new local trainers based on their trusted, two-year relationship and significant experience in conducting interviews using the HRDI methodology. Instructing a small group of highly qualified local documenters on how to conduct trainings enables trainings to be held more often, as opposed to relying on outside trainers who may have limited access to the country. This in turn could rapidly increase the number of qualified documenters and broaden documentation efforts.

**Documentation trainings should include both self-trauma and trauma management.** Many South Sudanese people, including the Consortium-trained documenters, are trauma victims who experienced or witnessed grave human rights violations. The trainings improved documenters' knowledge of trauma and healing while also teaching them self-care techniques. Since understanding trauma and self-care is an important part of victim-centric transitional justice, documenters should be trained on managing the psychosocial needs of both themselves and their interviewees.

**Trainers should collaborate to efficiently provide interdisciplinary trainings.** Each Consortium partner brought their own specific skills and experiences to the trainings, providing participants with a holistic, global view of transitional justice. The South Sudanese participants benefited from interdisciplinary trainings on initiating documentation efforts, maintaining a database, and feeding CSO-collected documentation into transitional justice efforts. Trainers with different areas of expertise should collaborate and coordinate to ensure the efficiency and coherence of trainings.

**Documentation efforts during ongoing conflicts should be adaptable.** Projects undertaken during an ongoing conflict must be able to respond to evolving dynamics on the ground. For example, when violence began escalating in South Sudan in July 2016, planned documentation missions in South Sudan were delayed. The Consortium partners responded by proposing to send documentation missions outside South Sudan to areas with South Sudanese populations, which enabled the project to maintain momentum. Documentation efforts should anticipate challenges and be able and willing to shift their programming in response to the situation while accounting for local needs. This also requires funders to be flexible and responsive to the needs of and challenges faced by documenters.

**Documentation efforts should use a standardized methodology to establish their objectivity and professionalized approach.** The Consortium partners and the HRDI used a standardized interview tool and rigorous methodology to demonstrate the professionalized and objective nature of the HRDI's work with a view to supporting various transitional justice measures and processes. For example, the HRDI hopes that its documentation will be used as leads in criminal accountability processes as well as in truth, memorialization, and reconciliation initiatives. Taking a consistent approach, such as by using a standardized interview tool and methodology, enables documenters to standardize information in databases, better analyze large amounts of information, and feed the documentation into a wide range of measures and processes.

**Documentation trainings should include digital security.** Before participating in the Consortium-led trainings, the documenters did not possess knowledge of digital security. The trainings taught the documenters why certain digital habits, such as using weak passwords or storing sensitive information on mobile phones, were risky and recommended best practices to mitigate such risks. At the outset, documentation trainings should educate documenters on techniques to assess and mitigate digital security risks in addition to physical threats. This is especially important when training individuals who are not technologically savvy.

**Non-traditional documentation, such as oral histories and body maps, should be used to memorialize victims and foster reconciliation.** In accordance with their holistic approach to transitional justice, the Consortium partners trained documenters to gather oral histories and held body mapping workshops in order to collect broader narratives of conflict. As memorialization initiatives, oral histories and body maps should be used to recognize victims and promote reconciliation. Given the inability of formal transitional justice measures to redress all victims, documentation efforts should include non-traditional documentation with a view to also providing non-traditional forms of justice. In countries where formal mechanisms have yet to be established, such as South Sudan, all forms of documentation should be used to gather evidence and narratives in order to support government-led processes and broader transitional justice goals.

**Documenters should establish protocols for information-sharing.** To increase the impact of documentation, documenters should share their collected interview narratives and key findings with other local CSOs as well as international and regional organizations. Therefore, at the outset, the HRDI members agreed on principles to guide information-sharing protocols, which were reflected in the Steering Committee's policies. This was particularly important in South Sudan because of mistrust within civil society and the accompanying security concerns. Establishing such protocols would help alleviate mistrust and provide transparency, which is particularly important when locals are reluctant to share information because of security concerns.

**Documenters should learn and grow from civil society experiences around the world.** During the knowledge-exchange program in Cambodia and the Consortium-led trainings, locally driven CSOs from around the world shared good practices on documentation and its use as the basis of archives, community centers, and other education initiatives. Knowledge exchanges could be particularly beneficial in situations with a young, uncoordinated civil society, as global networking could provide resources to help sustain local ownership of documentation efforts.

**Authored by Tiffany Sommadossi and Bridget Rutherford with contributions from Sara Bradshaw and Anna Moyo-Kupeta on behalf of the Public International Law & Policy Group (PILPG).**

- <sup>1</sup> The HRDI hopes its documentation will feed into the transitional justice mechanisms required by the 2015 peace agreement.
- <sup>2</sup> The Secretariat was mandated to ensure that human rights violations are documented. The Steering Committee provided high-level oversight of the HRDI's goals and implementation of the Roadmap and also managed the Secretariat's work.
- <sup>3</sup> Body maps are life-size representations of a human body on which victims write and draw their experiences of trauma and conflict. This provides a safe way for victims to explore and express their histories to each other and the broader public. Victims are also encouraged to represent their imagined futures on their body maps. The "river of life" is another visual way of discussing personal histories.
- <sup>4</sup> For instance, participants of the exchange received a booklet from Youth for Peace called *Initiating a Way to Address Legacy of Memory in Cambodia*. This details the community consultations process that helped transform a former Khmer Rouge killing site into a locally owned peace-learning center. They also received transcripts and DVDs from the Documentation Center of Cambodia (DC-Cam) with examples of oral histories of both perpetrators and victims.



The current armed conflict in Syria has left over 12 million – half of the country's pre-war population – displaced.

Photo credit: UNHCR / S. Rich / April 2013

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## CHAPTER 2: SYRIAN SURVIVORS OF HUMAN RIGHTS VIOLATIONS FUND ASSESSMENT

### Situation in Syria

The armed conflict in Syria, which followed the 2011 Arab Spring uprisings against rulers in Tunisia and Egypt, began with Syrian protests against their authoritarian regime. In March 2011, fifteen boys were detained and tortured for their graffiti in support of the Arab Spring. Protests continued and, in response, President Bashar al-Assad and his supporters violently cracked down on dissent by killing hundreds of demonstrators and imprisoning many more. In July 2011, military defectors formed the Free Syrian Army, an armed group aiming to overthrow the government, and the intensity of violence started to reach armed conflict levels. In addition to the formation of state alliances in support of or against the Assad government since the Free Syrian Army emerged in 2011, many new rebel groups have joined the fighting in Syria. The armed groups have competed for power, often violently, and their fighting has occasionally spilled into Lebanon, exacerbating its political polarization.

All parties to the conflict have continued to commit grave human rights violations, including allegations of atrocity crimes, and civilians bear the brunt of the suffering. The U.N.-established Independent International Commission of Inquiry on the Syrian Arab Republic, which has a renewed and ongoing mandate, has highlighted the range of human rights violations, including extrajudicial killings, enforced disappearances, arbitrary detentions, torture, and sexual and gender-based violence (SGBV). The government of Syria has perpetrated the overwhelming majority of violations.

In July 2017, the Syrian Observatory for Human Rights, a human rights documentation non-governmental organization (NGO), reported that at least 330,000–475,000 Syrian civilians and combatants have been killed in the armed conflict. Of the total casualties, nearly 100,000 were

civilians, including at least 18,000 children and 11,000 women. This 100,000 includes nearly 15,000 civilian deaths in government detention centers, including 118 children and 57 women. Another 45,000 detainees were tortured to death.<sup>1</sup> Over 1 million more have been injured and over 12 million—half of the country’s pre-war population—have been displaced. While it is well-known that torture and sexual violence have occurred on a massive scale, it is difficult to provide statistics on these crimes beyond noting that the figures are upwards of tens of thousands. These facts and figures indicate the urgent need for psychosocial and physical rehabilitative support for victims and survivors, particularly former detainees and their families. However, the international community has little knowledge of the specific psychosocial needs of Syrian victims and survivors, either in Syria or in refugee host countries.

The Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”) believes that Syrians would greatly benefit from comprehensive assessments and consultations, which would determine harms suffered and Syrians’ visions for accountability mechanisms. This type of participatory approach would be greatly relevant since Syrian inputs would then form the foundation of transitional justice, contributing to genuine local ownership of transitional justice measures. The process would also develop credibility and legitimacy as well as re-establish the rule of law.

## Overview of the Syrian Survivors of Human Rights Violations Fund Assessment

To identify the needs of Syrian victims and survivors, the Consortium launched a six-month assessment. The Consortium partners were the International Coalition of Sites of Conscience (ICSC), the Centre for the Study of Violence and Reconciliation (CSV), and the Public International Law & Policy Group (PILPG). The Consortium partners collaborated with three local partners: Syria Justice & Accountability Centre (SJAC), Syrian Center for Statistics and Research (SCSR), and Syria Bright Future (SBF).<sup>2</sup> The project consisted of interviews, predominantly with Syrian-led organizations, in order to explore mental health and psychosocial support (MHPSS), medical, legal, and human rights documentation services available to Syrian victims and survivors who fled to Turkey, Jordan, and Lebanon as well as those who remained in Syria. The assessment sought to map Syrian civil society organizations (CSOs) and their capacities; identify opportunities to improve available services and referral practices among different service providers, such as between MHPSS providers and human rights documentation organizations; and understand the specific needs of detainees, former detainees, and their families.

An output of this project could be the establishment of a fund for Syrian victims and survivors of human rights violations, potentially supported by the U.S. government and other bilateral partners. Such a fund could enable both the international community and local service providers to immediately provide critical services to victims and survivors, including human rights defenders, current and former detainees, and detainees’ families. The creation and seeding of this proposed fund during active conflict would be groundbreaking, and the fund could aim to achieve three primary objectives. First, the fund could provide urgent MHPSS and rehabilitative support to current and former detainees; other victims and survivors; and, in certain cases, their families.<sup>3</sup> Second, the fund could expand efforts to systematically record violations by developing a referral network among service providers that would allow victims and survivors to readily share their stories with documenters. Third, the fund could lay the foundation for a reparations process to acknowledge the suffering of and human rights violations against Syrians, particularly current and former detainees and their families.

Based on desk research and inputs from the local partners, the team compiled a comprehensive list of MHPSS, medical, legal, and human rights documentation service providers to interview. The project comprised different methodologies, including desk research, contextual interviews, key informant interviews, focus groups, and site visits. The team developed an interview guide, taking into account previous MHPSS assessments with Syrians and international guidelines on MHPSS.<sup>4</sup> In order to ensure the assessment’s relevance to Syria, the team conducted six contextual interviews with the local partners and other experts on the conflict before launching the needs assessment.

During the assessment, the team conducted fifty-two interviews with representatives from forty-six organizations via Skype and in-person in Turkey (Istanbul, Gaziantep, and Hatay Province) and Jordan (Amman) from November to December 2015. Most interviews were in-person, but ten were via Skype, including those with interviewees in Lebanon. Four focus groups were held in Turkey (one with former male detainees and one with former female detainees, and two with former members of the Syrian judiciary who have been involved in human rights documentation and the provision of legal services since the conflict began). The team also made site visits in Gaziantep, Hatay Province, and Amman, which were the locations with the majority of Syrian refugees. The team evaluated the infrastructure and operations of twenty-five organizations to determine which services were available to Syrians and how they were being provided. In January and February 2016, the team conducted more interviews with former detainees based in Turkey and the United States to strengthen the assessment’s focus on detainees’ needs. The draft



findings and recommendations were validated with needs assessment participants during follow-up interviews with predetermined individuals who were selected for their ability to clarify issues and give feedback.

## Evaluation of the Syrian Survivors of Human Rights Violations Fund Assessment

The Syrian Survivors of Human Rights Violations Fund Assessment is an interesting case study because it provides the unique opportunity to evaluate a needs assessment conducted in collaboration with local CSOs regarding a situation of ongoing, high-intensity conflict. In particular, it is valuable because of the interdisciplinary, multidisciplinary, and collaborative approach used by the Consortium and local partners as well as the project's innovative objective to connect MHPSS, medical, legal, and human rights documentation services. This chapter evaluates the project and its potential contributions to redressing victims and survivors of the armed conflict in Syria. Based on this evaluation, the Consortium makes recommendations on conducting needs assessments to inform future interventions in both Syria and other conflict-affected situations.

### ESTABLISHING AN INTERDISCIPLINARY, MULTIDISCIPLINARY, AND GENDER-SENSITIVE TEAM

The in-country team consisted of three CSVR staff members (a social worker, a social scientist, and a human rights lawyer), two PILPG staff members (both human rights lawyers), and two staff members from the SBF (a medical doctor and a psychologist). By bringing together different professional backgrounds, such as health and law, the project utilized an interdisciplinary, multidisciplinary approach. Despite their different professional backgrounds and affiliations, the team

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*“Working with lawyers in a multidisciplinary team gave me insight [into] how the documentation of human rights violations works [on] a practical level.... It made me see the differences in our approaches to interviewing torture survivors [and] what kind of information was necessary to ‘build a case,’ [as] compared to my very process-oriented approach.”*

— Female assessment team member with psychosocial expertise

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A banner in Jarabulus, northern Aleppo, calling for peace and the preservation of the city's facilities in November 2016.

Photo credit: Enab Baladi

recognized the importance of having a coherent project. As such, the team members coordinated their different areas of expertise and learned from each other's disciplines and perspectives in order to effectively implement the project. The team gained invaluable lessons from information-sharing and at the end of the assessment, they emphasized that individual team members should not make exclusive claims to specialist knowledge and authority. Instead, openness with expertise enabled the team to take a holistic approach to implementing the assessment in an effective, time- and resource-efficient manner.

Furthermore, five of the six team members were women; the medical doctor from the SBF was a man. Although professional expertise, not gender, was the primary consideration in the selection of members, the team appreciated the need to consider the gender dynamics of the Syrian context. The SBF briefed the team on gender-sensitive etiquette, particularly when speaking with men who were very religious and traditional. For example, the women wore headscarves when speaking with men. Meanwhile, the male team member was sensitive to the needs of female interviewees and would excuse himself to improve their comfort during interviews. This gender-sensitive approach facilitated the effectiveness of the assessment since the team was able to put both male and female interviewees at enough ease to discuss gender-based harms and needs.

## COLLABORATING TO ENGAGE LOCAL EXPERTISE AND PROMOTE SUSTAINABILITY

In keeping with the Consortium's emphasis on local partnerships and ownership, the Consortium partners engaged three local partners with a view to supporting their work in a formalized manner. Their in-country contributions were instrumental to the success of the project, especially given the serious security challenges and the team's limited budget, small size, and lack of connection to Syrian organizations in either Syria or the neighboring refugee host countries. To understand their work and gain their inputs on various aspects of the project, the team had individual meetings with each local partner. During the meetings, the Consortium partners discussed the needs and challenges faced by Syrian civil society as well as local capacity and intervention strategies. This helped validate the expertise of the local partners and ensure that their voices were heard—an essential element of relevant and sustainable interventions. The meeting also built a trust-based institutional relationship between the Consortium partners and the local partners, which was important since it was the local partners' first interaction with the Consortium.

Each local partner nominated a senior staff member to act as an advisory and technical expert on Syria throughout the project. These experts participated in biweekly meetings during the planning phase and greatly helped define the scope of the assessment. The Consortium partners incorporated their views into the team's approach, enabling a productive collaboration from the design phase. The engagement of the local partners also ensured that they invested their expertise in reaching the Consortium's target organizations, which likely increased the impact of the assessment's outcomes. In conceptualizing implementation strategies, the local partners' inputs were prioritized because of their contextual knowledge, including of potential needs. The project's planning stages were accordingly efficient due to the coordination of the Consortium's need for on-the-ground support and the local partners' contextual expertise.

## PARTNERING WITH LOCAL ORGANIZATIONS TO ASSESS NEEDS

The local partners possessed an in-depth comprehension of the context since many of them are victims and survivors of the armed conflict in Syria. Their extensive knowledge of the situation and access to immediate, current, and reliable information made them invaluable contextual experts. Moreover, their ability to navigate both the active conflict and high-security environments outside Syria gave the team access to communities, victims, and survivors who would have been otherwise difficult to contact and interview. The local partners' ability to support Consortium partners was imperative to the project's success



In 2014, Syrian members of the International Coalition of Sites of Conscience – Enab Baladi and The Damascus Center for Human Rights Studies – collected oral histories from Syrian refugees and displaced individuals in order to ensure that a range of civilian narratives from the Syrian conflict are represented accurately and incorporated into memorialization processes. In 2015, the ICSC worked with Nepali-American artist Anuj Shrestha to illustrate and provide even greater breadth to these personal accounts.

and demonstrated the importance of closely collaborating with local partners to improve the effectiveness and impact of assessments. For example, the SBF directly provided logistical support in Turkey and Jordan; while the team requested interviews in advance, the SBF followed up daily to confirm interviews, arranged for interpreters, and had the necessary documents translated into Arabic. Additionally, a senior staff member from the SBF based in Gaziantep accompanied the team every day to ensure that the team conducted all the interviews they had secured in Turkey. Because this SBF staff member was unable to travel from Turkey to Jordan, he arranged for the SBF office in Jordan to provide similar support by supplying two staff members who joined the assessment team upon their arrival in Amman.

Having local partners improved the team's ability to effectively undertake the needs assessment, despite security concerns. For instance, the team was conscious of security issues, specifically in Gaziantep and Hatay Province due to an increase in violent extremist attacks and bombings on the Syrian border. Consequently, the project donors advised the team to hire full-time security in both Turkey and Jordan. However, the local partners recommended against hiring security guards in favor of "blending in" with local communities and provided guidelines and strategies to mitigate security risks. Based on their input and the desire to gain their trust, the team decided not to hire security; instead, the team coordinated with the local partners to conduct risk assessments and adhered to their guidance. The team believes that the supervision and presence of local organizations allowed the safe completion of the assessment.

## MANAGING LOCAL PARTNERS' EXPECTATIONS AND INVOLVEMENT

The team was very clear about their role as researchers and thus had to see themselves as short-term consultants who could not make any guarantees beyond the needs assessment. This was a crucial, difficult realization for the team members, as they were practitioners who wanted to automatically address the interviewees' additional concerns. The representatives of the Consortium partners were further worried that their inability to provide support outside the assessment would affect their collaboration with the local partners. They were also keenly aware of the need to accurately manage expectations without making false promises, which other organizations had made before. In spite of the difficulties in navigating the competing roles of researcher and practitioner, the team members managed to stay focused as researchers. At the end of sessions, however, they allowed themselves to act more like practitioners by suggesting contacts and information in order to help interviewees move forward on their issues of concern. Fortunately, the local partners understood the team's mandate and were interested in devising ways to sustain interventions in order to address the needs identified in the assessment in the absence of international involvement and with minimal funding. For instance, they were also able to use the needs assessment report to inform their post-project activities and adjust existing programs for women, children, and other victims and survivors of torture either inside or outside Syria. The local partners further recognized that MHPSS must be tailored to the specific needs of particular groups and must include more than just play therapy for children or group therapy sessions.



The Centre for the Study of Violence and Reconciliation and Syria Bright Future Amman team.  
Photo credit: The Centre for the Study of Violence and Reconciliation

## ADDRESSING THE MEDICAL AND PSYCHOSOCIAL NEEDS OF VICTIMS AND SURVIVORS

Interviewees who participated in the needs assessment noted that prevalent stigma prevented or delayed people from seeking MHPSS services.

The literature and other interviewees noted that MHPSS services, including psychotherapy, were not well-developed even in pre-war Syria; psychiatry, for instance, had largely focused on mental health disability and the use of medicalized approaches and psychotropic interventions.<sup>5</sup> As another example, psychologists in Syria graduate without any practical, clinical training, which makes it difficult for them to get licensed in countries that require such experience.

Almost all interviewees expressed that focused, specialized psychosocial interventions were a priority area. In spite of this need, the availability of such initiatives is extremely limited. The assessment identified only two organizations in Turkey (one Syrian-led and one international) and four organizations in Jordan (two Jordanian and two international) as providers of specialized services to victims and survivors of armed conflict. Furthermore, many mental health professionals lack the appropriate training to address the needs of conflict-affected persons, especially victims and survivors of torture and SGBV. To the great disappointment of interviewees, international organizations have not filled these or other gaps in MHPSS programming. On the contrary, interviewees shared examples of how the short-term goals of these organizations did not build individual or community resilience and how funding or organizational shifts dictated programming, often at the expense of victims and survivors.

Unexpectedly, the needs assessment findings informed and impacted a request for funding proposals to support Syrian victims and survivors of torture and other grave human rights violations that was posted by the U.S. Department of State's Bureau of Democracy, Human Rights, and Labor (DRL) in March 2016. The DRL request illustrated one immediate result of the needs assessment, which had highlighted and built on the growing momentum around the need to support victims and survivors of torture.

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*“We require the international NGOs and donors to support us [in] supporting the most vulnerable in the besieged areas, [but] they [are] not doing it. Political barriers cannot be the reason we cannot give services.”*

— Syrian male NGO worker

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## IDENTIFYING GENDERED NEEDS TO FILL GAPS IN SERVICE PROVISION

Women’s organizations underscored the necessity of long-term, specialized training for medical professionals on the clinical management of SGBV as well as of long-term medical treatment and rehabilitation for victims and survivors of SGBV. For example, getting reconstructive surgery is very difficult and, when it has happened, it was only possible because of the resourcefulness and perseverance of a women’s organization in advocating for the survivor. By speaking with women’s organizations, the needs assessment gathered information on the specific needs of women and girls, who often experience war differently than men and boys. The assessment was effective in highlighting the gendered medical challenges and needs, which would be useful for a reparations process. Given the pervasive use of SGBV, including in detention centers, the team’s decision to target women’s organizations was highly relevant to many Syrian women. Consequently, the Consortium believes any outputs of the assessment, such as a fund for victims and survivors, will have a greater impact on women.

Regarding the MHPSS needs of men, only a few interviewees explicitly expressed the desire for focused programming for men. Instead, the interviews with men only highlighted the stressors they faced, including emasculation through their loss of traditional gender roles and the persistence of the belief that men who endure torture, especially without complaint or assistance, are martyrs and heroes. These factors further restrict the ability of men to even admit to having mental health issues or physical struggles. While the team broached the issue of sexual violence, male interviewees would not speak about their own experiences and instead only described witnessing such acts against women. The assessment’s identification of the gendered experiences of men will help service providers create and implement programming that responds to their stressors and related needs.

## DEVELOPING A REFERRAL NETWORK AMONG SERVICE PROVIDERS AND HUMAN RIGHTS DOCUMENTERS

The project aimed to lay the foundation for a potential referral framework since coordination among providers is a huge obstacle to efficient service delivery. Turkey’s service provision is particularly uncoordinated. For instance, while Jordan has a functioning U.N. Cluster system in operation, including an MHPSS Working Group, there is no formal coordination mechanism in Turkey. The assessment found that organizations in Turkey have rarely coordinated with each other and often do not have formalized referral procedures. Since many providers



A child surrounded by gravestones in a cemetery in Damascus in September 2015.

Photo credit: Enab Baladi

were only just beginning to understand each other’s activities, the project partners thought it would be premature to recommend a framework. Instead, the team made basic suggestions, such as the need to define clear roles and responsibilities of all collaborating institutions and to develop a code of conduct for staff members of all institutions in the network. The assessment team also suggested a range of potential types of organizations to include within the referral matrix to ensure that detainees’ needs are met while enhancing both documentation efforts and guiding principles for referral procedures between organizations.

More generally, the needs assessment found gaps in coordination among Syrian organizations; between Syrian and international organizations; and among international organizations. The assessment found that Syrian organizations do not regularly communicate

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*“The stigma attached to men seeking psychosocial support is that they are either weak or crazy. We suggested to international NGOs to stop using the word ‘psychosocial’ or rather to remove the ‘psycho’ [part] from the word ... but we were told ... we must use the proper terms. We have good suggestions, but we are deemed to be non-experts and not listened to.”*

— Syrian male NGO worker

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their scope of work, activities, or plans with each other and that they lack knowledge about programming outside their particular field. Furthermore, Syrian organizations rarely have access to formal spaces in which to create programs or have direct access to donors. Troublingly, international organizations have established programs that directly compete with existing Syrian ones instead of filling gaps or supporting local initiatives. Additionally, international organizations have not coordinated efforts among themselves or with local organizations, especially within specific sectors. For example, the international humanitarian and food security sectors have not coordinated with local organizations that are in contact with the isolated, besieged communities, which has led to extraneous services in the more easily accessible urban areas. MHPSS programs in the worst-affected areas have suffered as a result. Identifying the gaps and challenges was an important contribution of the needs assessment because it helped the team better grasp the services landscape and construct solutions relevant to the affected population.

The Consortium believes that the referral network could contribute to the efficient use of resources by enabling organizations to quickly contact each other for expert support. The network should also improve the coordination and coherence of service delivery and human rights documentation in Syria.

### ALLOCATING SUFFICIENT TIME AND FUNDING

Given the number of project partners and the nature of the project as a pilot needs assessment, funding was limited. The project relied on multiple partners in order to successfully meet its objectives, which required interdisciplinary expertise related to human rights documentation and psychosocial support as well as in-depth contextual knowledge. To the local partners, who brought significant contextual expertise, the budget provided funding in the form of a consultancy fee. However, more funding is needed in order to enable the local partners to sustain post-assessment interventions to close gaps identified in the needs assessment.

Working in active conflict areas and with refugee communities in different countries necessitated additional time for traveling. The team did not have sufficient time in Jordan and was thus unable to speak to Syrians outside Amman, such as those in Zaatari refugee camp, which was hosting over 80,000 refugees at the time of the assessment. Since the project partners knew that the in-person assessment findings only unpacked the experiences of Syrians in Istanbul, Gaziantep, and Hatay Province in Turkey and Amman in Jordan, they supplemented their fieldwork with Skype interviews. Nonetheless, the analysis and

assessment recorded many cross-cutting needs of refugees, regardless of where they live.

Finally, the team members did not have adequate time to reinforce their capacity in debriefing, preventing and addressing secondary trauma, and using containment skills during interviews.<sup>6</sup> Because of their extremely full interview schedule and limited time to process and decompress, the team members experienced varying degrees of post-traumatic stress disorder (PTSD), exhaustion, and burnout by the conclusion of the assessment.

Team members must be mindful of their own psychosocial needs, particularly during and after fieldwork, and it is accordingly necessary to allocate post-interview psychosocial support for them. This is especially important for local partners who may regularly experience primary or secondary trauma during the course of their daily work. For example, it was clear that some of the local partners would have benefited from more debriefing time. On the whole, the absence of psychosocial support may contribute to negative returns on individual healing, which is an element of sustainable transitional justice interventions.

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*“I could not watch the news or social media videos—[with] every bomb blast, I looked for the faces of the men, women, and children I met.”*

— Female assessment team member with human rights and legal expertise

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# LESSONS LEARNED AND RECOMMENDATIONS

**Interdisciplinary, multidisciplinary approaches should be used in designing and implementing needs assessments.** The team included members with different professional backgrounds: a social worker, a social scientist, a medical doctor, two psychologists, and three human rights lawyers. The interdisciplinary, multidisciplinary approach and coordination of diverse backgrounds enabled the team members to appreciate the importance of information-sharing and applying different lenses to problems. This allowed the team to undertake a more holistic reflection and thorough engagement while implementing the needs assessment. Given the advantages of an interdisciplinary, multidisciplinary approach for both interviewees and interviewers, needs assessment projects should consider using this methodology.

**Needs assessment projects should involve local partners and their expertise at all stages, from development to implementation.** The Consortium greatly benefited from the contextual expertise and support of its three local partners, particularly the SBF. By establishing trust-based relationships and involving local partners since the design phase, the Consortium was able to incorporate local inputs into the project, access different communities, and quickly respond to on-the-ground challenges. International organizations should engage local partners, their expertise, and their contacts to ensure the success and sustainability of transitional justice interventions.

**Researchers must have sufficient time and funding to conduct needs assessments.** The Consortium acts as a rapid response unit by providing instant, timely information on current crises around the world. The Consortium then uses the information to assist the DRL in developing interventions or redirecting funds to address the needs of particular communities. While the ability to rapidly respond is invaluable, speed must be balanced with the need for meticulous project design and implementation. If responses are not thorough, they may not adequately fulfill the needs and goals of affected communities, which is critical to the success of transitional justice interventions.

**Team members who represent different organizations should understand their roles and shared goals in advance of the needs assessment.** The team met for the first time at the start of the assessment in Gaziantep, although they had previously held regular Skype calls to discuss the assessment process, tools, and materials.

However, upon reflection, the team believes that in-depth discussions of each organization's roles, responsibilities, and shared goals would require at least one day together. During the in-person meeting, the team should review the project objectives and deliverables as well as reach consensus on relevant concepts and processes before undertaking a collaborative needs assessment.

**Needs assessment projects should manage expectations, particularly of local partners and affected interviewees.** Conducting research-focused assessments may be especially challenging for practitioners and human rights defenders. The team struggled with their inability to support interviewees beyond the needs assessment and accordingly had to manage the interviewees' expectations. Furthermore, since the team included local partners, the Consortium had to navigate their concerns about funding and sustainability. Because of the "fly-in, fly-out" element of non-locals undertaking a needs assessment, it is important that local partners and interviewees understand the purpose of the team and the assessment.

**Needs assessments should strive to identify the urgent, context-specific needs of victims and survivors, even in the absence of formal transitional justice measures.** The Consortium created this project to determine—and begin addressing—the urgent needs of Syrians. As the armed conflict in Syria continues with no peace in sight, victims and survivors should not be forced to wait for formal mechanisms before receiving essential MHPSS, medical, and legal services. Needs assessments and consultations must inclusively engage all relevant stakeholders, including women, youth, the elderly, persons with disabilities, minority groups, and displaced persons and refugees. Additionally, assessments should reflect the current situation and various needs without prescribing specific transitional justice processes or mechanisms.

**Formal referral networks should foster communication, collaboration, and coordination among different service providers.** The needs assessment revealed the lack of coordination and communication among different service providers. To address this, the Consortium provided non-prescriptive guidance on developing referral protocols and networks in order to increase efficiency and coordination in service provision. In addition, through the referral network, human rights documenters would be able to more easily access Syrian victims and survivors (with their informed consent) to gather information. Referral protocols, procedures, and networks would enhance the outputs of both direct service provision and human rights documentation efforts without violating the confidentiality of victims and survivors.

**Authored by Sufiya Bray on behalf of the Centre for the Study of Violence and Reconciliation (CSV).**

- <sup>1</sup> *About 475 Thousand Persons Were Killed in 76 Months of the Syrian Revolution and More than 14 Million Were Wounded and Displaced*, SYRIAN OBSERVATORY FOR HUMAN RIGHTS (July 16, 2017), <http://www.syriahr.com/en/?p=70012>.
- <sup>2</sup> SJAC is an international organization based in Washington, D.C. that collects and preserves documentation of violations of international law in Syria in order to facilitate transitional justice and accountability efforts. SCSR is a Syrian organization registered in Germany, with staff operating inside and outside Syria, that monitors and documents human rights violations during the conflict. SBF, operating from Turkey and Jordan, was established by Syrian refugee medical doctors and provides medical and psychosocial support to victims and survivors of the conflict.
- <sup>3</sup> Although the initial objective was to focus on mental and psychosocial rehabilitation, the assessment identified the urgent need for physical rehabilitation services.
- <sup>4</sup> These guidelines included the *Inter-Agency Standing Committee Guidelines on Mental Health and Psychosocial Support in Emergency Settings* and the World Health Organization (WHO) and the U.N. High Commissioner for Refugees (UNHCR) *Assessing Mental Health and Psychosocial Needs and Resources: Toolkit for Humanitarian Settings*.
- <sup>5</sup> Medicalized approaches are only medical and biological—they do not account for psychosocial factors. Medicalized approaches assume that abnormal behavior, psychological states, or psychological experiences are caused by physical problems, such as those in the brain or genes. Under this medical model, psychotropic interventions involving medical or chemical treatments, such as psychotropic drugs, are used to treat individuals.
- <sup>6</sup> Debriefing takes place after interviews and aims to assist interviewers in dealing with the trauma to which they were exposed so they can better manage their stress, fatigue, and burnout. Secondary trauma, or vicarious trauma, occurs when interviewers become traumatized while or after hearing narratives of traumatized individuals and subsequently exhibit the symptoms of the victim-narrator. Containment skills are necessary to manage an interviewee's state of hyperarousal, which often involves disassociating or becoming overwhelmed by the conversation. Interviewers should be trained to manage these symptoms through, for example, grounding or breathing exercises.



Across Syria and other parts of the Middle East and North Africa (MENA), prisons, checkpoints and former clandestine sites of torture are at risk of destruction or deterioration. To stem this tide, the ICSC brought together Sites of Conscience from seven countries in MENA in 2016-2017 to create a pioneering digital map identifying sites of human rights violations in the region.



A woman records her story at a GIJTR Consortium body mapping workshop in Colombo in August 2017.

## CHAPTER 3: BUILDING LOCAL CAPACITY FOR TRUTH, JUSTICE AND RECONCILIATION IN SRI LANKA

### Situation in Sri Lanka

Following its independence in 1948, Sri Lanka saw a rise in Sinhalese ethnic nationalism and discrimination against the Tamil minority through repressive legislation and violence. After decades of discrimination and impunity for violence against the Tamil people, an internal armed conflict broke out between the government and the Liberation Tigers of Tamil Eelam (LTTE), which aimed to establish a separate state and greater self-determination for the Tamil people. The armed conflict began in July 1983 and ended in May 2009, when the government of President Mahinda Rajapaksa defeated the LTTE in a take-no-prisoners military offensive. From January 2008 to May 2009, the conflict was characterized by high-intensity fighting and human rights violations, including allegations of atrocity crimes by both the government and the LTTE. Nearly 40,000 Tamil civilians in the North-East were disappeared or killed and another 300,000 were internally displaced.

Over five years of impunity, including the widely criticized investigation by the government's Lessons Learnt and Reconciliation Commission (LLRC), followed the end of the armed conflict. The situation began to change in January 2015, when the presidential victory of Maithripala Sirisena over Rajapaksa re-opened the door for international engagement. For example, in October 2015, Sri Lanka cosponsored U.N. Human Rights Council Resolution 30/1 on "Promoting Reconciliation, Accountability and Human Rights in Sri Lanka" and pledged to release hundreds of Tamil detainees being held without charge under the highly repressive Prevention of Terrorism Act (PTA) of 1978; return military-seized Tamil lands in the North-East; and establish credible accountability and reconciliation mechanisms, including an Office of Missing Persons (OMP).



In January 2016, the Prime Minister appointed a Consultation Task Force (CTF) to gather public input on proposed transitional justice mechanisms. Unfortunately, the government's progress on its commitments has been disappointingly slow and has necessitated innovative transitional justice solutions in the absence of political will.

## Overview of the Consortium's Sri Lanka Project

Against this backdrop and in anticipation of Sri Lanka's transitional justice process, the Global Initiative for Justice, Truth and Reconciliation Consortium ("the Consortium") developed a project to support the government-led national consultation process, provide technical assistance to local CSOs, and build the capacity of local CSOs and government actors to engage in transitional justice processes. Its main goal is to foster inclusive peacebuilding, transitional justice, and reconciliation efforts in Sri Lanka that bring diverse groups together to build trust and consensus on common needs and visions for the future. The project included an extensive needs assessment and capacity-building workshops for both civil society and government actors. The CSO workshops ultimately resulted in the creation of the locally led Truth and Reconciliation Forum (TRF). The TRF has facilitated local-level community and CSO participation in transitional justice efforts, addressing a clear need since Colombo-based organizations have traditionally dominated interventions and the field as a whole. In keeping with the Consortium's methodology, the project took a context-specific, locally owned, and multipronged approach in order to meaningfully involve individuals of different identities and move toward reconciliation.

### NEEDS ASSESSMENT

From October 2015 through March 2016, the Consortium partners—the International Coalition of Sites of Conscience (ICSC), the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG), and then-partner, the International Commission on Missing Persons (ICMP)—collaborated with two local partners, the Institute of Social Development (ISD) and Viluthu—Herstories, to conduct a needs assessment. Taking into account the need for representation of gender, age, religion, and ethnicity, the local partners identified participants from the North, East, and South. The assessment consisted of consultations with thirty-three individuals; six focus group discussions, each involving ten to fifteen participants; and three participatory research workshops, involving a total of 114 local community members from a range of ethnic, religious, and political backgrounds as well as victims and their family members.<sup>1</sup>



"When the war stopped, I was happy," says a 34-year old mother of five from Killinochchi. Her story is part of the Herstories Archive, an auto-ethnographic project that has collected 285 personal narratives of mothers from the North, South and East of Sri Lanka.

Photo credit: Sharni Jayawardena, The Herstories Project

The consultations and focus groups were held in Colombo and the North-East (Jaffna, Kilinochchi, Mannar, Mullaitivu, and Vavuniya) and the participatory research workshops were held in Vavuniya (North), Trincomalee (East), and Monaragala (South). The participatory research workshops were designed specifically for the most-affected individuals who also had a limited understanding of transitional justice and Sri Lanka's process. Meanwhile, the consultations and focus groups were held with local CSOs, victims' groups, families of missing or disappeared persons (MDPs), recently released prisoners who had been detained under the PTA, and government officials. Additionally, the project partners visited government-initiated memorial sites in the North, particularly those near Mullaitivu and in Kilinochchi, to better understand what narratives of war were being perpetuated by the government in the North, South and East. Finally, the project partners visited the Neethavaan and Konapulam camps outside Jaffna, where the government resettled Tamils who had been displaced by the war, to assess the needs of internally displaced persons (IDPs).

The needs assessment revealed the lack of transitional justice-related knowledge and skills, especially outside Colombo; the lack of coordination among CSOs, both country-wide and within regions; the divergent views on accountability between the North-East and the South; and the need for peacebuilding, accountability, and rebuilding of social and political spaces in the North-East. Notably, the needs assessment reflected many of the government-driven CTF's findings, which were published in November 2016.

**Civil society challenges in locally led, inclusive programming.** Tamils in the North expressed concern that Colombo-based organizations were serving as interlocutors between the North and the international community, accessing funding and precluding local ownership of interventions in the North. Meanwhile, Sinhalese participants in the Monaragala workshop felt overlooked by CSOs, which have tended to only focus on the North-East and have failed to recognize the conflict-related vulnerability and victimization experienced in the South.

**Accountability.** Many Tamil workshop participants in the North-East emphasized the need for accountability without amnesty, reliable witness protection programs, and the involvement of international judges, prosecutors, investigators, and commissioners. Sinhalese workshop participants from the South, however, were suspicious that both criminal prosecutions and truth commissions, especially internationalized ones, would target those respected by many Sinhalese people as “war heroes.” Instead, they believed the government could pursue accountability without international involvement. Discussions in the North also focused on the need for a political solution, including a power-sharing agreement, and institutional reform. Tamils across the North-East agreed that the government must revoke the PTA and release all political prisoners as soon as possible, and all participants in the North emphasized the need for demilitarization and security sector reform.

**Enforced disappearances and memorialization.** Since the start of the armed conflict, Sri Lanka has had one of the highest rates of reported cases of MDPs in the world. There have been several periods of massive government-sanctioned disappearances, mostly of Tamils in relation to the armed conflict but also of Sinhalese people in the context of the Janatha Vimukthi Peramuna (JVP) insurrections in 1970s and 1980s. The United Nations has estimated that there are over 40,000 MDPs. The Presidential Commission to Investigate into Complaints Regarding Missing Persons, or Paranagama Commission, which was established by former President Rajapaksa, covers the period of 1990–2009 and has received 18,249 complaints from civilians and nearly 5,000 more from security forces as of May 2017. However, mechanisms like the Paranagama Commission were considered to be ineffective and characterized by a lack of political will.

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*“I want to know what happened to my son. I went to the last commission and [expected] the truth, but nothing was done.”*

— Tamil mother who participated in a participatory research workshop

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For example, many families of MDPs have received no information and have been harassed at the hearing venues and forced to accept death certificates. Some even believe the problems of the Paranagama Commission were more damaging than conducive to reconciliation by destroying any remaining trust in the government’s desire to handle the issue of disappearances. This was confirmed by the Consortium partners’ research, described in the textbox below.

#### KEY FINDINGS ON ENFORCED DISAPPEARANCES AND MDPs

From 2015 through 2016, the FAFG and the ICMP conducted an intensive needs assessment regarding enforced disappearances and MDPs in Sri Lanka. This included over thirty-five meetings and consultations with stakeholders in the North-East and in Colombo, three group consultations with over thirty relatives of MDPs, and two round-table meetings with CSOs and family representatives to determine how to address the needs and priorities of families of MDPs. These discussions sought to ensure that the voices of victims become a focal point in the development of truth and accountability processes.

The assessment revealed the limited knowledge and use of forensic sciences to investigate disappearances at the national level as well as the absence of the necessary infrastructure to conduct objective, scientific, and holistic investigations into the whereabouts and fates of MDPs. The national system currently lacks the structure and capacity—and most district-level Judicial Medical Officers (JMOs) lack the resources—to include this among their tasks. Additionally, local CSOs have not been sufficiently trained to support families on cases like these. These challenges are further complicated by political disputes among various ethnic, religious, and political groups on how to address the issue of enforced disappearances, especially given the timeline of disappearances.

One of the main findings was a need for experience-sharing with other countries with similar contexts to build local capacity to conduct forensic investigations among both government and civil society actors. In addition, there is a need for advocacy, dialogue, networking, and general awareness-raising among local communities, CSOs, and government institutions working on the issue of disappearances.

In addition to international organizations, local CSOs and churches, especially in the North-East, have actively documented disappearances, but most of these civil society activities are not coordinated. There is no



A participant at the Truth and Reconciliation Forum launch event in Colombo in November 2016.

central database or archive that consolidates documentation, partly due to the unwillingness of CSOs to share information because of mistrust and concerns about government surveillance. Furthermore, Tamil families are unable to publicly mourn because of such surveillance, particularly in the North-East.<sup>2</sup> Many Tamil participants were frustrated with the fact that the Sinhalese people may openly remember soldiers, while the Tamil people cannot even attempt commemorations.

**Reconciliation.** Participants in the North-East emphasized the importance of enabling all Sri Lankans—Sinhalese, Tamils, and Muslims—to contribute to reconciliation.<sup>3</sup> For example, many noted that re-integrating Tamils into the Sri Lankan citizenry would depend on the government's recognition of Tamil as a national language. Participants in the North-East also highlighted the need to mend inter-religious relationships, particularly in light of increased targeted violence against Muslims by Buddhist and Tamil extremists as well as against Christians by Buddhist extremists. This violence has occurred since at least 2014. Addressing religious tensions remains challenging since Muslims are especially excluded from peacebuilding and transitional justice initiatives, according to Muslim and Tamil CSO representatives.

## CAPACITY-BUILDING WORKSHOPS

Based on the key findings of the needs assessment, the project partners conducted a series of regional workshops to engage local CSOs and government officials on the technical aspects of transitional justice, share lessons learned from other countries, and identify strategies that could be adapted to the Sri Lankan context. In July 2016, three three-day transitional justice workshops, one each in Colombo, Jaffna (North), and Batticaloa (East), brought together approximately seventy-five CSO representatives. The workshops in Batticaloa and Colombo, in particular, brought together participants from different ethnic and religious backgrounds. On the final day of the CSO capacity-building workshops, participants at the three regional workshops each nominated ten representatives to form three regional working committees for the North, East, and South. The participants considered gender parity and district-level representation in recommending individuals.



The Institute of Social Development, a Site of Conscience located in Kandy, Sri Lanka, reaches thousands of visitors annually, with a mission to strengthen the ability of plantation communities to act for social change based on equity, justice, freedom, peace and solidarity. In 2016, with support from the ICSC, they collected oral histories of the Hill Country Tamils, a marginalized plantation community that, despite being central to the country's economy, was deprived of citizenship after the country's independence in 1948 and suffered greatly during the country's civil war (1983-2009).



A participant in a body mapping workshop in Colombo in August 2017.

In collaboration with the government's Secretariat for Coordinating Reconciliation Mechanisms (SCRM), the project partners also held two two-day government-focused workshops in September 2016: one for approximately twenty-five local government officials and another twenty representatives who are either national-level civil servants or from various offices, including the Human Rights Commission and the Office of National Unity and Reconciliation (ONUR).

All workshops shared lessons from transitional justice efforts in Guatemala, Peru, Rwanda, Sierra Leone, South Africa, and the former Yugoslavia. Through facilitated dialogue, participants considered multiple approaches and their potential applicability to Sri Lanka. All workshops were conducted in English with simultaneous interpretation into Tamil and Sinhalese.

### TRUTH AND RECONCILIATION FORUM (TRF)

In September 2016, the representatives of the three regional working committees convened the first meeting of a national working group, the

TRF, in Colombo. The TRF comprises twenty participants from the main ethnic and religious groups, including Sinhalese Buddhists, Christian and Hindu Tamils, and Muslims, who were nominated by the three regional working committees. The TRF is managed by the ISD, with support from the Consortium partners, and is led by an executive committee of eleven of the twenty participants. Unfortunately, while the project partners aimed to ensure gender parity in the TRF representatives, many women said they could not commit to actively participate in the TRF because of family duties and responsibilities.

The group met that month to strategize on increasing community participation and coordinating locally led transitional justice activities. In recognition of the varying concerns in the North-East and the South, the TRF created a declaration outlining their structure as an advocacy group that seeks to raise awareness of both government- and civil society-driven transitional justice interventions among local communities; share local inputs with the government process and mechanisms, such as the ONUR and the SCRM; and facilitate local participation in the national-level process. The declaration also considers different regional needs and notes that the TRF is a national forum that represents regional interests.



A member of the Truth and Reconciliation Forum hands out flyers in local communities in November 2016.

Since its formation in September 2016, the TRF representatives have met with their regional working committees and participants from the capacity-building workshops as well as convened community gatherings to introduce the TRF and its work. As of March 2017, three pilot regional desks have been established in Jaffna (North), Batticaloa (East), and Kandy (South). The TRF plans to set up six more regional desks throughout the country by October 2017 and support another fourteen district coordinators to ensure broad outreach.<sup>4</sup> To compensate for the limited number of women in the national TRF, the project partners are trying to recruit more women to be regional desk officers and district coordinators. Future Consortium activities will provide additional CSO capacity-building and technical assistance to TRF coordinators and regional desk staff to bolster their work with communities as well as grassroots accountability and reconciliation efforts.

### Evaluation of the Consortium's Sri Lanka Project

There are several reasons that Sri Lanka is a valuable case study. Sri Lanka is an example of a post-conflict country that has experienced a host of human rights violations and security concerns since the end of the war. Since violence has spanned generations and a political solution has yet to be reached, mistrust is entrenched and intense feelings of anger, fear, and hopelessness pervade the Tamil people. Given the failure of the government-led transitional justice process to garner trust among civil society or promote reconciliation thus far, an evaluation of this project, which is aimed at consensus-building, can inform future interventions in Sri Lanka. It may also provide useful lessons and recommendations for other countries that need to address longstanding ethnic tensions and grievances.

### ENSURING THE BROAD RELEVANCE OF TRANSITIONAL JUSTICE WITH AN INCLUSIVE NEEDS ASSESSMENT

The project partners conducted the needs assessment soon after the adoption of U.N. Human Rights Council Resolution 30/1. Due to the scope and scale of the assessment—which included numerous consultations, focus groups, and participatory research workshops with individuals of different backgrounds—the Consortium partners gained greater knowledge about the context, concerns of diverse stakeholders, and varied experiences of the war throughout the country. Assessing the needs of a broad range of male and female stakeholders across ethnic, religious, and regional lines helped ensure the project's relevance across the country. This extensive needs assessment also enabled the project partners to map theories of change for different activities and determine their applicability for each stakeholder group.<sup>5</sup>

The assessment was generally successful in building trust between the project partners and local community members, many of whom have continued to take part in the Consortium's activities. The assessment also identified the range of stakeholders involved in transitional justice, the gaps in programming, and the capacity of CSOs in the North-East and Colombo. Furthermore, by hosting a women-only focus group in the North and by mainstreaming gender into their questions, the project partners were better able to understand the different needs of men and women regarding truth, justice, and reconciliation.

Through this process, the project partners also gained a deeper appreciation of the multiple needs and expectations of individuals and communities for transitional justice. For instance, engaging the South helped the project partners understand the necessity of Sinhalese buy-in and participation to achieve reconciliation. The partners consequently highlighted the long-term and mutual benefits of participation, regardless of ethnicity. One Tamil youth noted that reconciliation must include all ethnic groups and not focus solely on the "Tamil problem." The Consortium's inclusive approach framed transitional justice as an issue of country-wide relevance, which will broadly impact participation in the process and in reconciliation efforts.

Because the assessment was very extensive and well-timed, the project partners were able to use it as a roadmap to tailor programming to meet local needs in a context where transitional justice and related political decisions are quickly developing. The assessment was efficient because it used minimal resources by drawing on local partners' existing networks and contacts within the Sinhalese, Tamil, and Muslim communities to ensure the representation of a plurality of voices and experiences. Unfortunately, due to security concerns, the project partners were unable to widely share the assessment report, so it could not be used by the CTF process or other CSO consultations to inform and impact their work. However, the project partners used the findings of the report to guide the formation of the TRF and shape its strategic plan.

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*“When you talk about reconciliation, you need to talk to the people in the South. They should not be afraid of us.”*

— Tamil male participant in the Vavuniya focus group

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## COMBINING TRADITIONAL AND NON-TRADITIONAL METHODOLOGIES

The two-day participatory needs assessment workshops enabled participants to reflect and share their views on transitional justice and reconciliation. The workshop methodology centered on information-sharing and mutual learning, which was a successful way to convey the necessary materials about transitional justice and allow meaningful participation in related discussions. In addition to training the participants on transitional justice concepts and mechanisms—for example, by using the case of Nepal and discussing its parallels to Sri Lanka regarding the unaddressed issue of MDPs—the project partners used the Herstories archival exhibition to prompt dialogue about the past.<sup>6</sup> The facilitated dialogue foregrounded in the exhibition helped the project partners gain insight into emotive responses, such as anger, fear, mistrust, and empathy. Without the interactive dialogue around the exhibition, the project partners could not have easily identified emotional expressions of attitudinal change, which is necessary to reconciliation. The Consortium’s holistic, interdisciplinary, and participatory approach to the needs assessment was thus effective in its ability to determine emotional barriers to reconciliation. Understanding each group’s feelings about the war and other communities will enable the Consortium to support Sri Lankans in pursuing transitional justice interventions that will positively impact root causes and drivers of conflict.

## BUILDING THE CAPACITY OF LOCALS TO MEANINGFULLY PARTICIPATE IN TRANSITIONAL JUSTICE

Since the adoption of Resolution 30/1, including during the needs assessment, an influx of international non-governmental organizations (INGOs) has collaborated with local NGOs to hold one-day consultations and one-day transitional justice trainings. The project partners found that participants in crash course trainings could not translate their newfound knowledge of transitional justice into practice. Instead, their understanding of transitional justice was limited to very basic knowledge of the four pillars, and most participants could not determine a specific measure’s applicability to or potential impact on the Sri Lankan context.

Because of these findings, the project partners decided to develop a workshop methodology that teaches the technicalities of transitional justice concepts and processes through lessons from different countries. They also facilitated small-group discussions to explore each lesson’s level of relevance to Sri Lanka. This approach allowed participants to identify strategies that could be adapted to Sri Lanka and illustrates the Consortium’s responsiveness to evolving needs on the ground. Moreover, the project

partners were aware of the multitude of other trainings and mapped other activities to avoid duplication and contribute to a coordinated transitional justice landscape.

Most civil society participants found the capacity-building workshops to be incredibly relevant. For instance, the examples from other countries enabled participants to recognize the time, funds, and expertise necessary to achieve accountability and reconciliation. One Tamil participant noted that the workshops helped him manage his expectations regarding accountability because he understood that all needs and issues cannot be addressed due to the inherent limitations of transitional justice mechanisms and their heavy reliance on political will. Across ethnic lines, many participants even felt hope by learning that other countries experienced unique challenges and varying degrees of success in their transitional justice efforts. More specifically, they were heartened to adapt and apply specific lessons to Sri Lanka. Therefore, teaching by example was effective in illustrating the practical application of transitional justice concepts, which is highly relevant to stakeholders wanting to engage in Sri Lanka’s process. This knowledge will also contribute to the impact and sustainability of transitional justice interventions by participants, who gained the capacity to apply good practices to programming.

## TAKING A PARTICIPATORY, NON-PRESCRIPTIVE APPROACH TO BUILDING THE CAPACITY OF CIVIL SOCIETY

Across the three CSO workshops, participants appreciated the participatory, non-prescriptive nature of the workshops as well as the flexibility of the project partners and consultant-facilitators in revising the agenda based on emerging needs expressed during the workshop. For example, on the second day of the Jaffna workshop, a Tamil participant voiced his frustration with the number of transitional justice workshops that he had attended without witnessing any tangible changes in his lived experience. He was upset that previous workshops were all talk without action. Following his outburst, the facilitators opened the floor for discussion. Many of this workshop’s attendees, all

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*“[The workshops] provided a space for Sinhalese and Tamils to speak about their realities from a regional perspective and reach a common understanding of the implications [of the transitional justice process for all].”*

— Sinhalese male participant in the Colombo capacity-building workshop, expressing a sentiment shared by many others across ethnic and religious lines

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consensus-building needed to ensure local-level government buy-in to the transitional justice process. Government support will influence the effectiveness and impact of the Consortium’s work and outputs related to accountability and reconciliation.

The workshop for national-level government officials, which included approximately ten high-ranking members of the military and police (among other participants), similarly failed to achieve the intended consensus-building. However, the workshop did create a space in which participants could openly discuss accountability, the strengths and weaknesses of domestic prosecutions, reports of ongoing disappearances and other human rights violations, and the role of the security sector in transitional justice. For example, the police representatives emphasized their steps to shift from a reactive, traditional policing system to a community policing system. This contrasted with many comments from the other workshops on the continued police harassment in the North-East and the need for Tamil-speaking police officers in the North-East. For most security sector participants, this was their first proper engagement with transitional justice issues. With that in mind, the workshop was effective in educating participants because by its end, almost all participants displayed greater knowledge of transitional justice and its application to Sri Lanka. This workshop also successfully clarified the role of different ministries in Sri Lanka’s transitional justice process, underscoring the need for coordination among them.

Overall, the government workshops were less effective in building consensus among participants about the form and key goals of Sri Lanka’s transitional justice process. In spite of this, they highlighted the work that the SCRM and the Prime Minister’s Office should undertake in order to ensure that all government officials understand the function of transitional justice. For instance, the workshops helped correct the misperception that transitional justice is only about criminal accountability. The workshops also raised awareness about the TRF with government officials. As a result, the TRF has had productive interactions with local government officials in Anuradhapura and Polonnaruwa in the South and in Vavuniya and Kilinochchi in the North. Furthermore, senior government officials have already asked the TRF to provide additional transitional justice training for their junior staff.

## ESTABLISHING A LOCALLY OWNED COORDINATION MECHANISM

The project partners directly responded to the need for greater coordination of CSO efforts and information-sharing, especially beyond Colombo and the urban centers, by facilitating the creation of the TRF. As a locally owned entity, the TRF can implement transitional justice

programming and act as an interlocutor between local communities and organizations and Colombo-based government entities. The establishment of the TRF ensures greater knowledge-exchange and coordination among CSOs from the different regions and also gives opportunities for peer networking. Participants at all three CSO capacity-building workshops also appreciated that, unlike other transitional justice workshops, the Consortium’s workshops had a tangible output: the TRF. Consequently, the Consortium’s support to the TRF will likely solidify the coherence of Sri Lankan CSO contributions. In addition, since the TRF is locally owned, its benefits are sustainable.

The TRF representatives come from diverse ethnic and religious groups and are highly respected within their communities. The TRF has already hosted awareness-raising meetings with Government Agents and District Secretaries and has successfully convinced local authorities to support the TRF and its activities.

The Consortium’s ongoing technical and financial assistance to the TRF, including future capacity-building and “training-of-trainers” activities for the TRF, will promote skills transfer and sustain the ability of local CSOs to engage in Sri Lanka’s transitional justice process. Finally, the TRF’s activities will help guarantee the continuation of transitional justice programming at the local level, despite government delays in installing mechanisms and making progress at the national level.

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*“Victims and local NGOs need to work on [transitional justice] issues. Colombo NGOs are gaining from the issues of the North and their connections with international NGOs [at the expense of locals].”*

— Tamil male participant in the Vavuniya focus group

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# LESSONS LEARNED AND RECOMMENDATIONS

**Initiatives to address disappearances must be inclusive and build trust with victims' families.** Efforts to approach the issue of disappearances must be foregrounded in the needs and priorities of victims' families and include all groups. Such initiatives should involve the government—and local and affected communities—to fulfill the right of victims and their families to a remedy and reparation. Importantly, victims and their families should not be treated as passive recipients; instead, they must be included as active stakeholders and decision-makers in any processes to address disappearances. Notably, local ownership of and political will in dealing with disappearances can impact larger accountability and reconciliation processes.

**Local actors should not be sidelined for lack of technical, professionalized expertise.** Actors who lack technical or professionalized expertise in transitional justice are often ignored—especially in favor of international opinions—including in Sri Lanka. However, the Consortium partners found that the participants in the capacity-building workshops possessed expert-level contextual knowledge and innovations for transitional justice and accordingly considered them to be experts. Instead of internationalizing and professionalizing in-country transitional justice at the expense of local inputs, project implementers should seek out local partners and impart the knowledge and technical skills necessary to empower local ownership of interventions.

**Diverse actors should meaningfully participate throughout the entire process.** In Sri Lanka, international organizations have tended to target only Tamils in the North-East. This exclusive approach fails to bridge the ethnic and religious divide between the North-East and the South and even hierarchizes victims. Therefore, the project partners also engaged with stakeholders in the South to facilitate inter-ethnic and inter-religious dialogue and ensure that all Sri Lankans recognize their key role in peacebuilding, transitional justice, and reconciliation efforts. In situations where inter-group tensions were drivers of conflict, and especially where they persist, transitional justice initiatives should be inclusive of all affected groups to ensure broader support for activities.

**Capacity-building projects should be practice-based and coordinate with existing activities.** Sri Lanka witnessed a huge influx of uncoordinated, duplicative capacity-building interventions by

international organizations. However, several individuals who had attended multiple transitional justice trainings were unable to apply their knowledge to the Sri Lankan context prior to the Consortium's capacity-building workshops. Tamil participants, in particular, had experienced exhaustion following their attendance at so many trainings without learning practical skills or witnessing on-the-ground change. To address the problem of duplication, as well as CSO and victim fatigue, project implementers should map existing activities before developing and implementing capacity-building projects with a view to filling the gaps revealed during the assessment phase.

**Capacity-building workshops should be participatory and non-prescriptive.** Transitional justice is an elicitive field, which means that it does not rely on any single approach and instead builds on and incorporates existing good practices, particularly from local interventions. Through its workshops in Sri Lanka, the project partners found that taking a participatory approach to capacity-building by establishing local expertise as a primary resource, creating local ownership of processes, and encouraging the development of innovative, context-specific strategies has significant benefits for transitional justice and reconciliation. This method is critical in countries embarking on transitional justice because it centers on local inputs instead of international ones.

**International organizations should establish partnerships with local organizations outside the urban centers.** In Sri Lanka, local-level CSOs, especially outside the urban centers, can access community-based organizations that are beyond the reach of large international organizations. However, the needs assessment illustrated that Colombo-based organizations, which are better connected to the international community, often received the funding and usurped ownership of projects targeting the North. Through the Consortium's collaboration with local partners that are frequently overlooked by international organizations, those local partners gained the necessary knowledge and technical skills to participate in Sri Lanka's transitional justice process. International organizations working on transitional justice should create local-level partnerships in order to empower them to advocate for their transitional justice needs and goals.

**CSOs should undertake an extensive needs assessment in support of national transitional justice processes.** The needs assessment described here took over five weeks, despite limited financial resources. Its broad scope and range of engaged participants allowed the project partners to develop a context-specific project that was relevant to affected communities and validated project activities with potential targets. Extensive needs assessments by civil society are critically

important in countries in which structural discrimination is entrenched and the affected population lacks faith in the government's political will to pursue accountability, such as Sri Lanka. Moreover, the project partners in Sri Lanka found great benefits to revisiting individuals who participated in the original assessment as the project progressed. Continued engagement with these participants helped the partners understand contextual changes and new opportunities for coordination.

**Needs assessments should rely on a combination of methodologies to tailor their work to stakeholders.**

The needs assessment in this project used a combination of traditional and participatory research methodologies. In Sri Lanka, where the target stakeholders included victims, civil society, and government officials, all of whom had varying levels of transitional justice knowledge, this combinative approach enabled the project partners and participants to be flexible in how issues were raised. For example, holding dialogue around the Herstories exhibition was useful because it prompted participants to express their emotions about the armed conflict and the government-led transitional justice process. The Consortium recommends taking a tailored and participatory approach to better meet the nuanced needs of stakeholders, which may be divergent.

**Workshops should have clear outputs.** Participants were extremely excited that the capacity-building workshops resulted in the TRF, especially since the many workshops they had attended produced no tangible outputs. In fact, action-oriented projects with clear outputs are a hallmark of the Consortium's programming. These outputs could range from implementation plans by participants to the establishment of a working group to something even more resource-intensive, such as sub-grants for participants to develop and implement projects. Outputs that foster future participation are particularly important with respect to sustaining the benefits of workshops over time.

**Project implementers should develop and support a core group of local experts.** In Sri Lanka, the capacity-building workshops ultimately led to the creation of the locally owned TRF. To foster sustainability with limited resources, project implementers should consider facilitating the formation of a core group of local experts and building their knowledge and technical skills. This group of local experts can inform the transitional justice process and use their skills to train others within their organizations and communities.

**Capacity-building projects should include training for civil society and government actors on technical and scientific knowledge and skills.** Accounting for disappearances is crucial to transitional justice processes, both on an individual level to provide answers

to victims' families and on a national level to support truth and accountability measures with forensic evidence. Initiatives to address disappearances should thus build local capacity in forensic sciences and create a multidisciplinary forensic strategy to search for and identify MDPs in accordance with the needs of families and international standards. Applying such objective scientific methodology in a transparent manner may be especially important in contexts of mistrust toward the government. Government actors that face the challenge of addressing disappearances should engage the forensic expertise of specialized CSOs to support investigations and accountability processes.

**Authored by Ereshnee Naidu-Silverman on behalf of the International Coalition of Sites of Conscience. The "Key Findings on Enforced Disappearances and MDPs" text box was authored by Marte Myhre Tunheim on behalf of the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG).**

<sup>1</sup> Instead of using a traditional question-and-answer research methodology, the participatory research workshops were tailored to participants and their needs, providing them with information about transitional justice themes and issues and facilitating their engagement with the content of the workshops.

<sup>2</sup> Despite government claims of reduced surveillance and militarization in the North-East, security forces have intimidated and prevented families of MDPs from engaging in memorialization activities, including events to remember those lost during the end of the war. See, for example: *Sri Lanka Civil Society Calls for an End to Harassment of Activists Working on Memorialisation*, TAMIL GUARDIAN, May 26, 2017, <http://www.tamilguardian.com/content/sri-lanka-civil-society-calls-end-harassment-activists-working-memorialisation>.

<sup>3</sup> Hindus, Muslims, and Christians are typically Tamil-speaking; however, Muslims in Sri Lanka tend to identify as and are identified by their religion, not their ethnicity. Hindu and Christian Tamils usually identify with their ethnicity as "Tamils." Sinhalese people are overwhelmingly Buddhist, and Buddhists in Sri Lanka are overwhelmingly Sinhalese.

<sup>4</sup> The additional six desks will be established in Badulla, Galle, Kalutara, Kurunegala, Polonnaruwa, and Ratnapura.

<sup>5</sup> Theories of change include the thinking and assumptions about how and why an intervention will achieve the desired results.

<sup>6</sup> Herstories is an archival project focusing on the stories of mothers from the North-East and the South and how they were affected by the war.



UMAM Documentation and Research assists in archiving Lebanon's violent past, crystallized in the 1975-1990 civil war, by collecting, preserving, and publicly promoting a diverse range of historical evidence and artifacts.

Photo credit: Wael Hamzeh, UMAM Documentation and Research

## CHAPTER 4: MIDDLE EAST AND NORTH AFRICA TRANSITIONAL JUSTICE ACADEMY

### Situation in the Middle East and North Africa Region

As states in the Middle East and North Africa (MENA) region anticipate, commence, or continue their transition processes following periods of violence or authoritarian rule, there are increasing opportunities to promote democracy and human rights.<sup>1</sup> To ensure the impact and sustainability of such attempts, local stakeholders, including victims and civil society organizations, must be involved in developing and implementing transitional justice measures that are responsive to and inclusive of local needs, cultures, and understandings of justice. However, most transitional justice programming in the MENA region to date has focused on national-level efforts and traditional actors.<sup>2</sup> In addition to overviewing international human rights law and international humanitarian law, these trainings have covered state-driven transitional justice, namely criminal prosecutions, truth commissions, and reparations. Troublingly, they tend to import international expertise instead of engaging local communities, foreclosing the ability of locals to collaborate on solutions to national and regional challenges. Consequently, there exists a need to train local actors in the MENA region, particularly non-traditional actors, on transitional justice and on how to design and actualize community-led projects.

### Overview of the MENA Transitional Justice Academy

To address the unmet needs in the MENA region, four partners of the Global Initiative for Justice, Truth and Reconciliation Consortium ("the Consortium") – the International Coalition of Sites of Conscience (ICSC), the Centre for the Study of Violence and Reconciliation (CSVR), the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG), and the Public International Law & Policy Group (PILPG) – launched the MENA Transitional Justice Academy in January 2016. The Academy took a holistic approach to accountability by describing a range of measures, such as prosecutions,

truth-telling, reparations, institutional reform, and memorialization, to redress victims and heal their societies. The Academy viewed transitional justice through an interdisciplinary lens by drawing on the Consortium partners' varied expertise in forensics, memorialization, psychosocial support, sociology, human rights, and law. Furthermore, the partners' areas of expertise were collectively integrated into facilitated workshop sessions with the goal of providing an interdisciplinary perspective. For example, a presentation on truth-telling included facilitators from the PILPG and the CSVR discussing documentation of human rights violations alongside facilitators from the ICSC sharing examples of post-conflict history textbook reform.

The Academy also aimed to expand grassroots and marginalized communities' involvement in crafting and participating in locally led, context-sensitive transitional justice to ensure their inclusiveness and responsiveness to victims and other affected populations. To achieve this goal, the Academy intended to first expand the transitional justice knowledge base of MENA region traditional and non-traditional actors, particularly related to locally led, participatory forms.<sup>3</sup> Its second objective was to establish and bolster a community-driven, regional network of transitional justice actors, especially to support those at risk because of conflict or other security threats. Finally, the Academy sought to increase community participation in determining transitional justice options and developing initiatives that respond to local needs.

The Academy was held from January 2016 through April 2017 and brought together traditional and non-traditional actors from Algeria, Egypt, Iraq, Morocco, Syria, Tunisia, and Yemen four times during this period. The Consortium partners received over 120 applications from across the MENA region, highlighting the local need for and interest in a training like the Academy. The Consortium partners selected twenty-four participants based on the strength of their proposed transitional justice projects and ties to their target community with a view to ensuring diversity in terms of country of origin, gender, and project focus. Nineteen participants graduated from the Academy.<sup>4</sup>

During the Academy, participants attended an introductory workshop and three additional workshops focused on sub-topics. Although a wide range of topics were explored at each workshop, participants chose to study the following sub-topics in-depth: truth-telling, institutional reform, and economic and social rights in transitional justice. Participants learned about the technicalities of designing and undertaking activities at the community level, such as how to engage civil society and families of disappeared persons with whom the participants already had relationships. They were trained to use participatory approaches to conduct needs assessments, develop advocacy initiatives and policy recommendations, fundraise to



The Transitional Justice Academy and GIJTR Consortium partners at a workshop in Kuala Lumpur in November 2016.

sustain their local interventions, and monitor and evaluate programming. The Academy featured an unprecedented project incubation component through which participants received sub-grants to fund self-chosen interventions that were informed by the workshops and consultations with the Consortium partners. Finally, the Academy was predominately conducted in Arabic or through simultaneous interpretation from English in contrast to most transitional justice trainings for MENA region participants, which usually did not use Arabic.

### Evaluation of the MENA Transitional Justice Academy

The Academy is a valuable case study because of its novel holistic, interdisciplinary method for enhancing the capacities of local stakeholders. For example, the Academy took a unique approach by situating project incubation and network-building as key responses to the obstacles to transitional justice. These and other innovations of the Academy are described and evaluated throughout the chapter. This evaluation is based on feedback from the participants and facilitators, which informs the Consortium's recommendations on region-wide transitional justice trainings and trainings in general.

The Consortium would like to note that it may be too early to precisely evaluate the Academy, particularly with respect to long-term factors,

such as its impact on key drivers of conflicts in the region, since the Academy ended only a few months prior to the writing of this chapter.

## TAKING A HOLISTIC, INTERDISCIPLINARY APPROACH TO WORKSHOPS

The Academy significantly improved participants' knowledge of transitional justice and how to apply it to their contexts. Participants felt that, compared to other trainings that focused on either theory or practice, the Academy's combinative approach was a singularly effective methodology for training participants on transitional justice and implementation challenges. In this manner, the Consortium partners addressed a variety of transitional justice issues in workshop sessions through presentations of theories grounded in case studies as well as in their individual feedback to participants on their proposed projects. Additionally, because of the interdisciplinary nature of the Academy, participants were able to create projects that incorporated non-traditional topics—such as the role of forensics in truth-telling, psychosocial needs of victims, and self-care—all of which were highly relevant to their situations. Given the diversity of transitional justice issues in the region, the Consortium partners' experiences with different fields and processes were critical to responding to participants' wide-ranging needs and were well-received by participants. The coordination of the partners' skills resulted in the efficient facilitation of workshops since the Consortium's various areas of expertise came directly from the Consortium partners' staff and networks, precluding the need for external trainers.

The holistic approach used by the Academy not only fostered innovative project ideas but also inspired external funding applications by participants. For example, after the end of the Academy, a participant from Yemen secured external funding for a transitional justice project utilizing ideas he learned at the Academy about the role of memorialization in accountability.

## COMPARING TRANSITIONAL JUSTICE SUCCESSES AND CHALLENGES

The Academy adopted a comparative methodology in its workshops, leading participants to reflect on the needs in their countries and apply lessons from other countries. Expert facilitators—the Consortium partners' staff and international consultants, including from the MENA region—shared case studies from the MENA and other regions and led small-group work and discussions to examine the information and its applicability to participants' home contexts. The Consortium partners also used simulations and role-playing exercises to demonstrate the difficulties associated with transitional justice. The comparisons

instilled a greater appreciation for regional workshops and knowledge-sharing among participants. In fact, some participants expressed that they gained the most from the Academy by hearing the Consortium partners' experiences in other contexts. The approach taught participants to identify commonalities between countries, such as forced disappearances (or enforced disappearances) in South America and Morocco, and extract applicable lessons. As a result, participants were better equipped to anticipate challenges to implementing transitional justice measures by drawing on solutions from other countries.

Through the facilitated sessions, participants shared their experiences on domestic and international prosecutions, truth-telling, reparations, institutional reform, human rights documentation, and gender mainstreaming. The facilitators conducted these discussions in a non-prescriptive manner—that is, the facilitators provided participants with knowledge and tools without imposing recommendations. By using this approach, the Academy aimed to give participants the space to reflect creatively and collaboratively about national- and regional-level transitional justice and draw their own conclusions without feeling restricted by the expert facilitators' views. Multiple participants expressed that the comparative methodology of the Academy broadened their conceptions of what their own countries could successfully implement. For instance, participants' project ideas expanded beyond those related to prosecutions or truth commissions to include memorialization, which some participants had not considered to be an integral component of transitional justice before the Academy.

Participants from Syria and Yemen, where transitional justice is nascent, found knowledge-sharing to be extremely beneficial. This is because these participants are more likely to be able to influence their processes, which are in the early stages, than participants from countries in the

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*“Attending several trainings with regional actors has given me a greater ability to analyze and evaluate the work done in the field of transitional justice and allowed me to benefit from past experiences that can be considered comparative. I have also had the opportunity to obtain more knowledge on how we can start and where we should start.”*

— Syrian participant

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advanced stages of accountability-seeking, during which there are fewer opportunities for novel interventions.

## SHARING REGIONAL EXPERIENCES AND PERSPECTIVES OF CONFLICT AND TRANSITION

Understanding the methods and challenges in implementing transitional justice projects in different countries in the MENA region gave each participant insights into ways forward in their own country. Participants learned the value of engaging local communities, particularly victims and victims' families, in envisioning a new country and undertaking coordinated, collaborative efforts. Thus, participants improved their ability to anticipate potential obstacles to transitional justice in their countries by considering the shared challenges throughout the region. The Academy also reaffirmed their belief in the importance of identifying the characteristics of conflict and accountability in their country compared with others in the region in order to learn from similar contexts.

Despite recognizing cross-cutting similarities, some participants thought that topics related strictly to countries witnessing conflict were not as relevant to participants in countries currently implementing transitional justice measures, and vice versa. However, all participants learned lessons from each other, albeit at varying degrees of relevance.

## ESTABLISHING A COMMUNITY-DRIVEN REGIONAL TRANSITIONAL JUSTICE NETWORK

Since the same group came together four times, the Academy fostered relationships among participants that may have a lasting effect on the sustainability of a MENA-wide regional network. Participants were grateful for the opportunity to network at the MENA level, believing that regional solidarity would amplify their advocacy. In particular, participants who had been regularly harassed by local authorities

*“The detailed and specific information [about regional experiences] was quite important for understanding the dimensions and backgrounds of the prevailing patterns of violations in various countries. These experiences and information will help me [in] achieving the memory project in Tunisia, and most importantly, they will help me in potential trainings that I might offer to other actors in Tunisia and the region.”*

— Tunisian participant



Using a tree as a tool to analyze the root causes of conflict during a small grant project in Yemen funded by the MENA TJ Academy in November 2016.

Photo credit: Fahd Saif

strongly appreciated regional networking because the security risks they face at home prevent them from connecting with others at the local level. Furthermore, participants felt safer about providing and receiving support at the regional and international levels. This is partly because the Academy heightened the participants' profiles by connecting them to regional and international personalities and organizations that can help shield them from retaliatory acts.

Participants were eager to continue engaging in a regional network of transitional justice actors through which to share knowledge; collaborate on future projects; and sustain the resources developed through the Academy, such as the curriculum and educational materials created by participants for their sub-grant projects. For example, participants have maintained informal communication with each other after the conclusion of the Academy, including by exchanging resources, updates, and perspectives over email and social media. In particular, they have corresponded about domestic opinions in their countries that are generally excluded by regional and international mainstream media.

### ESTABLISHING LOCALLY LED TRANSITIONAL JUSTICE TRAININGS

Many participants felt that they had control over the Academy and its agenda. Participants also believed that the Academy prepared them to be local experts, resources for others, and supporters of regional transitional justice interventions. Their feelings of ownership over programming indicate the high likelihood of long-lasting benefits and positive results. In order to further sustain participants' involvement and the Academy's institutional knowledge, specific resources produced in Arabic for the Academy will be made available to the participants, the Consortium partners, and other stakeholders in an online library. These resources include seven videos of interviews conducted by the participants with high-level regional transitional justice experts (who are part of the participants' in-country networks) about the

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*“There are other [non-war-related] issues that transitional justice can touch upon ... particularly related to the economic and social support for the marginalized and deprived groups. For example, there are a lot of economically, politically, and socially marginalized communities [around the world] that need justice through economic, political, and social empowerment, respectively.”*

— Yemeni participant

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Participants from Abyan discuss conflict analysis and the security concern after the withdrawal of Al-Qaida from Abyan at a workshop in Yemen funded by the MENA TJ Academy in November 2016.

Photo credit: Fahd Saif

processes in their countries. Moving forward, this online library will serve to preserve and disseminate the knowledge gained through the Academy workshops and participant projects.

Participants are also exploring the possibility of establishing a more formalized regional network using their expertise to inform and advocate for transitional justice across the MENA region. Because of its perceived success by participants, donors, and the Consortium partners, the Academy was renewed for a second cohort of MENA actors to begin in late 2017. The partners have been considering whether to invite the strongest participants from the first Academy to be guest facilitators for the second Academy. Finally, the Consortium partners and participants believe that the Academy's agenda is transferrable to different regions and applicable transitional justice issues. Consequently, the Consortium partners as well as the first cohort have encouraged the establishment of a similar academy in another region facing transitional justice challenges, such as South Asia.

### ENGAGING COMMUNITY STAKEHOLDERS' NEEDS AT EVERY STAGE OF WORKSHOPS

The Academy engaged participants at every stage, including agenda-setting, which ensured that its goals, objectives, methodology, and curriculum were relevant to participants' needs, which were gathered

from their applications and the Consortium partners' experiences in the region. For example, at the end of the second and third workshops, facilitators invited participants to choose two sub-topics from a predetermined list of seven subjects for the next workshop in order to ensure that the participants' priorities shaped the agenda. In this way, the Academy coordinated participants' needs with the partners' areas of expertise, which resulted in workshops that efficiently covered a wide range of transitional justice issues while allowing participants to tailor the materials to their contexts. The consultative process of including participants in agenda-setting facilitated their deep sense of ownership.

Moreover, the workshops explicitly addressed participants' safety concerns by providing them with regular opportunities to exchange experiences and formulate security strategies. Experience-sharing was an effective way of enhancing participants' understanding of security threats and how to circumvent them. For example, because of workshop conversations, some participants began using Telegram, a secure messenger application for mobile phones that allows encryption, instead of sending unencrypted messages as they had before. During a separate discussion about fundraising challenges in insecure environments, participants expressed frustration with donors for withdrawing their support because of in-country insecurity. They wondered how they could demonstrate their ability to safely adapt programming to convince donors to stay onboard. In response, one participant recommended including a risk assessment in all grant proposals, even if it is not required, in order to demonstrate how the organization has worked to mitigate potential threats and how funding could improve security responses. Other participants found this suggestion very informative and relevant.

## EMPOWERING COMMUNITY STAKEHOLDERS AND DEVELOPING INCLUSIVE PROJECTS

There is a pressing need for inclusive transitional justice in the MENA region, where many vulnerable groups—such as women, children, and refugees—are significantly affected by conflict and insecurity. The Academy has already promoted analysis and thinking among the Consortium partners and Academy participants on how local communities and non-traditional actors can bolster inclusive transitional justice based on local needs and understandings. Through capacity-building as well as financial and virtual support for community-led activities, the Academy increased participants' ability to undertake needs assessments and transitional justice programming using participatory approaches, demonstrating the Academy's effectiveness in sensitizing participants on inclusive practices. Training participants on the need for inclusion will likely impact the involvement of the most vulnerable

groups in consultations and processes, resulting in more context-specific transitional justice outcomes.

## ENGAGING WOMEN'S PARTICIPATION IN TRANSITIONAL JUSTICE

With respect to inclusion, the Academy has contributed to shaping a regional response to transitional justice challenges faced by women. Workshop discussions confirmed that region-wide gender-based violence against women and women's economic insecurity because of conflict required special attention.

Facilitators presented comparative examples that revealed the complex and varied experiences of women and girls during conflict and indicated how transitional justice can address their situation. For example, truth-telling initiatives can ensure gender-sensitive witness protection.

Furthermore, the Consortium is committed to gender equality and the partners sought to achieve gender parity in the selected participants since the beginning of the project, during the application review stage. Consequently, eight of the nineteen participants who successfully completed the Academy were women. The Academy also provided participants with opportunities to strategize on how to increase women's participation in transitional justice efforts in the region—a cross-cutting theme that participants identified as relevant to each of their contexts. To further establish and sustain women's involvement, the Academy funded some projects focused on women's participation through sub-grants. For example, an Iraqi female participant held a training-of-trainers program for a group of thirty women and ten men on human rights documentation, general leadership skills, and how to train others on documentation, all of which helped her trainees collect victim testimonies for use in a future national reconciliation process. These sub-granted projects will ideally contribute to elevating women's participation in transitional justice projects in the MENA region, which in turn would impact the likelihood of meaningful redress for gender-based violence.

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*“[The Academy] has changed my convictions; [before the Academy], I was excited about implementing transitional justice and its mechanisms ... in Yemen without taking into account the cultural and social particularities therein.”*

— Yemeni participant

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## SUPPORTING COMMUNITY-LED PROJECTS THROUGH PROJECT INCUBATION AND SUB-GRANTS

Through the Academy's unique sub-granting component, participants received small stipends to design and conduct community consultations, needs assessments, and other interventions. This funding, along with its attached prioritization of participatory approaches, enabled participants to tailor their projects to meet community needs, including those of victims, youth, women, and activists. In this manner, the sub-grants facilitated the creation and execution of transitional justice activities that were relevant to affected communities, including the most vulnerable groups, and could effectively meet their needs and desires. The sub-grants funded, for example, human rights documentation in Syria and Tunisia, community consultations on reparations in Iraq, and memorialization in Morocco. A total of nineteen projects were implemented in seven countries—Algeria, Egypt, Iraq, Morocco, Syria, Tunisia, and Yemen—impacting the transitional justice landscape in the region, particularly related to human rights documentation, reparations, and memorialization.

For some participants, the project incubation was the most valuable source of support from the Academy. Project discussions and personalized feedback from the facilitators and each other gave participants the rare freedom to develop projects informed by their situation instead of external priorities, such as those of donors. Participants also felt that they gained the knowledge and tools to safely implement their chosen projects. Through trainings on conducting needs assessments and community consultations, participants understood the importance of grounding all aspects of project design in the perceptions and needs of community members. Moreover, the Consortium partners highly valued the sub-grant component because it showcased and applied the learning accumulated during the Academy.

## TRAINING LOCALS TO MANAGE THEIR PSYCHOSOCIAL NEEDS AND THOSE OF INTERVIEWEES

Transitional justice interventions in the MENA region have not prominently featured practical training on handling trauma. The Academy, however, included such a training, which improved the ability of participants to cope with their primary and secondary experiences of human rights violations, conflict-related trauma, and ongoing harassment. Through sessions on self-care led by the CSV, participants learned techniques to monitor trauma symptoms and interview victims without re-traumatizing either themselves or the victims. Because of the dangerous conditions under which the Academy participants



Participants in a project funded by a GIJTR Consortium sub-grant in Yemen in November 2016.

Photo credit: Fahd Saif

work and their exposure to high levels of violence, many found the session on self-care to be extremely relevant to their psychosocial needs. In addition, many participants thought the repeated emphasis of the significance of performing self-care was very helpful since other programs they had attended did not prioritize their personal need for psychosocial support. By incorporating trauma discussions into its agenda, the Academy taught participants to view transitional justice from a victim-centric perspective, which indicates the effectiveness of its interdisciplinary approach.

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# LESSONS LEARNED AND RECOMMENDATIONS

**Trainings should take a holistic approach to transitional justice.** One way that the Academy differed from other transitional justice trainings in the MENA region, which were country-specific and focused on traditional measures like criminal prosecutions and truth commissions, was its holistic approach. In this manner, participants learned to value all transitional justice measures, including memorialization, based on the local context and needs. Whether regional or country-specific, trainings should tackle challenges from multiple angles in order to properly achieve accountability and redress victims, both at the state and local levels.

**Trainings should emphasize participatory forms of transitional justice.** The Academy's trainings highlighted the use of participatory, locally led initiatives as a response to the lack of transitional justice efforts that engage local communities. Since locals are the primary beneficiaries, people and organizations working in the transitional justice field must understand the importance of participatory approaches and how to design their interventions around a community's expressed needs.

**Trainers should collaborate to address different transitional justice issues from an interdisciplinary perspective.** The involvement of multiple organizations was unique to the Academy and allowed the Academy to address the diverse needs of participants, which ranged from needing legal knowledge to psychosocial training. The partners' varied areas of expertise enabled participants to create and implement projects appropriate for their local context while receiving expert support. Since conflict and insecurity implicate many issues and barriers to accountability, trainings should cover a broad array of topics, skills, and tools. Having multiple organizations collaborate as trainers is an efficient way of increasing the amount and diversity of materials conveyed to participants.

**Trainings should incorporate comparative examples of transitional justice successes and challenges.** Many Academy participants thought they benefited most from the comparative case studies from other countries. Learning about transitional justice allowed participants to apply lessons from around the world to their countries' circumstances. While there is no "magic bullet" for transitional justice, people and organizations working in the transitional justice field should understand what has worked and what has been less successful in different situations and over time. They should also be trained on identifying and adapting applicable lessons to their specific context.

**Trainings, particularly those led by non-locals, should prioritize capacity-building over prescribing recommendations.** The Academy focused on educating and capacity-building to support participants in developing and implementing homegrown transitional justice strategies and activities. This methodology sought to address the professionalization and internationalization of the transitional justice field, which is often criticized for imposing the views of external experts on local communities. A non-prescriptive approach, such as the one used by the Academy, may mitigate the entrenchment of international ideas and facilitate local thinking and discourse on ways forward at the community, country, and regional levels.

**Projects should emphasize inclusion, particularly by using participatory forms of transitional justice.** The Academy participants learned that inclusion correlates to the sustainability and success of interventions. Moving forward, transitional justice in the MENA region must address the specific needs of many vulnerable groups, including but not limited to women, children, and refugees. Participatory approaches that directly engage communities help identify the most urgent needs and also empower communities to influence the transitional justice trajectory. Transitional justice projects should thus underscore the importance of inclusion and community consultations in order to help capture the voices of the most vulnerable groups.

**Trainings should include a project incubation component that includes the provision of sub-grants.** The project incubation aspect of the Academy enabled participants to develop and implement projects of their choosing with the guidance of the Consortium partners. Since community stakeholders already understand the local context, needs, and obstacles but often struggle to receive funding—especially in contexts of conflict or insecurity—sub-grants may be essential to actualizing locally led projects. To be effective, training programs should provide funding with which participants can take risks, apply their newfound knowledge and skills, and realize their transitional justice aspirations. Grants that are part of non-prescriptive programs also allow grantees to create projects focusing on community needs instead of satisfying donor interests.

**Trainers should establish a strong rapport with participants and be fully committed to engaging their needs and participation.** Participants appreciated the Consortium partners' investment in their goals from the beginning of the Academy. Additionally, the partners established a rapport with participants by using Arabic as much as possible and ensuring the maximum participation of all attendees. A relationship based on trust is essential for enabling candid discussions about sensitive topics, which are a prerequisite to assessing needs and challenges. As many

conflict-related violations, such as sexual violence or torture, implicate deeply personal narratives, trainers should earn participants' trust in order to maximize training outcomes.

**Trainings should be conducted in participants' native language.** The Academy's workshops and key communications were transmitted in Arabic or through simultaneous interpretation from English. Other transitional justice trainings for MENA region participants typically did not use Arabic or simultaneous interpretation, which precluded the attendance of Arabic-only speakers. Because the Academy was designed to be accessible to Arabic-only speakers, it reached more grassroots actors than non-Arabic trainings. Participants felt that the use of their native language placed them at greater ease with the facilitators and each other. To indicate trainers' level of investment and willingness to use the local language, trainings should be in participants' native language or at least with simultaneous interpretation.

**Trainings should be held in a post-transitional country, if possible.** Some participants thought that the Academy would have been more effective if it had been held in a country that had experienced transitional justice. In that case, site visits and meetings with high-level stakeholders, particularly those with recent transitional justice experiences, could have supplemented the curriculum. However, security concerns and visa constraints necessitated holding the workshops in Malaysia, which is a stable country that did not pose visa challenges for participants. If trainings cannot be held in post-transitional countries, training organizers should strive to invite both traditional and non-traditional transitional justice actors with lived experiences of conflict, accountability, and reconciliation.

**Trainings should highlight security concerns and circumvention strategies.** Participants expressed their belief that the inclusion of practical training, resources, and platforms to exchange ideas, particularly on security, was crucial to the success of their projects. Risk assessments and strategies are an integral part of any activity in situations of conflict or insecurity and must be incorporated into trainings. Donors who fund projects in high-risk situations should therefore provide or fund trainings on physical and virtual security in order to maximize the effectiveness and efficiency of projects.

**Authored by Sara Bradshaw and Fathi Zabaar on behalf of the International Coalition of Sites of Conscience (ICSC).**

- <sup>1</sup> Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen, among others, are considered to be a part of the MENA region.
- <sup>2</sup> For the purposes of the project, traditional actors typically refer to policymakers, lawyers, and other practitioners whose work is grounded in the idea that the state is the primary agent in transitional efforts. Non-traditional actors usually include activists, educators, civil society organizations, women's groups, victims' groups, and traditional and religious leaders.
- <sup>3</sup> Participatory transitional justice includes processes in which communities are involved as decision-makers at every stage. Lesser forms of participation include consultations and providing information to policymakers.
- <sup>4</sup> By the end of the second workshop, the Consortium asked five of the original twenty-four participants to withdraw due to their unresponsiveness or inability to fulfill the commitments required by the Academy.



Students at the opening of a genocide memorial in Takeo province.

Photo credit: Documentation Center of Cambodia (DC-Cam) /Makara Ouch

## CHAPTER 5: CIVIL SOCIETY DOCUMENTATION AND CRIMINAL ACCOUNTABILITY

### Human Rights Documentation by Civil Society

Human rights documentation can give voice to victims, shape the public's understanding of history, and contribute to criminal and non-criminal accountability. Civil society organizations (CSOs) are often first responders during armed conflicts and humanitarian crises, collecting invaluable documentary, physical, and testimonial evidence. In war zones, CSOs are often the only reliable source of accurate information, particularly in the absence of state cooperation. Consequently, CSOs possess significant potential for collecting, preserving, and raising awareness of evidence with a view to achieving criminal accountability. Documentation efforts by CSOs have triggered and supplemented governmental, intergovernmental, and non-governmental actions in support of criminal accountability, public outreach, education, and memorialization.

### The History and Role of Civil Society Documentation in Criminal Accountability

CSOs have actively documented human rights violations for at least two centuries, dating back to the CSO publication of testimony from former slaves and abolitionists about the Atlantic slave trade in order to shift sentiments about slavery.<sup>1</sup> Although the modern international human rights movement emerged in the 1960s, it was not until the 1990s that CSOs used documentation to inform criminal accountability.<sup>2</sup> This delay was partly due to the reign of sovereign immunity and compromises in the interest of political order, peace, and security that typically superseded the drive for criminal justice.<sup>3</sup> Accordingly, human rights work during this time focused on documentation in order to raise awareness, prevent, and mitigate human rights violations instead of contributing to criminal prosecutions.<sup>4</sup> The end of the Cold War reduced, if not removed, political impediments to

individual criminal responsibility at the international level. When international enforcement mechanisms materialized as ad hoc tribunals in the 1990s, CSOs began supporting criminal accountability with their documentation efforts.

## Overview of Case Studies: Cambodia, the Former Yugoslavia, and Guatemala

This chapter presents three case studies of CSOs whose documentation work since the 1990s has contributed to both criminal accountability in their respective countries and good practices for human rights documentation.

The first case study describes the work of the Documentation Center of Cambodia (DC-Cam), formally established in 1997, which has supported the Extraordinary Chambers in the Courts of Cambodia (ECCC). DC-Cam holds the largest archive on the history of the Khmer Rouge, including 900,000 pages of documents, 11,000 photographs, and over 8,000 interviews. In addition to being used to justify the creation of the ECCC, DC-Cam's documentation has been used to support investigations and trials, provide leads, and educate the public on the importance of criminal accountability. Lessons from DC-Cam cover the importance of systematic and institutionalized documentation, funding transparency, and balancing objective documentation with the desire to effect social change.

The second case study covers the work of the Humanitarian Law Center (HLC), which is the biggest documentation center in the former Yugoslavia and holds over 30,000 statements from victims and witnesses of wartime crimes. Its documentation began in 1992 and has been used as evidence in court as well as to improve prosecutors' contextual understanding of crimes and provide leads for investigations. The HLC shares lessons on objectivity in documenting to combat accusations of bias and on the principle of "do no harm" in interviewing victims and witnesses.

The final case study details the work of the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG) to prove atrocity crimes during Guatemala's internal armed conflict. Since 1997, the FAFG has carried out multidisciplinary forensic investigations to contribute to the evidentiary account of the crimes committed during this time. The FAFG's forensic evidence has been used to corroborate witness testimony, connect perpetrators to crimes, provide a timeline of events, and prove intent. This section makes recommendations on the need to draw on the synergies between forensic evidence and testimony as well as on how forensic evidence can give victims a voice in the criminal justice process.



A survivor leading a discussion with members of the South Sudan Human Rights Documentation Initiative at Youth for Peace in Cambodia in December 2016.

## The Documentation Center of Cambodia's Documentation

### BACKGROUND ON THE KHMER ROUGE ERA IN CAMBODIA

On April 17, 1975, communist forces commonly known as the Khmer Rouge gained control of Cambodia and installed the state of Democratic Kampuchea. For nearly four years, the Khmer Rouge's policies and practices caused the deaths of 1.4 to 2.2 million people. The regime's campaign of terror, torture, and executions continued until Vietnamese forces invaded and captured the capital on January 7, 1979, although the Khmer Rouge survived as a guerrilla movement until 1998.

In November 1998, the United Nations dispatched a Group of Experts for Cambodia to Cambodia and Thailand to determine the nature of the crimes that occurred under the Khmer Rouge. The Group of Experts found sufficient physical evidence and witness testimonies to justify criminal proceedings against the Khmer Rouge leadership. To this end, they recommended that the United Nations mandate an ad hoc international tribunal to investigate and prosecute allegations of genocide and crimes against humanity. The government of Cambodia, however, believed a domestic court, with assistance from the United Nations, could handle these crimes. In 2003, the United

Nations and the government of Cambodia entered into an agreement, which governs the establishment and operation of the Extraordinary Chambers in the Courts of Cambodia (ECCC), to resolve this issue. Under this agreement, Cambodia would create the ECCC under domestic law, but the court would possess an international character and involve both Cambodians and foreigners. The ECCC is mandated to prosecute senior leaders of Democratic Kampuchea and those most responsible for serious violations of international and domestic law that occurred between April 17, 1975 and January 6, 1979.

### ABOUT THE DOCUMENTATION CENTER OF CAMBODIA (DC-CAM)

The Documentation Center of Cambodia (DC-Cam) is a locally driven, non-governmental organization that records and preserves the history of the Khmer Rouge to help promote the rule of law and reconciliation in Cambodia. DC-Cam's origins stem from the Cambodian Genocide Justice Act, a U.S. law passed in April 1994. This law mandated the establishment of a U.S. Office of Cambodian Genocide Investigation, which awarded a grant to Yale University to research genocide and crimes against humanity in Cambodia. Yale University founded DC-Cam as a field office to enable its research from 1995 to the end of 1996, when the grant funding ended. In 1997, DC-Cam became the independent entity it is known as today.

DC-Cam is widely considered to be the first credible effort to compile, analyze, preserve, and disseminate the history of the Khmer Rouge. It holds the largest collection of primary documents on the Khmer Rouge in the world and has played a pivotal role in the fight against impunity in Cambodia. As of June 2017, DC-Cam has collected over 900,000 pages of Khmer Rouge documents; 11,000 photographs of and 8000 interviews with survivors; and other materials, such as documents from foreign governments and contemporary film footage, that illuminate the history surrounding the Khmer Rouge. DC-Cam has also created a wide range of media, such as documentary films, scholarly publications, theater scripts, and memorial songs.

DC-Cam's documentation helped justify the need for the ECCC, which has since used DC-Cam's documentation as leads to potential witnesses or evidence and to understand the role of certain individuals in crimes. DC-Cam has responded to the needs of victims and their families by implementing projects to address victims' legal requests for reparations, particularly those related to memorialization and public education. Finally, DC-Cam has raised domestic and international awareness of the need for criminal accountability in Cambodia.

### DOCUMENTATION USED TO DIRECTLY ASSIST THE ECCC

The testimonial and documentary evidence gathered by DC-Cam helped justify the creation of the ECCC by confirming the commission of serious crimes under international and Cambodian law through its extensive documentation. When the U.N. Group of Experts visited Cambodia in 1998, DC-Cam provided them with the locations of thousands of execution centers and mass graves as well as witness testimonies confirming the causes of deaths. This shared documentation was further useful because it gave background on the role of specific individuals as either direct perpetrators or those in command or supervisory roles.

Since the birth of the ECCC, DC-Cam has supported its investigations and trials by supplying a wide variety of documentation, testimony, films, and photographs—all in the absence of a formal agreement with the court.<sup>5</sup> DC-Cam's research has given the ECCC leads to potential witnesses and relevant documentary evidence as well as elucidated the role of particular individuals in crimes. ECCC investigators, prosecutors, and defense lawyers have regularly asked DC-Cam for documents to help confirm, enhance, or adjust their work. In fact, the ECCC has explicitly recognized that documentary materials from DC-Cam have significantly supported the court, especially in light of the ECCC's persistent resource challenges.<sup>6</sup> As of June 2017, DC-Cam has contributed an estimated value of \$3.5 million of in-kind support, mainly in the form of evidence.

### DOCUMENTATION USED TO FULFILL VICTIMS' RIGHT TO REPARATIONS

In its judgments, the ECCC recognizes specific projects as capable of satisfying the collective or moral reparations sought by victims participating in the trial as Civil Parties.<sup>7</sup> Accordingly, the ECCC has recognized DC-Cam's work in education and memory-building as reparations. For example, in Case 002/01, the Civil Party Requests included thirteen projects, of which eleven were recognized by the court as reparations and two were implemented by DC-Cam. One project aimed to establish permanent exhibition spaces in five provinces to educate the public about the Khmer Rouge. The second project proposed the inclusion of a chapter on forced population movement and executions at Tuol Po Chrey within a Cambodian teacher's manual, which would be (and was actually) distributed in an updated manual after the rendering of the judgment in Case 002/01.<sup>8</sup> In Case 002/02, of the twenty-three current projects under consideration by the ECCC as potential reparations, three were put forth by DC-Cam. DC-Cam's projects would focus on teacher training; public education, including

the installation of more permanent exhibitions; and the broader international and domestic dissemination of the history of Democratic Kampuchea.

## DOCUMENTATION USED TO RAISE AWARENESS OF CRIMINAL ACCOUNTABILITY

DC-Cam understands how records can be used to educate, support criminal accountability, and propel political and social change. Regarding formal education, DC-Cam has worked closely with Cambodia's Ministry of Education, Youth and Sport, which uses curriculum from DC-Cam to teach the history of the Khmer Rouge in all secondary schools. The teacher's manual associated with the curriculum contains activities concerning the definitions of genocide and forced transfer as well as the added discussion of crimes at Tuol Po Chrey. For later editions of the teacher's manual, DC-Cam intends to incorporate additional chapters on legal conclusions and judgments of the ECCC.

To promote healing and raise awareness of the importance of criminal accountability, DC-Cam's archives have informed a variety of artistic, literary, and scholarly works. On a broader, international level, DC-Cam has supported filmmakers in exploring the Khmer Rouge's atrocity crimes, the ECCC, and reconciliation. DC-Cam has also maintained several websites that provide access to reports, news, and other stories on the history of the Khmer Rouge and the work of the ECCC. Foremost among these websites is the jointly managed Cambodia Tribunal Monitor, which covers the ECCC's daily affairs; summarizes public hearings, including witness testimony; and analyzes issues facing the ECCC.

Finally, DC-Cam has conducted public outreach on both the history of the Khmer Rouge and the ECCC. Every three months, DC-Cam holds village forums in remote communities and encourages community members to discuss their experiences and watch DC-Cam films and presentations on the history of the Khmer Rouge and the work of the ECCC. In addition, during significant public hearings, such as the delivery of judgments and sentences, DC-Cam hosts live screenings of the sessions around the country. With respect to enabling the participation of survivors, DC-Cam has facilitated their attendance at the ECCC's public hearings by transporting survivors to the court in Phnom Penh.

Youth learn about Cambodia's violent past through a theater program.

Photo credit: The Peace Institute of Cambodia - Youth for Peace



## Lessons Learned and Recommendations

**Documentation organizations must adopt a formalized, objective research methodology.** The defense in Case 002 was skeptical of DC-Cam’s impartiality and attempted to explore why DC-Cam made certain choices, such as the prioritization of particular sources. The defense wanted to determine if the documenter had been biased toward gathering inculpatory evidence (which is favorable to the prosecution) over exculpatory evidence (which is favorable to the defense). From its experiences, DC-Cam has learned that, as part of the systematization and institutionalization of documentation work, a formalized methodology for every stage of documentation work can help answer questions about why certain choices were made while combating concerns about objectivity.

**Documentation work should be guided by systematic, institutionalized rules.** To be admissible in court, documentation must be judged relevant, probative, reliable, and authentic.<sup>9</sup> For instance, the defense in Case 002/01 asked if DC-Cam had any specific protocols for determining the authenticity and chain of custody for records, to which the DC-Cam Director responded that it relied on formalized written protocols. DC-Cam has found that the systematization of documentation work—including written protocols for determining authenticity, chain of custody, and other factors for establishing admissibility—is essential to actual and perceived credibility. Additionally, institutionalization enables any staff member to testify about the documentation methodology in case the person who received the documents is considered to be unavailable to testify.

**Documentation organizations should strive for transparency about their donors and partner relationships.** Sources of funding and relationships impact the perceived independence of documentation efforts. For example, the defense in Case 002 asked how DC-Cam was able to receive documents from various sources, particularly the government of Cambodia, and how financial contributions influenced the direction of documentation. The DC-Cam Deputy Director testified that the government of Cambodia had given DC-Cam permission to retrieve documents on the Khmer Rouge from anyone, anywhere, and the Director further clarified the broad scope of the organization’s search for records.<sup>10</sup> Moreover, DC-Cam’s transparency regarding the specific work to which particular funds were allocated helped overcome allegations that its funding was conditional on the occurrence or outcome of certain investigations.

**Documentation efforts should balance the need to be unbiased with their role as tools of political and social change.** Credible documentation requires independence from political and legal agendas; however, this is at odds with the role of documentation as an educational



Youth participants reflect at Youth for Peace, a community memory initiative in Cambodia that supports community peace learning centers, including efforts to transform mass killing sites into centers for dialogues, remembrance, and peacebuilding.

tool of political and social change. DC-Cam intimately understands this tension because it performs dual roles in providing criminal evidence to the ECCC and in educating the public. The organization has found that documentation possesses the potential to prompt not only direct outputs, such as criminal evidence, but also indirect outputs, such as education and memorialization. DC-Cam does not feel that these outputs are necessarily competing as long as an organization clearly emphasizes its independence and impartiality and openly articulates their view of documentation as a multipurpose endeavor.

## The Humanitarian Law Center’s Documentation in the Former Yugoslavia

### BACKGROUND ON THE ARMED CONFLICTS IN THE FORMER YUGOSLAVIA

The armed conflicts in the former Yugoslavia in the 1990s were marked by gross violations of international human rights law and serious violations of international humanitarian law. Most of the 130,000 lives lost were civilians who were killed by atrocity crimes.<sup>11</sup> Because domestic institutions were unable or unwilling to provide legal remedies for this situation, the U.N. Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 to prosecute perpetrators. In 2004, the U.N. Security Council announced the completion of the ICTY’s work and called on domestic courts to assume the ICTY’s workload as the judicial fora for prosecutions.<sup>12</sup>



## ABOUT THE HUMANITARIAN LAW CENTER (HLC)

The Humanitarian Law Center (HLC) is a locally driven initiative that was established by a Serbian activist in 1992, at the outset of the armed conflicts, in order to monitor and document violations. Over the years, the HLC has become the biggest documentation center in the former Yugoslavia and has a professionally managed archive of atrocity crimes from the 1990s. The HLC Archive includes more than 95% of the audio and video recordings of ICTY trials that are otherwise unavailable online, approximately 30,000 statements from victims and witnesses, a media archive of wartime newspaper issues, court documentation, and other types of documents.<sup>13</sup> Since 2005, in collaboration with the HLC Kosovo and Documenta (located in Croatia), the HLC has researched conflict-related deaths and disappearances for its Human Losses projects, which aim to create a comprehensive, accurate register of victims of the 1990s armed conflicts, regardless of ethnicity, religion, sex, age, disability, or combatant or civilian status.<sup>14</sup>

Due to the HLC's excellent reputation, many victims, witnesses, and even former perpetrators in Bosnia, Croatia, and Kosovo have come forward through the organization, leading prosecutors to victims, witnesses, and evidence. For example, in November 2004, a member of the Scorpions police unit gave the HLC the only known video of an execution of a group of young men and boys from Srebrenica. The video was pivotal evidence in Serbia against four Scorpions members; in Croatia against another Scorpions member; and in six ICTY cases against high-ranking political, military, and police officials.<sup>15</sup> The video was also broadcasted over 500 times in two months, both in Serbia and internationally, serving an awareness-raising function.

Prosecutors have used the HLC's documentation to improve their contextual understanding of crimes; as leads for investigations by the ICTY and Serbia's Office of the War Crimes Prosecutor (OWCP), including by identifying potential victims, witnesses, or evidence; and as evidence before domestic courts. In dozens of cases, the OWCP contacted the HLC for assistance in gathering relevant information.<sup>16</sup>

The HLC has also used its documentation to raise awareness of atrocity crimes and advocate for accountability. With respect to criminal accountability, the HLC has represented victims and their families and used its documentation to support legal claims during reparation proceedings. The organization has also published reports, films, and an interactive website containing information about atrocity crimes for which no perpetrator has been held accountable in the hopes of increasing the political will necessary for prosecutions. For memorialization initiatives, the HLC has advocated for the construction of a memorial on the location of a mass grave.

## DOCUMENTATION USED TO DIRECTLY ASSIST PROSECUTIONS

The HLC research team processes and analyzes many materials related to atrocity crimes, including documents and audiovisual materials from the HLC Archive, the archives of the ICTY and of domestic war crimes courts in the region, news media reports, documents by other civil society or victims' groups, and books and information available on the internet. The team also identifies victims, witnesses, and perpetrators and takes their statements.

After analyzing statements as well as military, police, and other documents, the HLC reconstructs the crimes and identifies perpetrators. The HLC publicizes and submits these analyses to the OWCP in the form of criminal complaints and analytical dossiers, which aim to draw the prosecution's attention to crimes and perpetrators. The interviews done by the HLC have helped the organization identify key victims and witnesses for the prosecution.

Since 2008, the HLC Legal Team has submitted fifteen criminal complaints to the OWCP that contained sufficient evidence to prompt prosecutors to initiate criminal proceedings. As of April 2017, five of the criminal complaints have gone to trial and six others are in either the pre-investigation or investigation phase.<sup>17</sup>

Since 2011, the HLC has compiled dossiers about units under the direct or indirect control of Serbia that committed crimes with impunity in Bosnia, Croatia, and Kosovo. These dossiers analyze the operations of military and police units who were active where atrocity crimes occurred during the 1990s armed conflicts. They also include information about the perpetrators since the commission of their crime(s), such as their current position, with an emphasis on individuals who are now holding public office; a factual description of the events; the criminal roles of units and perpetrators in question; a list of evidence and sources; and suggestions for the criminal procedure that should be initiated, such as how to classify the crime and how to gather additional evidence.<sup>18</sup>

To date, the HLC has published seven dossiers to urge investigations and prosecutions by the OWCP. In fact, one dossier prompted an ongoing prosecution by the OWCP, and the crimes described in two other dossiers are currently in the OWCP's pre-investigation phase. Additionally, following the publication of the *Dossier on the 125th Motorized Brigade of the Yugoslav Army*, the OWCP ordered its first investigation of a high-ranking Serb.<sup>19</sup>



Every year on the anniversary of the 1995 Srebrenica genocide, the Srebrenica-Potocari Memorial Center & Cemetery, a member of the International Coalition of Sites of Conscience, buries newly identified victims of the genocide – which claimed the lives of over 8,000 Bosnian Muslim men and boys.

Photo credit: The Srebrenica-Potocari Memorial Center & Cemetery

## VICTIM REPRESENTATION AND LITIGATION BEFORE SERBIAN COURTS

The HLC offers legal representation to victims and has already represented over 1,200 victims and their families before Serbian courts regarding different war crimes.<sup>20</sup> In 2016 alone, the HLC litigated on behalf of victims and their families in eight cases before the War Crimes Department of the Higher Court in Belgrade. Legal interventions by the HLC have influenced the OWCP to investigate and prosecute perpetrators of atrocity crimes. For instance, in the *Zvornik* case, the examination by the HLC's lawyers during the main hearing triggered the OWCP's investigation into a war crime, promising justice for over 700 killed.

Furthermore, since 2014, the HLC has represented victims and their families before the European Court of Human Rights regarding the state's obligation to conduct effective and independent investigations into war crimes. For all war crimes cases before Serbian courts, including ones in which the HLC does not represent victims, the HLC still monitors and informs the public about those trials.

## OTHER FORMS OF SUPPORT TO THE OWCP

In addition to directly prompting the OWCP to investigate and prosecute crimes, the HLC supports existing cases at the OWCP by providing documentation related to the events in question, identifying and encouraging relevant witnesses to testify, and arranging the travel and

other logistics for witnesses who are distrustful of Serbian institutions or are afraid to travel to Serbia. Both the HLC's proactive and reactive engagements with the OWCP are crucial due to challenges faced by the OWCP regarding capacity and political will.

## Lessons Learned and Recommendations

**There is no magic formula for successful documentation.** The HLC has found that flexibility and adaptability in researching and documenting is essential. To address the changing circumstances and needs of its work, the organization's methodology has continually evolved, grounded in the two principles of objectivity and "do no harm."

**Documenters should rigorously verify and record information without bias.** The HLC has taken a comprehensive approach to documentation, incorporating the widest possible scope of information in order to address the questions of bias that often arise in conflict-affected situations. For example, the Human Losses projects aim to record all conflict-related deaths and disappearances. Additionally, the HLC uses a strict verification methodology, which requires every victim to be documented by two independent sources; on average, the organization has eight sources per victim. Both strategies have helped increase the legitimacy of the HLC as an objective documenter.

**Documenters should get informed consent from victims and witnesses in order to "do no harm."** The HLC makes every effort to guarantee the safety of interviewees throughout the process of collecting and using information. The HLC interviewers speak with the interviewee about potential risks resulting from their cooperation as well as how the HLC plans to use their statements before getting their informed consent. The HLC believes that taking steps to ensure the voluntariness of informants is good practice in "doing no harm."

**Documenters should take a circumstantial approach to informed consent, and individuals must be allowed to withdraw their permission to use their statements.** Whenever the HLC takes action or initiates criminal proceedings, it must notify interviewees and reconfirm their informed consent in recognition of the fact that personal circumstances may change. For example, when the HLC takes a statement, the interviewee agrees to allow the HLC to use that statement in criminal proceedings. When the criminal proceedings begin, the HLC reconfirms their consent before giving any statement to the prosecution. By focusing on the needs and desires of victims and witnesses, the HLC has maintained the trust of past and present interviewees as well as gained the trust of future ones.

**Donors should understand that substantial time and money is necessary for successful documentation.** The HLC has documented atrocity crimes for twenty-five years and expects this work to continue. The high quality of the HLC’s documentation has illustrated the positive results of investing time—and consequent financial support—into documentation efforts. Donors should be aware and understanding of the protracted nature of documentation work.

## The Forensic Anthropology Foundation of Guatemala’s Documentation

### BACKGROUND ON THE INTERNAL ARMED CONFLICT IN GUATEMALA

From 1960 to 1996, Guatemala suffered an internal armed conflict that left over 200,000 victims, including 40,000 victims of enforced disappearances (or forced disappearances), and displaced around one million more.<sup>21</sup> In 1996, the United Nations brokered a peace agreement between the government and the Guatemalan National Revolutionary Unity (Unidad Revolucionaria Nacional Guatemalteca – URNG) guerrilla movement, establishing the Commission for Historical Clarification (Comisión para el Esclarecimiento Histórico – CEH), among other measures. The Commission documented 626 massacres and determined that at least 400 villages were completely destroyed. According to the Commission, government forces committed 93% of abuses, and 80% of the victims were from one of the country’s historically marginalized Maya ethnic groups whose lives and lands were destroyed by the military’s “scorched earth” campaign in the highlands. The Commission concluded that between 1981 and 1983, the government committed “acts of genocide” against Maya ethnic groups in four regions of the country.<sup>22</sup> The reign of impunity began to end only recently, due in part to the increased empowerment and autonomy of parts of the justice sector as well as the support of forensic investigations.

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*“Bones make excellent witnesses  
...They never lie and they never  
forget.”*

— Clyde Snow\*\*

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### ABOUT THE FORENSIC ANTHROPOLOGY FOUNDATION OF GUATEMALA (FAFG)

Since 1997, the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG) has carried out multidisciplinary forensic investigations at the request of survivors and victims’ families to uphold their right to a remedy and reparation, including their rights to truth, to justice, and to bury their loved ones with dignity. The FAFG’s approach draws on techniques from the fields of victim investigation, forensic archaeology, forensic anthropology, and forensic genetics to recover, document, and analyze physical evidence of human rights violations during the armed conflict, including massacres, extrajudicial executions, unlawful killings, and enforced disappearances.<sup>23</sup> In its investigations, the FAFG follows a strict protocol in accordance with international standards.<sup>24</sup>

The FAFG also supports national criminal justice processes by providing forensic expert reports, including pattern reports, from every one of its forensic investigations. It should be noted that the presiding judge or prosecutor appoints FAFG forensic experts to the cases concerning the armed conflict.<sup>25</sup> As of June 2017, the FAFG has conducted over 1,850 forensic investigations, which involved recovering and analyzing over 8,000 human remains, and has presented over 1,500 expert reports to the Attorney General’s Office. With the recent advances in transitional justice, these expert reports have increasingly been used in court cases as evidence of human rights violations and have corroborated witness testimony, connected perpetrators to crimes, provided a timeline of events, and proven intent.

### FORENSIC EVIDENCE USED TO HELP PROVE GENOCIDE

On May 10, 2013, the Guatemalan High Risk Court, Tribunal A convicted former de facto president General Efraín Ríos Montt for genocide and crimes against humanity against the Maya Ixil ethnic group.<sup>26</sup> This landmark case, known as the *Ixil Genocide* case, was the first time a Guatemalan court recognized a genocide. It also represents the first conviction of a senior military official and former head of state for wartime crimes.

The prosecution presented official documents, witness testimony, forensic evidence, and expert reports to prove genocide and crimes against humanity. The evidence crucial to the Ríos Montt conviction included sixty-six expert reports from individual FAFG forensic investigations and one pattern report analyzing information from 128 forensic investigations in the Ixil area on events that occurred during Ríos Montt’s rule (from March 1982 through August 1983).

The forensic evidence helped corroborate witness testimony and prove elements of the crimes of genocide and crimes against humanity in the Ixil area. The pattern analysis revealed victim demographics as well as the systematic nature of the strategies and types of violence used by the perpetrators. For example, the physical evidence highlighted the systematic use of blindfolds, gags, and rope around the ankles and wrists as well as the targeted killing of women, children, and the elderly. Documentary evidence, including the military plans that identified the Ixil people as the enemy of the state, corroborated the FAFG's findings.<sup>27</sup> Ultimately, the court relied on both forensic evidence from the FAFG and documentary evidence as proof that the "the acts of violence carried out against the Ixils were not spontaneous, but rather the implementation of plans that had been previously developed [and] which were part of the State's policy aimed at eliminating a particular ethnic group."<sup>28</sup> However, due to intense political pressure, ten days after the verdict, the Constitutional Court ordered a partial retrial and vacated the verdict of May 10th.<sup>29</sup> Nevertheless, the *Ixil Genocide* case has remained a powerful illustration of the progress made by domestic courts and the contributions of forensic evidence to human rights prosecutions.

### FORENSIC EVIDENCE USED TO REPRESENT VICTIMS AND CORROBORATE TESTIMONY

Against this backdrop, the Public Prosecutor's Office, human rights organizations, and the FAFG recognized the need for greater capacity and understanding of forensic evidence, particularly as a prosecutorial tool. As a result, the FAFG established the Inter-Institutional Working Group on Forensic Physical Evidence in 2015. This Working Group has trained prosecutors and human rights lawyers on how to incorporate forensic evidence into cases and on the relationship between witness testimonies, forensics, and documentary evidence. The *Sepur Zarco* case and the *CREOMPAZ* case demonstrate the positive impact of the Working Group on the prosecution's ability to utilize forensic evidence.

***Sepur Zarco* case.** On February 26, 2016, in the *Sepur Zarco* case, the Guatemalan High Risk Court, Tribunal A convicted two senior military officials for perpetrating the crimes against humanity of sexual violence, sexual slavery, and domestic slavery against fifteen Maya Q'eqchi' women as well as for homicides and enforced disappearances of their relatives. Notably, this was the first domestic prosecution of sexual slavery and domestic slavery in the world and the first prosecution of sexual violence crimes in Guatemala.

The FAFG presented critical forensic evidence in this case. Based on testimonies from survivors and victims' families, the FAFG located and exhumed more than a dozen mass graves and a minimum number of



As of June 2017, the FAFG has conducted over 1850 forensic investigations, which involved recovering and analyzing over 8000 human remains.

Photo Credit: FAFG

fifty-one victims from the Sepur Zarco and the Tinajas military bases. For the first time in Guatemala, human remains were presented in open court, allowing the judges, prosecution, and defense to examine the physical evidence.<sup>30</sup> Displaying the remains also served as a moving visualization that humanized the forensic evidence. In addition, one of the two individuals identified by the FAFG was the husband of one of the Q'eqchi' women and the forensic evidence corroborated her testimony of his enforced disappearance.

***CREOMPAZ* case.** On January 6, 2016, fourteen former senior military officials were arrested for their alleged involvement in what Guatemala's Attorney General has called Latin America's largest case of enforced disappearances. The case is based primarily on evidence from the FAFG's forensic investigation at Military Zone No. 21, which unearthed 85 individual and mass graves containing a minimum of 565 individuals, 94 of whom were children. As of June 2017, by comparing the genetic profiles of the remains to the profiles of their relatives, the FAFG has identified 145 of the victims recovered from CREOMPAZ.<sup>31</sup> The FAFG's analysis of the locations and times of disappearances provided by witnesses and families established the strategic use of terror against the population and the timeline of the crimes. This information was critical to indicting eight of those arrested for ordering or orchestrating massacres, torture, and enforced disappearances at Military Zone No. 21 between 1981 and 1987.<sup>32</sup>



In addition to forensic evidence, the FAFG often relies on information from witnesses and victims' families to locate graves, identify victims, and understand the circumstances of their deaths.

Photo credit: FAFG

## FORENSIC EVIDENCE USED TO ENABLE VICTIM PARTICIPATION

Witness testimony and forensic evidence have a mutually reinforcing relationship. For example, forensic evidence has corroborated witness testimony of enforced disappearances and other human rights violations given inside and outside the courtroom. At the same time, the FAFG has often relied on information from witnesses and victims' families to locate graves, identify victims, and understand the circumstances of their deaths.<sup>33</sup> The FAFG documents and presents this as part of its expert reports and together, the forensic evidence and witness testimony have enabled the prosecution to meet its burden of proof in a number of significant cases.



Tuol Sleng Genocide Museum is a former high school used as "Security Prison 21" by the Khmer Rouge regime from its rise to power in 1975 to its fall in 1979. An estimated 17,000 people were imprisoned there; of them, there are only 12 known survivors. The buildings at Tuol Sleng are preserved as they were left when the Khmer Rouge were driven out.

Photo credit: Tuol Sleng Genocide Museum

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## LESSONS LEARNED AND RECOMMENDATIONS

**Forensic investigations should support survivors and victims' families in their search for truth, justice, and dignity.** Forensic evidence directly connects survivors and families to the criminal justice system by corroborating their testimonies and providing physical proof of the crimes. Forensic investigations have proven to be an important means to empower victims' families to seek justice and redress for grave human rights violations by providing greater access to criminal trials. From locating remains to corroborating testimony and humanizing victims, forensic investigations are able to—and should—empower survivors and families to claim their right to a remedy and reparation for harms suffered.

**Criminal trials, especially at the national level, should use forensic evidence to enable the participation of survivors and victims' families.** In Guatemala, forensic evidence has been an invaluable way to support the voices of survivors and families in the courtroom and to facilitate their participation in criminal proceedings. The ability to assert this right is particularly crucial for historically marginalized communities, such as the Maya ethnic groups in Guatemala, since it contributes to (re)establishing their status and empowering them as rights-bearing citizens.

**Forensic experts should train trial lawyers on the relationship between witness testimony and forensic evidence.** Recent advances in Guatemala reflect a significant change in the judicial and prosecutorial treatment of forensic evidence and in how prosecutors and human rights lawyers rely on it during criminal trials. Understanding forensic evidence and its connection to the rest of the case has helped determine the location of graves as well as patterns and causes of deaths. For instance, pattern analysis of victim demographics, such as the one elaborated by the FAFG in the *Ixil Genocide* case, can determine if victims were civilians or combatants and in turn refute perpetrators' legal justifications.

Pages 101-109 were authored by Christopher Dearing and Youk Chhang on behalf of the Documentation Center of Cambodia (DC-Cam). Pages 109-114 were authored by Milica Kostić on behalf of the Humanitarian Law Center (HLC). Pages 114-120 were authored by Marte Myhre Tunheim, Fredy Peccerelli, and Jo-Marie Burt on behalf of the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala –FAFG).

<sup>1</sup> Anti-Slavery International, which was founded in 1839, is the oldest human rights CSO in the world. *About Us*, ANTI-SLAVERY INTERNATIONAL, <https://www.antislavery.org/about-us/>.

<sup>2</sup> *The Human Rights Movement – Advocacy for Policy Change*, HUMAN RIGHTS ADVOCACY AND THE HISTORY OF INTERNATIONAL HUMAN RIGHTS STANDARDS, <http://humanrightshistory.umich.edu/policy-decisions/the-human-rights-movement/>.

<sup>3</sup> Under the legal doctrine of sovereign immunity, governments and government officials are relatively immune from legal action. See generally Kathryn Sikkink, *THE JUSTICE CASCADE: HOW HUMAN RIGHTS PROSECUTIONS ARE CHANGING WORLD POLITICS* (2011).

<sup>4</sup> Two major international human rights documentation organizations were formed during the Cold War: Amnesty International (1961) and Human Rights Watch, formerly known as Helsinki Watch (1978).

<sup>5</sup> While DC-Cam sought a formal agreement with the ECCC regarding the use of documents, an agreement was never finalized. Despite the absence of such an agreement, DC-Cam opened its archives to all parties and court staff, with regularly scheduled days every week for the prosecution, defense, and Civil Parties.

<sup>6</sup> See Letter from Tony Kranh, Acting Director, Office of Administration of the ECCC, & Knut Rosandhaug, Deputy Director, Office of Administration of the ECCC (May 21, 2010) (on file with author) (recognizing DC-Cam as “one of the key in-kind donors of documentary materials to the court.”).

<sup>7</sup> According to the ECCC:  
[T]he term “moral” denotes the aim of repairing moral damages rather than material ones. While the requisite “collective” character of the measures confirms the unavailability of individual financial awards, neither the moral nor collective character requirements preclude *tout court* measures that require financing in order to be implemented. As long as the award is available for victims as a collective, moral reparations also may entail individual benefit for the members of the collective.

*Prosecutor v. KAING Guek Eav (alias “Duch”),* Case No. 001/18-07-2007-ECCC/SC, ECCC Appeal Judgment, 658 (February 3, 2012), <https://www.eccc.gov.kh/sites/default/files/documents/courtdoc/Case%20001AppealJudgementEn.pdf>.

<sup>8</sup> See Phala Chea & Christopher Dearing, Dc-Cam, *TEACHER'S GUIDEBOOK: THE TEACHING OF “A HISTORY OF DEMOCRATIC KAMPUCHEA (1975–1979)”*, (2nd ed. 2014), [http://www.d.dccam.org/Projects/Genocide/pdf/DC-Cam\\_Teacher\\_Guidebook\\_EN\\_2014.pdf](http://www.d.dccam.org/Projects/Genocide/pdf/DC-Cam_Teacher_Guidebook_EN_2014.pdf).

<sup>9</sup> John Ciorciari & Youk Chhang, *Documenting the Crimes of Democratic Kampuchea, in BRINGING THE KHMER ROUGE TO JUSTICE: PROSECUTING MASS VIOLENCE BEFORE THE CAMBODIAN COURTS* 221, 235 (Jaya Ramji & Beth Van Schaak eds., 2005), [http://www.dccam.org/Archives/Documenting\\_the\\_Crimes\\_of\\_DK\\_by\\_John&Youk.pdf](http://www.dccam.org/Archives/Documenting_the_Crimes_of_DK_by_John&Youk.pdf).

<sup>10</sup> In one example cited by the DC-Cam Director, he describes DC-Cam's attempts to obtain records contained in a non-public, personal archive of the late King Norodom Sihanouk that were based on his personal experiences and interactions with the Khmer Rouge.

<sup>11</sup> Atrocity crimes are the international crimes of war crimes, crimes against humanity, and genocide.

<sup>12</sup> U.N. Security Council Resolution 1534 (2004), [http://www.icty.org/x/file/Legal%20Library/Statute/statute\\_1534\\_2004\\_en.pdf](http://www.icty.org/x/file/Legal%20Library/Statute/statute_1534_2004_en.pdf).

<sup>13</sup> *HLC Archives*, HUMANITARIAN LAW CENTER, [http://www.hlc-rdc.org/?page\\_id=17468&lang=de](http://www.hlc-rdc.org/?page_id=17468&lang=de).

<sup>14</sup> The HLC's Human Losses projects include: *Human Losses in Kosovo* (1998–2000); *Human Losses in NATO bombing of Serbia and Montenegro* (1999); *Human Losses of Serbia and Montenegro in the armed conflicts in Slovenia, Croatia and BiH* (1991–95); *Register of Croatian citizens of Serbian ethnicity, killed in the armed conflict in Croatia* (1991–95); and *Human Losses in the armed conflict in Macedonia* (2001). HLC *Human Losses: Data Base*, Humanitarian Law Center, <http://www.hlc-rdc.org/?cat=281&lang=de>.

<sup>15</sup> The ICTY cases are: *Radovan Karadžić*, Case No. IT-95-5/18; *Ratko Mladić*, Case No. IT-09-92; *Popović et al.*, Case No. IT-05-88; *Stanišić & Simatović*, Case No. IT-03-69; *Stanišić & Župljanin*, Case No. IT-08-91; and *Zdravko Tolimir*, Case No. IT-05-88/2.

<sup>16</sup> *Criminal Complaints*, HUMANITARIAN LAW CENTER, <http://www.hlc-rdc.org/?cat=289&lang=de>.

<sup>17</sup> The five criminal complaints that went to trial are: *Skočić* (Bosnia and Herzegovina); *Tenja* (Croatia); and *Zahać/Zahaq, Pavljane/Pavljan, and Trnje/Ternje* (Kosovo).

<sup>18</sup> *Dossiers*, HUMANITARIAN LAW CENTER, <http://www.hlc-rdc.org/?cat=290&lang=de>.

<sup>19</sup> The high-ranking Serb was General Dragan Živanović, the former commander of this brigade.

<sup>20</sup> The HLC has litigated cases regarding mass killings of civilians and prisoners of war, torture or inhuman treatment, rape and other forms of sexual violence, forced displacement, and extensive destruction and pillaging of property.

\*\* Dr. Clyde C. Snow (1928–2014), the founding father and mentor of the FAFG, is recognized as one of the most distinguished anthropologists in the world. He made an extraordinary impact on forensic anthropology and its application to human rights investigations and the search for disappeared persons on a global scale. He trained teams of forensic anthropologists around the world, including in Guatemala, Argentina, and Chile.

<sup>21</sup> The FAFG understands "enforced disappearances" in accordance to its definition under the Rome Statute of the International Criminal Court and international human rights law.

<sup>22</sup> *Comisión Para el Esclarecimiento Histórico, Memoria del Silencio Conclusiones y Recomendaciones* (1999), [http://www.undp.org/content/dam/guatemala/docs/publications/UNDP\\_gt\\_PrevyRecu\\_MemoriadelSilencio.pdf](http://www.undp.org/content/dam/guatemala/docs/publications/UNDP_gt_PrevyRecu_MemoriadelSilencio.pdf) (Spanish) / <https://assets.documentcloud.org/documents/357870/guatemala-memory-of-silence-the-commission-for.pdf> (English).

<sup>23</sup> *Victim investigation* includes collecting testimonies, *ante-mortem information*, victim genealogies, and DNA family reference samples. *Forensic archaeology* includes locating, recovering, and documenting human remains and the circumstances in which they are found. *Forensic anthropology* focuses on the analysis of human skeletal remains to determine the biological profile, trauma, identity, and cause of death. *Forensic genetics* includes DNA extraction and processing from biological samples; comparison of genetic profiles, including kinship analysis; and the construction of genetic databases.

<sup>24</sup> The FAFG's genetic laboratory is internationally accredited under the ISO 17025:2005, which specifies the requirements for a laboratory's competence to conduct tests and calibrations. The FAFG follows the revised MINNESOTA PROTOCOL *on the Investigation of Potentially Unlawful Death* (2016) as a reference for exhumations, anthropological analysis, and chain of custody procedures. The MINNESOTA PROTOCOL is available at <http://www.ohchr.org/Documents/Issues/Executions/MinnesotaProtocolInvestigationPotentiallyUnlawfulDeath2016.pdf>.

<sup>25</sup> For decades, victims, legal associations, and civil society organizations have played a crucial role by pushing investigations forward and demanding the inclusion of independent forensic experts, such as FAFG investigators, when they request the prosecutor's office to open an investigation.

<sup>26</sup> See Jo-Marie Burt, *From Heaven to Hell in Ten Days: The Genocide Trial in Guatemala*, 18 JOURNAL OF GENOCIDE RESEARCH 143 (2016).

<sup>27</sup> The military plans were "Plan Victoria 82," "Plan Firmeza 83," and "Plan Operación Sofía."

<sup>28</sup> For an English translation of key sections of the judgment in the *Ixil Genocide* case (Folio 697), including the quoted language, see page 83 of [https://www.opensocietyfoundations.org/sites/default/files/rios-montt-judgment-full-version-11072013\\_2.pdf](https://www.opensocietyfoundations.org/sites/default/files/rios-montt-judgment-full-version-11072013_2.pdf).

<sup>29</sup> *Genocide in Guatemala: Ríos Montt Guilty*, FIDH (August 2013), pp. 25–26, <https://www.fidh.org/IMG/pdf/rapguatemala613uk2013.pdf>.

<sup>30</sup> See Jo-Marie Burt, *Human Remains Presented as Evidence in Sepur Zarco Trial*, INTERNATIONAL JUSTICE MONITOR (February 11, 2016), <https://www.ijmonitor.org/2016/02/human-remains-presented-as-evidence-in-sepur-zarco-trial/>.

<sup>31</sup> Military Zone No. 21 is now known as the Regional Command Training Center for Peacekeeping Operations (Comando Regional de Entrenamiento de Operaciones de Mantenimiento de Paz – CREOMPAZ).

<sup>32</sup> Jo-Marie Burt, *Eight Military Officers to Stand Trial in CREOMPAZ Grave Crimes Case*, INTERNATIONAL JUSTICE MONITOR (June 17, 2016), <https://www.ijmonitor.org/2016/06/eight-military-officers-to-stand-trial-in-creompaz-grave-crimes-case/>.

<sup>33</sup> Relevant *ante-mortem* information, including the victim's height, age, sex, and any trauma or illnesses that would be evident in the bones, is compared with the osteological findings to determine the identity of the remains.



Relatives honoring their missing loved ones on the Day of Missing and Disappeared Persons at the main square in Bogotá in August 2010.

Photo credit: The Center for Memory, Peace and Reconciliation of Bogotá

## CHAPTER 6: MISSING OR DISAPPEARED PERSONS IN COLOMBIA: ASSESSMENT REPORT SUMMARY

### Situation in Colombia

The protracted internal armed conflict in Colombia, dating back to the 1940s, between the government of Colombia and various rural guerrilla groups saw several unsuccessful attempts to end the conflict. At the end of 2016, the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia – FARC), which was the largest of the guerrilla groups, and the government successfully reached a peace agreement. The agreement mainly addressed a comprehensive agricultural development policy, political participation, the problem of illicit drugs, and transitional justice mechanisms to address victims' rights and claims. Colombians have high hopes that the new transitional justice process will not repeat the mistakes of the past process of 2005 that, for example, gave reduced sentences to demobilized paramilitary fighters in exchange for rarely verified depositions that remain unavailable to the public.

Since the 1970s, various perpetrators have controlled communities and silenced dissent through forced disappearances, also known as enforced disappearances. Missing or disappeared persons (MDPs) have included community leaders, journalists, human rights defenders, and other ordinary citizens resisting armed parties. Forced disappearances typically accompany or are accompanied by other human rights violations, such as massacres, extrajudicial killings, sexual violence, and forced displacement. According to the National Center for Historical Memory (Centro Nacional de Memoria Histórica – CNMH), right-wing paramilitary groups perpetrated most forced disappearances (often with the participation or acquiescence of the state) while the FARC and other left-wing guerrilla groups committed many kidnappings, which were frequently classified as forced disappearances. The military also committed a significant number of forced disappearances.



In October 2016, the government of Colombia reported the existence of nearly 47,000 MDPs and 120,000 relatives of MDPs in its Unified Registry of Victims (Registro Único de Víctimas – RUV). However, victims’ groups and civil society organizations (CSOs) claim that many other cases have not been registered with the RUV. For example, there remain challenges to gathering data on forced disappearances that occurred before its criminalization in 2000. Furthermore, different government registries contain and report inconsistent numbers. In fact, as of July 2017, there are no consolidated official records on MDPs, which limits efforts to determine and raise awareness about the scale, patterns, and impact of forced disappearances. In addition, the government has not taken a robust approach to producing a data-driven, systematic analysis of patterns and practices of forced disappearances.

Forced disappearances have caused severe, ongoing suffering for victims’ families, which is compounded by the consistent failure of the government to conduct meaningful investigations and provide information about their loved ones. Families of MDPs have faced other obstacles, including threats from organized criminal bands (bandas criminales – BACRIM) (mainly Clan del Golfo, Rastrojos, Águilas Negras, and Autodefensas Gaitanistas) and left-wing guerrilla groups (mainly Ejército de Liberación Nacional – ELN) that are still active in some territories. In addition, both the military and armed groups have forcibly displaced families from their homes. Due to these factors and others, including a lack of trust in the justice system, stigmatization, and fear of reprisals, families have been reluctant to register formal complaints with the local authorities.<sup>1</sup> This further affects efforts to understand the scale and patterns of forced disappearances.

### Overview of the Consortium’s Assessment of MDPs

On November 24, 2016, the government and the FARC reached a final peace agreement, ending the armed conflict after over fifty years. One week later, Congress ratified the agreement. The Comprehensive System for Truth, Justice, Reparation, and Non-Repetition (Sistema Integral de Verdad, Justicia, Reparación y No Repetición – SIVJRNR) was consequently created with constitutional status in April 2017. The SIVJRNR established new transitional mechanisms, such as the Commission for the Clarification of Truth, Coexistence, and Non-Repetition (Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición – CEV) or Truth Clarification Commission; the Unit to Search for Persons Deemed as Disappeared within the Context of and Due to the Armed Conflict (Unidad de Búsqueda de Personas Dadas por Desaparecidas en el Contexto y en Razón del Conflicto Armado – UBPD) or Search Unit; and the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz – JEP).

Immediately afterward, the government issued the rules of procedure for implementing the Truth Clarification Commission (CEV) (through Decree 588 of 2017) and the Search Unit (UBPD) (through Decree 589 of 2017). At the time of writing in July 2017, the Constitutional Court was still examining the constitutionality of the rules of procedure for implementing the new mechanisms. Additionally, a special committee was in the process of appointing truth commissioners, special jurisdiction judges, and the director of the Search Unit (UBPD).

Addressing forced disappearances and establishing responsibility for both group killings, in which several individuals were killed in one incident, and the systematic assassination of community leaders and activists are among the most critical matters for transitional justice and reconciliation in Colombia. The new transitional justice mechanisms supplement the existing ones that have been in place since the early 2000s. In this context, the Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”) carried out an assessment mission to understand expectations and opportunities for transitional justice as a result of the August 2016 peace settlement, which was revised before the final agreement of November 2016. The multidisciplinary team, whose members represented the International Coalition of Sites of Conscience (ICSC), the Due Process of Law Foundation (DPLF), and the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG), conducted the assessment between June



Exhibition during the celebration of the Day of Missing and Disappeared Persons at Bolívar Square in Bogotá in August 2013.

Photo credit: The Center for Memory, Peace and Reconciliation of Bogotá

and August 2016. The team spent ten days in Colombia and visited Bogotá and two severely impacted cities: Medellín, the capital of Antioquia Department, which has the highest rate of forced disappearances in the country, and Villavicencio, a central city in Los Llanos region in which the government had recently implemented intensive search programs to locate remains in cemeteries. The team conducted over eighty interviews with government officials, victims' groups, CSOs, and representatives of the international community.<sup>2</sup> They also held four focus groups with families of MDPs on developments and challenges in the search for, identification of, and delivery of remains. Finally, the team assessed memorialization efforts and their ability to raise awareness of the MDPs issue. Based on its findings, the Consortium made recommendations to a wide range of stakeholders, including the government of Colombia, donor countries such as the United States, and civil society.

### Challenges of Existing Ordinary Jurisdiction and Transitional Justice Mechanisms in Addressing the MDPs Issue

Over the past two decades, Colombia has developed a robust body of legislation to address the MDPs issue. However, both the scale of forced disappearances and polarization within the country have posed severe difficulties to implementing the laws. Additionally, although the rate of disappearances has significantly decreased in recent years, the number of new cases continues to outpace the slow resolution of existing ones. The lack of coordination among government institutions, large caseloads, and the frequent prioritization of current criminal cases over cases of MDPs are further obstacles. For instance, only 2% of cases involving forced disappearances that were opened over the past five years have gone to trial under the ordinary jurisdiction mechanisms.

#### CHALLENGES OF EXISTING ORDINARY JURISDICTION MECHANISMS

Law 589 of 2000 created the National Commission for the Search for Missing Persons (Comisión Nacional de Búsqueda de Personas Desaparecidas – CNBPD) or Search Commission—not to be confused with the newly created Search Unit (UBPD)—to support and promote the investigation of forced disappearances as well as to design, evaluate, and execute plans related to the search for MDPs. However, due to its limited budget and structure, it has been incapable of commencing effective search actions, much to the frustration of families of MDPs, victims' groups, and CSOs. Instead, the Search Commission has focused on suggesting legal instruments and procedures to any government institution that handles MDP cases—such as the Attorney General's Office, Ombudsman's

Office, National Solicitor's Office, Armed Forces, Police—but does not undertake any monitoring of plans. Additionally, in practice, the Attorney General's Office does not initiate investigations in response to direct requests from the Search Commission, despite its legal obligation to do so. It also follows its own constantly changing procedures for prioritizing cases—not those recommended by the Search Commission.

One particularly, albeit only potentially, useful government tool is the National Registry of Disappeared Persons (Registro Nacional de Desaparecidos), which was established in 2005. Its main search database, the Network Information System on Disappeared Persons and Cadavers (Sistema de Información Red de Desaparecidos y Cadáveres – SIRDEC), which became operational in 2007, has cross-referenced information from reported disappearances with data from unidentified cadavers collected by the National Institute of Legal Medicine and Forensic Sciences (Instituto Nacional de Medicina Legal y Ciencias Forenses) or Forensic Institute. Unfortunately, despite a legal obligation under Law 1408 of 2010, few government institutions update their records in SIRDEC. In fact, a major challenge for SIRDEC is the absence of sufficient human and financial resources to regularly update and validate information, properly input cases of MDPs into the system, and expand the genetic data bank of MDPs by collecting and analyzing biological samples from relatives of MDPs.

#### THE GOVERNMENT DOES NOT VALIDATE INFORMATION FROM THE PARAMILITARY DEMOBILIZATION PROCESS

Law 975 of 2005 (Justice and Peace Law) was introduced to support the demobilization of paramilitary fighters. Under this law, perpetrators are entitled to significantly reduced sentences in exchange for the location of graves and reparations to victims' families. Due to the large number of depositions and limited resources, prosecutors have taken depositions at face value without verification. This has resulted in a high rate of exhumations without recovering bodies. The failure of the Attorney General's Office to validate information has also caused families of MDPs, communities, and CSOs to believe that the government lacks the political will to address forced disappearances.

#### FORENSIC INVESTIGATIONS ARE SLOW TO RECOVER AND IDENTIFY REMAINS

Prior to the development of new transitional justice mechanisms under the peace agreement, the Forensic Institute, the Technical Investigation Unit of the Attorney General's Office (Cuerpo Técnico de Investigación – CTI), and the Directorate of Judicial Police and Investigation of the National Police (Dirección Central de Policía Judicial e Inteligencia – DIJIN) were the only entities that could legally exhume remains. To help identify remains,

in 2010, the Forensic Institute constructed a genetic data bank to cross-reference DNA from unidentified bodies with DNA from relatives of MDPs. With the support of international donors, the Forensic Institute and the Attorney General's Office established several specialized laboratories, which have identified 107 MDPs as of July 2016. In 2015, the Forensic Institute also executed a plan to recover and identify remains in cemeteries where perpetrators would often dispose of bodies. As of October 2016, only 14 of the 311 exhumed remains from those cemeteries have been identified.

### MONITORING AND EVALUATION EFFORTS ARE NEITHER CONSISTENT NOR INDEPENDENT

Each government institution has a different definition for “MDP” and its own follow-up procedures and indicators, which has produced misleading statistics and rendered it difficult to accurately monitor and evaluate efforts to account for MDPs. By law, the Search Commission is responsible for assessing progress on the MDPs issue, but it depends both administratively and financially on the institutions that it is mandated to monitor and evaluate. Additionally, government institutions classify different modalities of disappearance in the same way due to the lack of legal distinction between disappearances with or without the participation or acquiescence of the state. Colombia's flawed legal definition of “enforced disappearance” poses yet another challenge to monitoring state responsibility and has been criticized by the U.N. Committee on Enforced Disappearances.



A gallery dedicated to missing and disappeared persons in an exhibition promoting peace in October 2010.  
Photo credit: The Center for Memory, Peace and Reconciliation of Bogotá

### LAWS ON ACCESS TO CLASSIFIED INFORMATION ARE CONTRADICTIONARY

There are two current laws on access to information, but they are contradictory to some degree. Under Law 1621 of 2013 (Statutory Intelligence and Counterintelligence Act), all information produced by security agencies is classified and restricted for at least thirty years. At the same time, Law 1712 of 2014 (Transparency and Right to Access National Public Information Act) states that all information should be made publicly available except files that are specifically classified. This law also provides that documents in cases involving human rights violations or crimes against humanity cannot be classified.

### THE GOVERNMENT DOES NOT INVOLVE VICTIMS' GROUPS OR CIVIL SOCIETY ORGANIZATIONS

Families of MDPs and support groups expressed their distrust of government institutions not only for their failure to resolve MDP cases but also for their mistreatment of families. Further complicating the efforts of families has been the burden of navigating Colombia's complex justice system. Since most families cannot afford legal representation and it is not provided for free by government institutions like the Ombudsman's Office, the barrier to accessing justice is high.

Consequently, over the years, many victims' groups and specialized CSOs have gained expertise in critical areas related to the search for and identification of MDPs, including psychosocial support, forensic techniques, judiciary skills, archival research, and memorialization. CSOs have filled gaps by providing services that the government does not provide or does not adequately provide. Due to their distrust of government institutions, some families have preferred to deal with the authorities through specialized CSOs. For example, several victims' groups are knowledgeable about different psychosocial techniques and could easily advise the Unit for Comprehensive Assistance and Reparation to Victims (Unidad de Atención y Reparación Integral a Víctimas – UARIV) and the Ministry of Social Security and Public Health on appropriate methods. In spite of this, they have not been allowed to interfere with the procedures established by those institutions.

Since investigations into MDPs place the burden of proof on the families, CSOs can provide much-needed assistance. Because of the lack of progress by the government, families have taken the initiative to conduct parallel investigations and bring evidence to prosecutors. However, prosecutors have been reluctant to admit the presence of CSOs as third-party experts and have even minimized or neglected their information on the location of remains, which prosecutors are not legally required

to consider. This aligns with other assessment findings that government officials on the whole have rarely welcomed citizen oversight.

In addition to accountability, victims' groups and CSOs have demanded greater transparency on matters concerning MDPs. As such, they have advocated for the creation of a mechanism to enhance citizen oversight and monitor institutional performance in accounting for MDPs. International aid has been essential in building the capacity and expertise of victims' groups and CSOs to provide citizen oversight, but this financial assistance has decreased over the past years. Representatives from a number of these organizations were worried about further reductions since donors are increasingly funding the capacity-building of government entities at the expense of CSOs.

### CRIMINAL BANDS AND DEMOBILIZED PARAMILITARY FIGHTERS THREATEN THE SAFETY OF COMMUNITY LEADERS AND HUMAN RIGHTS DEFENDERS

Some families were forced to stop their search after receiving direct threats, particularly from BACRIM. BACRIM, which are non-demobilized paramilitary groups that continue to operate in many regions of Colombia, have threatened human rights defenders and families of MDPs who are seeking justice for BACRIM crimes. They have also continued to perpetrate most of the ongoing forced disappearances. Additionally, most demobilized paramilitary fighters will complete their sentences soon. Their release is a significant concern for communities, victims, and human rights defenders because while these former fighters had to acknowledge responsibility to receive reduced sentences, they were not required to make guarantees of non-repetition. More troublingly, some even tried to justify their crimes.

To address these risks, in 2009, the government of Colombia set up the National Working Group for Guarantees to Human Rights Defenders (Mesa Nacional de Garantías para Defensores de Derechos Humanos), which is a special working group to provide physical protection for human rights defenders and which involves both the government and civil society. Currently, nearly 3500 human rights defenders benefit from such protection. Although the peace agreement stipulates a Comprehensive Program for Security and Protection in conflict-affected areas, implementing these efforts remains challenging due to the polarization and continued stigmatization of human rights defenders (with the tacit approval of government officials), who are perceived by BACRIM as supporters of left-wing guerrilla groups. From January 2016 to July 2017, more than 180 community leaders have been killed, mainly in the areas from which the guerrilla groups have withdrawn as a result of the peace agreement.



Lourdes Square in Bogotá on the Day of Missing and Disappeared Persons in August 2012.

Photo credit: The Center for Memory, Peace and Reconciliation of Bogotá

## CHALLENGES TO VICTIM SATISFACTION AND MEMORIALIZATION

Memorialization can foster a post-conflict culture of human rights through its ability to ensure victim satisfaction and guarantees of non-repetition. Accordingly, families of MDPs expressed unease that perpetrators are not required to make guarantees of non-repetition to receive reduced sentences. In addition to making guarantees of non-repetition a prerequisite for receiving a reduced sentence, families want the government to disseminate these commitments throughout the affected communities and, in some cases, to the broader public.

In the past, victims' groups and CSOs exclusively carried out memorialization efforts, but over the past decade, the government created several memory-focused institutions. For example, the National Center for Historical Memory has played an important role in truth-telling by publishing robust research on political violence, developing the National Archive of Memory and Human Rights, and continuously supporting community-level memorialization. At the municipal level, the Center for Memory, Peace, and Reconciliation of Bogotá and the House of Memory Museum in Medellín perform a similar function on a smaller scale. However, the sustainability of these memory initiatives is unclear due to several challenges ranging from budget cuts to the limited representation of victims in the administrative bodies or boards of directors, which is in stark contrast to the best practices of other countries in Latin America.

Other memorialization efforts have focused on creating educational materials for schools to use to increase awareness of human rights violations and their impact in Colombia. Unfortunately, the implementation of these educational programs strongly depends on the policy of each school, which in turn has resulted in the inconsistent and weak implementation of these programs.

### The Role of the International Community in Addressing the MDPs Issue

The international community is well-situated to help hold the government of Colombia accountable for fulfilling its human rights obligations and has also made many valuable contributions to bolster Colombia's efforts to account for MDPs. For instance, due to international aid, the Forensic Institute and the Attorney General's Office have improved their technological infrastructure. The UARIV, the Ombudsman's Office, and the National Center for Historical Memory have also benefited from institutional strengthening programs, such as USAID's Victims Institutional

Strengthening Program (VISP) and similar ones by the German Corporation for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit – GIZ), Swedish-Norwegian Fund for Cooperation with Colombian Civil Society Organizations (FOS), E.U. Delegation to Colombia, and U.N. Development Programme (UNDP) Transitional Justice Fund. Finally, ongoing assistance from the national-level Office of the U.N. High Commissioner for Human Rights (OHCHR), the Inter-American human rights system, the U.N. Committee on Enforced Disappearances, and several governments has enhanced Colombia's compliance with international laws and standards concerning MDPs. This international support has strengthened CSO efforts to help families and provide citizen oversight during the process to account for MDPs.

Major financial and logistical investment will ensure that the mechanisms regarding the search for and identification of MDPs are implemented adequately throughout the country, including in rural locations. However, representatives of the international community in Colombia were frustrated at the government's failure to prioritize human rights programs. Specifically, officials from OHCHR, UNDP, and a number of embassies regretted that the Minister-Advisor for Post-Conflict, Human Rights, and Security had urgently prioritized programs on disarmament, demobilization, and reintegration (DDR) and rural development without also focusing on programs to account for MDPs.

### The Potential of the New Transitional Justice Mechanisms in the Peace Agreement

Government officials, victims' groups, CSOs, and members of the international community expressed their high expectations for the new transitional justice mechanisms, such as the Truth Clarification Commission (CEV), the Search Unit (UBPD), and the Special Jurisdiction for Peace (JEP). The new process has presented the opportunity to create and implement robust mechanisms for search, truth, and accountability regarding MDPs and other human rights issues, drawing on past experiences to address the shortcomings of current mechanisms.

The implementation of the Truth Clarification Commission (CEV) is a high priority for families of MDPs, victims of killings, and survivors. This may be because the work of the Truth Clarification Commission (CEV) would provide victims with a first measure of satisfaction and the opportunity to confront alleged perpetrators. It would also explain the phenomenon of forced disappearances, killings, and other human rights violations as well as facilitate further investigations by clarifying individual cases of MDPs. Notably, because the Truth Clarification

Commission (CEV) and the Search Unit (UBPD) are extrajudicial in nature, their findings and collected information—except forensic reports and physical evidence—cannot be used in judicial proceedings. However, families of MDPs and other victims can initiate judicial actions based on the findings of the Truth Clarification Commission (CEV) and the Search Unit (UBPD) through the ordinary jurisdiction, unless the case is under consideration by the Special Jurisdiction for Peace (JEP).

## Challenges in Implementing the New Transitional Justice Mechanisms

Colombia has developed very sophisticated legal instruments, but they have been poorly executed. The translation from paper to practice may pose challenges to the implementation of the new transitional justice mechanisms. For example, the vague definition of “disappeared within the context and due to the armed conflict” included in the rules of procedure of the Search Unit (UBPD) could seriously reduce its scope since it is unclear which individuals and circumstances are covered by the definition. Cases that do not fall under the definition will be addressed under the ordinary jurisdiction of the existing Search Commission, which will likely retain its limited ability to take action.

The successfulness of the new transitional justice mechanisms will greatly depend on their capacity to conduct large numbers of independent investigations. However, because of the enormous number of potential cases, the mechanisms’ broad mandates, and their limited human and financial resources, even the new mechanisms cannot address all cases. The rules of procedure defined thus far provide independence, but the effective implementation of the mechanisms will still hinge on the competence of the truth commissioners, the special jurisdiction judges, and the director of the Search Unit (UBPD) as well as on the budget allocated to their respective institutions.

Another major challenge to implementing both the Truth Clarification Commission (CEV) and the Search Unit (UBPD) will be quickly preparing civil society to participate in these mechanisms, provide the necessary documentation to ensure their cases are prioritized and heard, and exert citizen oversight. Although the Truth Clarification Commission (CEV) and the Search Unit (UBPD) are mandated for a sufficient amount of time—three and twenty years, respectively—their success will depend on the allocation of human and financial resources, along with the independence and competencies of their staff. The involvement of civil society, particularly specialized CSOs, can support the institutions, defray costs, and act as a confidence-building measure for affected populations.

Regarding access to classified information, since requests by the Truth Clarification Commission (CEV) and the Search Unit (UBPD) relate to human rights violations, government institutions must allow them to access the desired information. The Truth Clarification Commission (CEV) and the Search Unit (UBPD), however, must abide by the accessed government institution’s rules for classified information and must preserve the secrecy of the information. Accordingly, they cannot make physical or virtual copies or make the information public.

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## RECOMMENDATIONS

**Colombia should accurately appraise the costs of implementing the new transitional justice mechanisms, particularly the Truth Clarification Commission (CEV) and the Search Unit (UBPD).** Colombia should prepare and execute large-scale interventions to bolster the search for, identification of, and dignified delivery of remains of MDPs as well as other truth-related investigations. To this end, the government must accurately assess the human, technical, and financial resources required, including support for the participation of victims’ groups in compiling, producing, and preparing documentation to participate in the new transitional justice mechanisms. Such support should also include psychosocial services. International and private donors should make contributions toward the assessment and resources needed for the work on MDPs. Specialized CSOs should assist in developing and conducting the assessment.

**The international community should exert diplomatic pressure on Colombia to ensure the prioritization of MDPs and other human rights issues.** Colombia has not prioritized human rights programs, including those to account for MDPs. However, major investment in logistical support is necessary to ensure the proper implementation of transitional justice mechanisms that are mandated to handle the search for and identification of MDPs. Since addressing the MDPs issue is a longstanding, critical matter for transitional justice and reconciliation, the international community should urge the government of Colombia to accord it the weight it deserves.

**The international community, as well as specialized CSOs, should provide technical assistance on the search for and identification of MDPs.** International cooperation programs should be established to provide technical assistance, including to the Attorney General’s Office and the Search Unit (UBPD), to improve their investigative capacity. The United States should help expand the genetic data bank and improve



An exhibition on missing and disappeared persons and extrajudicial killings at the Center for Memory, Peace and Reconciliation in Bogotá in September 2015.

Photo credit: The Center for Memory, Peace and Reconciliation of Bogotá

SIRDEC. Accordingly, the international community should fund technical assistance on search and truth processes regarding MDPs.

**Colombia should create national and regional plans to search for and identify MDPs.** Given the scale of the cases of MDPs that need to be resolved, Colombia must establish national- and regional-level plans to prioritize cases. This strategy should address emblematic and representative cases while also developing local capacity to support investigations in all regions, including through research and documentation. Regional plans will further ensure the existence and implementation of programs to account for MDPs throughout the country and capture region-specific needs and dynamics in rural locations. For instance, regional plans will take into consideration the ethnic, cultural, and livelihood differences between the rural and urban areas.

**The United States should develop a needs assessment with a view to informing the work of the Truth Clarification Commission (CEV).** The stability of the peace process and its ability to rebuild trust and a culture of democracy and accountability will depend on the results of the Truth Clarification Commission (CEV). In order to actively involve the whole of society, Colombia must identify the capacities, needs, and expectations throughout the country regarding the Truth Clarification Commission (CEV). The United States should contribute to the development of a needs

assessment of this nature, which should be conducted by specialized international organizations, such as the Consortium, to assist Colombia in this matter.

**The Search Unit (UBPD) should be sufficiently autonomous, capable, and resourced to undertake its investigations regarding MDPs.**

Colombia should ensure that the Search Unit (UBPD) can autonomously initiate and conduct investigations based on information from families, CSOs, and other sources; request witness protection; and engage external experts. The Search Unit (UBPD) should also have administrative and financial independence from other government institutions. The international community should fund institutional strengthening programs to achieve this end.

**Colombia should make technical adjustments to SIRDEC.** SIRDEC should include ante-mortem information provided by the families of MDPs. It should also allow the inclusion of background contextual information on MDPs, such as their political and socioeconomic status, in order to identify patterns of forced disappearances. Government institutions should internally enforce their legal obligation to regularly and accurately update SIRDEC and should provide SIRDEC with timely information about their cases and the public servant(s) responsible for those cases. Moving forward, the Search Unit (UBPD) should have unlimited access to the information in SIRDEC.

**The United States and the international community should train and financially support civil society to exercise citizen oversight, especially regarding the MDPs issue.** Distrust of the government has caused families to seek representation and assistance from specialized CSOs. Such CSOs would benefit from greater funding and capacity-building to facilitate their participation in search and judicial processes. Colombia should welcome, not shun, CSO support and oversight as a confidence-building measure and should contribute to transparency by requiring the Search Unit (UBPD) to report to the families of MDPs.

**Colombia, with international support, should establish an independent monitoring and evaluation mechanism.** Financial assistance from the international community will contribute to the expedient creation of such a mechanism. Colombia should ensure that victims and specialized CSOs are able to actively participate in monitoring efforts and provide citizen oversight of government institutions, including the Search Unit (UBPD).

**Colombia should grant full access to government archives, including classified information, to the Truth Clarification Commission (CEV) and the Search Unit (UBPD).** Citizens need to be able to access information on MDPs and other human rights violations in order to exercise their

right to a remedy and reparation. Colombia should reform current access to information legislation according to international standards and remove contradictory provisions. To facilitate and improve information-sharing, Colombia should establish coordination protocols between the Truth Clarification Commission (CEV) and the Search Unit (UBPD).

**Victims and civil society should be enabled to participate in the search for, identification of, and delivery of MDP remains and should be informed of progress.** Specialized CSOs are particularly invaluable because of their trusted community reputations and wide-ranging areas of expertise—including psychosocial support, forensics, legal skills, archival research, and memorialization—as well as their ability to fill gaps in service provision. CSOs representing the most vulnerable populations, such as Afro-Colombians, indigenous peoples, and women, must also be engaged. In particular, special training and workshops for CSOs in basic legal and forensic skills could enhance their active involvement and ability to support affected communities. Funding from members of the international community, such as the United States, is key to facilitating the full participation of victims and CSOs.

**Colombia should widely disseminate acknowledgements of criminal responsibility as well as raise awareness of human rights principles.** Acknowledgements of criminality by perpetrators should include guarantees of non-repetition and should be devoid of attempts at justification. Colombia should also fund and implement social pedagogy and educational programs, including in the school system, to raise awareness of human rights and help prevent the recurrence of forced disappearances.

**Colombia and the international community should invest in community truth and memorialization efforts.** Colombia should contribute to the construction of sustainable approaches to gathering and disseminating victim narratives, particularly at the community level. International donors should provide urgently needed financial assistance to community truth and memorialization initiatives. Moreover, Colombia should enshrine the need for the participation of victims and CSOs in frameworks governing the administrative bodies and boards of directors of memory-focused government institutions.

**Colombia, with international support, should pursue truth and memorialization through archives.** The international community should fund trainings for communities and CSOs on memorialization as well as on developing and maintaining archives, especially at the

community level. As part of this, the expertise of the Consortium should be engaged in convening a working group on archives. Meanwhile, the United States should financially support specialized U.S. and international organizations with archival expertise, such as the Consortium, to assist Colombia in this matter.

**Authored by Darío Colmenares Millán on behalf of the International Coalition of Sites of Conscience. This chapter summarizes a longer report by the ICSC, the Due Process of Law Foundation (DPLF), and the Forensic Anthropology Foundation of Guatemala (Fundación de Antropología Forense de Guatemala – FAFG).**

<sup>1</sup> Rural communities are frequently made to believe that people are disappeared because they did something wrong. They also often believe that families who register complaints are complicit in the disappeared person's wrongdoing. As a result, the families of MDPs are immediately investigated by the local authorities upon filing a complaint.

<sup>2</sup> The team spoke with interviewees from the urban areas and surrounding regions, including outside the cities.





A visitor reflects at the Kigali Genocide Memorial in Rwanda in June 2017.

Photo credit: Kigali Genocide Memorial

## CHAPTER 7: HIGHLIGHTED LESSONS FROM EVALUATING THE CONSORTIUM'S PROGRAMMING

The chapters and the manual as a whole present lessons and recommendations based on different contexts and transitional justice methodologies. Each project engaged locals as the primary agents of transitional justice, empowering them to design and implement holistic and sustainable transitional justice programs. In this manner, the projects were locally owned, inclusive, and context-specific—addressing some of the major obstacles to successful transitional justice.

Around the world, partners of the Global Initiative for Justice, Truth and Reconciliation Consortium (“the Consortium”), local partners, and project participants largely felt that the Consortium’s programming, including both substance and methodologies, was relevant, effective, efficient, and coherent. They also believed that the Consortium’s unique, interdisciplinary approach to capacity-building, which coordinates multiple international and local partners, further increased the impact and sustainability of projects by placing control in the hands of affected communities. It should be noted, however, that the Consortium had not concertededly worked to address structural violence. Therefore, although the Consortium’s inclusive consultations, trainings, workshops, and other activities unpacked a range of needs that sometimes deconstructed structural violations, such as economic, social, and gendered harms, the projects thus far centered on “extraordinary” physical violence. Consequently, any effects on structural impunity in the target countries are indirect results of the projects. The Consortium recognizes this as a gap in its programming and will innovate ways forward to better integrate the goal of ending all forms of impunity.

By evaluating its programming in South Sudan, Syria, Sri Lanka, and the Middle East and North Africa (MENA) region, the Consortium was able to make evidence-based suggestions on the types of interventions and

strategies that help ensure local ownership, inclusivity, and responsiveness to context. The highlighted lessons below were drawn from the many overlapping recommendations presented at the end of each evaluative chapter and were chosen for their potential adaptability to transitional justice projects on a global scale. These lessons are neither prescriptive nor a guaranteed recipe for success. They do, however, provide guidance on improving the relevance, effectiveness, impact, sustainability, efficiency, coherence, and coordination of projects and contribute to the thinking and evolution of new models for ending impunity.

## Lessons on Transitional Justice Approaches

**Transitional justice programming should be holistic and involve different measures, processes, and methodologies.** Transitional justice is a multipronged solution to impunity and includes more than criminal prosecutions and truth-telling initiatives. The Consortium's work with South Sudanese, Syrian, Sri Lankan, and MENA region stakeholders emphasized the holistic nature of transitional justice. An interdisciplinary approach, including collaborations between organizations with expertise in diverse disciplines, lends itself to holistic and sustainable transitional justice. When local actors understand that there is no one-size-fits-all transitional solution, they better value the need for different measures, processes, and approaches to achieve their goals.

**Transitional justice projects should take an interdisciplinary approach.** By nature, the Consortium is an interdisciplinary entity, comprising nine organizations with expertise in a wide range of disciplines related to transitional justice, such as law, gender, human rights documentation,



Scenes from the road during a needs assessment in Cote d'Ivoire in August 2017.

advocacy and psychosocial support for victims, forensic analysis, and civil society capacity-building. These organizations also possess experience with different transitional justice initiatives, such as those related to truth, memory, reparations, and reconciliation. Since interdisciplinary trainings and activities give local participants a holistic perspective of transitional justice, projects should consider involving multiple partners with varied areas of expertise.

**Transitional justice projects should take a participatory approach and engage local actors as decision-makers at every stage.** The trainings and workshops for South Sudanese documenters were tailored to the needs and goals they expressed during consultations, and participants had ownership of the agenda during the MENA region training. In order to lay the foundation for inclusive transitional justice in Syria, the Consortium used comprehensive needs assessments and consultations. In Sri Lanka, the Consortium revisited individuals who participated in the original needs assessment in order to understand new developments and strengthen targets' investment in the process. Participatory approaches are valuable for their ability to closely engage various affected communities to identify and address their needs and desires. They also establish local expertise as the primary resource and encourage the creation of innovative, locally owned, and context-specific transitional justice interventions.

**Transitional justice methodologies should be context-specific and varied.** The Consortium's programming included context-specific traditional, participatory, and non-traditional methodologies. Participatory methodologies were part of all four projects. Traditional workshops were used in the projects in South Sudan, Sri Lanka, and the MENA region. The Consortium also used an archival exhibition to prompt emotive discussions in Sri Lanka, and in South Sudan it used body maps and other visual representations of experiences with conflict. All approaches were tailored to the specific needs and context of the situation and transition. This tactic has significant potential to identify nuanced experiences and even scrutinize longstanding issues of structural violence.

## Lessons on Local Ownership of Transitional Justice

**Transitional justice projects should aim to establish locally led initiatives.** The Consortium contributed to the establishment of a locally led human rights documentation initiative in South Sudan, a referral network among Syrian service providers and human rights documenters, a truth and reconciliation coordination mechanism in Sri Lanka, and a MENA-wide regional network. Communities had expressed their need for such initiatives in light of their respective contexts. Since they are founded on local expertise, such endeavors are well-suited to responding

and adapting to developments and emerging challenges.

**Transitional justice projects should be inclusive of all groups.** Inclusion characterizes the Consortium’s programming across ethnic, religious, and gender lines. In Sri Lanka, extensive needs assessments targeted the major ethnic and religious groups—not just the most affected group. The MENA region training sensitized participants on the need for inclusive transitional justice that prioritizes vulnerable groups. Taking into account the gendered harms and needs in South Sudan, documentation missions prioritized gender parity and the inclusion of female documenters. In addition, the Consortium held separate focus groups with Syrian male and female former detainees as well as spoke with women’s organizations. Inclusion is vital in situations where inter-group tensions were drivers of conflict and where group- and gender-based targeting prevails.

**Transitional justice projects should engage, partner with, and support local experts.** The Consortium relied on local partners in Sri Lanka and in the Syria project. The Consortium also built the capacity of South Sudanese partners in human rights documentation and guided MENA region actors in implementing their own local-level projects. In each project, the Consortium greatly benefited from the contextual expertise of collaborating local partners. Fostering trust-based relationships with local partners enables greater access to affected communities and responsiveness to on-the-ground challenges. Meanwhile, local partners increase their technical knowledge and skills to further their participation in transitional justice efforts.

### Lessons on Training Approaches and Outputs

**Transitional justice trainings should include tangible outputs, ranging from the provision of sub-grants to the establishment of locally led initiatives.** The Consortium is renowned for its action-oriented projects with clear outputs, unlike other on-the-ground programs. In the MENA region, the Consortium provided sub-grants so local actors could design and implement projects based on their contextual expertise and newly gained transitional justice knowledge and skills. As another example, the Consortium responded to workshop fatigue in Sri Lanka by facilitating the creation of a coordination mechanism. Tangible outputs that enable and empower participation help maintain the benefits of the original transitional justice project. Sub-grants are especially valuable in situations where local actors face difficulty in securing donor funding, and sub-granted projects can focus on community needs without being restricted by donor interests.

**Transitional justice trainings should not be prescriptive.** The Consortium promoted knowledge-sharing on different transitional



Participants in a GIJTR Consortium violence prevention workshop in Guinea in May 2017.

justice mechanisms and processes without imposing their outside opinions. This is because prescriptive workshops and trainings, particularly those led by international experts, often stifle local innovation. As a result, the Consortium was hesitant to make firm recommendations regarding coordination among Syrian service providers. In Sri Lanka, the non-prescriptive approach created space for local innovations. A non-prescriptive approach gives local actors the necessary knowledge and skills to create projects without feeling restricted by “expert” opinions. To this end, programming that aims to educate and develop local capacity addresses the transitional justice field’s problem of internationalization.

**Transitional justice trainings should include comparative case studies and their applicability to the situation at hand.** Examples from other countries were shared in the capacity-building workshops in Sri Lanka. The MENA region training took a comparative approach to help local actors understand the applicability of another country’s transitional justice experience to their own country. Select South Sudanese documenters participated in a knowledge-exchange program to learn from civil society organizations from around the world. Sharing lessons from other countries particularly benefits local actors in countries where transitional justice is nascent or in its early stages. Global knowledge-exchanges build both a learning community and offer the potential for networking beyond the community and national levels.

**Transitional justice trainings should build the capacity of local actors on a variety of skills.** Through the Consortium’s programming, South Sudanese documenters and MENA region actors gained interview and trauma management skills. In Sri Lanka, the Consortium held practical trainings on transitional justice for affected communities, civil society, and government actors. In South Sudan and the MENA region, project participants learned how to mitigate security threats. Capacity-building programs should include, for example, practical training on psychosocial support and trauma management, assessment and mitigation of security risks, and forensic sciences. Training-of-trainers programs are also a sustainable way to expand the reach of capacity-building programs while foregrounding local ownership.

### Moving Forward to Achieve Holistic and Sustainable Transitional Justice

The transitional justice evaluation field is still relatively young and requires innovation as well as the growth of empirical research. Using its outcomes-based monitoring and evaluation (M&E) system, the Consortium attempted to comprehend why and how certain measures, processes, and approaches worked, including by determining what elements contributed to the success of activities and projects. Its evaluations reveal how transitional

justice efforts can improve the impact of programming at the community and national levels and increase accountability throughout the world. In addition to unpacking several lessons, the manual demonstrates the need for evaluations of transitional justice projects and the difficulties therein.

Because evaluating transitional justice is a long-term process and the Consortium is a fairly new endeavor, the evaluations were only able to determine short-term impacts of the Consortium’s interdisciplinary approach and the extent to which it achieved shorter-term objectives and goals. Nevertheless, even these evaluations of recently completed projects began to provide evidence to support the Consortium’s theory of change while identifying challenges to handle in the future. Following the evaluations, the Consortium—and the transitional justice field, more generally—gained a greater understanding of the obstacles to defeating entrenched structural issues and impunity, which necessitates significant amounts of political will. The Consortium’s holistic approach to transitional justice does not hierarchize criminal prosecutions or any other mechanism and has had success in engaging the whole of society, even in divided contexts. However, building political will among government actors has been challenging. In the long-term, transitional justice actors should continue thinking about how approaches, ownership, and outputs of programming can reach decision-makers and increase political will. Long-term evaluations are needed to gather evidence on the lasting impacts of transitional justice on root causes and drivers of conflict, as they frequently implicate structural violence.

Invaluable lessons may be learned during all stages of projects, reinforcing the importance of interim, continual, and long-term evaluations. Committed to ongoing learning, the Consortium will perform future evaluations in order to ensure that its projects are sustainable and broadly impact accountability and reconciliation. Evaluations are arguably the most important way to discover which processes—not just the types of mechanisms—to employ in order to achieve the goals of transitional justice, including sustainable peace and reconciliation. Building a community through which transitional justice actors can share lessons is a first step in the exchange of knowledge to improve the impact and coordination of transitional justice projects. This community places a premium on developing good practices and guidance to help ensure local ownership and consequently sustainable interventions. The lessons in this manual—and future lessons to be learned from ongoing evaluations—offer an opportunity for civil society, practitioners, policymakers, donors, and other stakeholders to consider, debate, and adapt emerging models as they apply to their specific contexts. The Consortium further hopes transitional justice actors will thoughtfully evaluate their projects with a view to growing the global learning community described here and promoting justice, truth, and reconciliation.



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