



Global Learning Hub
for Transitional Justice
and Reconciliation



From solidarity to participation

Elevating victim agency in political negotiation processes

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1. Executive summary

This report identifies the different strategies used by victims and victims' groups to influence and participate in political negotiations related to transitional justice processes. These negotiations often aim to end hostilities, address power imbalances, implement special justice measures, such as reparations and guarantees of non-repetition, and ultimately achieve sustainable peace. The research examines victim participation from the early conceptualisation of transitional justice mechanisms to the development of operational parameters as well as the definition of scope and implementation methods.

Effective participation requires that victims' inputs are duly considered by policymakers and decision-makers, and that these inputs can influence the direction of such mechanisms. Ideally, victims should not only influence decision-making but also *participate* as decision-makers.

Victims should not only influence decision-making, but also participate as decision-makers in all phases of transitional justice: development, implementation and evaluation.

The research identifies good practices for effective victim participation in political negotiations in transitional justice processes. It does so by reviewing and analysing research conducted by academics, policymakers and civil society groups. This is supplemented by qualitative interviews with key actors in transitional justice processes in five countries: Colombia, The Gambia, Germany (National Socialist period), Nepal and Syria.

The report highlights how victim participation has influenced the operational practices and procedures of transitional justice mechanisms, including by spearheading procedural innovation, and bringing legitimacy to processes and understanding of the nature of victims' suffering. It also examines the benefits victims derived from those participatory processes, even when final outcomes diverged from victims' initial goals and expectations.

The research stresses the importance of understanding the local context to determine which strategies are most likely to succeed. Creativity, dynamism and a commitment to finding solutions are traits that underpin successful victim engagement in political negotiation processes. Advance planning and mobilisation by victims and victims' groups, often in coordination with civil society, are equally important indicators for later success. Finally, victims are better able to advocate for transitional justice mechanisms when they focus on common experiences and present a united front.

Civil society plays a crucial role in supporting victims and victims' associations to participate effectively in political negotiation processes related to transitional justice. Their efforts should prioritise empowering and equipping victims and victims' associations to participate as much as possible, rather than speaking on their behalf.

Transitional justice processes are not only more effective, but also more legitimate when victims and victims' groups engage in all stages of the process. It is therefore important for states and transitional justice mechanisms to create effective opportunities to foster comprehensive victim participation.

2. Introduction

Despite growing global recognition of the importance of a ‘victim-centred’ approach and meaningful participation by victims¹ and survivors in responding to mass human rights violations, the reality often falls short of this ideal. Victims are frequently left out of critical policy discussions and decision-making on addressing past harms and preventing future violations. Even in well-intentioned transitional justice processes, those most affected are routinely excluded from the initial decision-making about the design and scope of the mechanisms, their implementation, recommendations, evaluation and the eventual transformation of temporary mechanisms into permanent institutions.² As a result, responses often fail to reflect victims’ lived experiences, meet their needs, or align with their own visions of justice and peacebuilding.

Where victim participation does occur, it is typically limited to specific moments, such as providing testimony to a truth commission or evidence in court, rather than being integrated throughout the entire process, from conceptualisation to implementation to monitoring and evaluation. Even rarer is the possibility for victims to help design and implement formal procedures, where they choose to do so.

This research was designed to identify successful strategies and/or organisational models for victim participation in policy negotiations, drawing on different case studies and experiences. It identifies and analyses models and practices through which victims and victims’ associations successfully exercised agency in policy discussions on the formation, design, implementation and evaluation of transitional justice mechanisms. It examines the strategies used by victims and victims’ associations to claim their seat at the table, ensuring their voices were not merely heard but substantively considered in the establishment and operationalisation of truth and justice mechanisms. Furthermore, it assesses which models best served victims’ participatory goals, identifying both successful practices and those less effective experiences that nonetheless yield critical lessons and cautionary examples for the field.

The report aims to encourage thinking and facilitate dialogue on victim participation, and to aid with the development of recommendations for policymakers, civil society and international organisations on meaningful victim and survivor participation in political negotiation processes. Crucially, the research also serves as a practical resource for victims and survivors and victims’ associations, offering insights into successful organisational models, enabling them to critically assess their own approaches and to develop new strategies to build their participation in political negotiation processes.

1 References to ‘victims’ in this report include victims, survivors and communities affected by serious human rights violations and abuses.

2 For example, in Bosnia and Herzegovina, the Human Rights Chamber, established as part of the General Framework Agreement for Peace in Bosnia and Herzegovina, was ultimately transformed into the Constitutional Court (Antoine Buyse (2012), “Hybrid Human Rights Mechanisms in Post-Conflict Transitions: The Experience of the Bosnian Human Rights Chamber” in Nicola Palmer, Phil Clark and Danielle Granville (eds.). *Critical Perspectives in Transitional Justice*. Series on Transitional Justice. Intersentia 147).

The research also identifies institutional gaps at the level of international organisations in engaging victims in the design of transitional justice mechanisms. It provides suggestions for improving the multilateral architecture to enhance victim participation and ensure their inclusion in decision-making processes.

The report begins by setting out key conceptual framings used throughout the text: what is meant by victim participation; contested notions of victimhood; and the scope of political negotiations considered in the research.

The section 'Distilling the practice' presents the report's main findings. It explores the factors that have influenced victim participation in political negotiation processes, including the role of outreach as a route to participation. The section then examines the different forms of victim participation, providing examples from different country contexts, ending with a summary of the most successful strategies used by victims and victims' associations to participate effectively in political negotiations.

3. Methodology

The research primarily aims to analyse diverse country contexts to gain an overview of the various approaches and practices related to victim participation in political negotiation processes. Building on the extensive victim-led and participatory research conducted by Impunity Watch, its partners, and others (academic and civil society-led researchers on this topic), the primary methodology involved collating, reviewing and distilling the findings from those prior studies to establish a baseline of practice.

These baseline findings revealed sub-themes that help identify good practice and patterns, and five countries were selected for more focused analysis: Colombia, The Gambia, Germany (National Socialist period), Nepal and Syria. Various criteria guided this choice, including: their relevance to victim participation and inclusion in political negotiation processes; geography and thematic diversity of their transitional contexts; knowledge and/or prior engagement of Impunity Watch and members of the Global Learning Hub for Transitional Justice and Reconciliation as well as their partners in the countries concerned; and the accessibility of potential interviewees to further validate or contextualise the findings.

Each country study was supplemented with additional background desk research and semi-structured interviews. Guiding questions helped test and further develop the baseline findings, highlighting good practice and patterns. These guiding questions informed the semi-structured interviews which, using a qualitative methodology, tested and updated the baseline findings generated from the desk research.

The research provides a snapshot of practices across different countries, designed to foster discussions amongst various stakeholders and to support three main groups. First, victims and victims' groups who are anticipating, planning or seeking to enhance their involvement in transitional justice processes. The research identifies practical strategies they might deploy to enhance opportunities for effective participation. Second, the findings will be helpful to states and state officials involved in setting up or implementing transitional justice processes. Third, the findings will help inform

international policymakers and justice actors who seek to engage more effectively with victims and victims' groups in all aspects of this work, including those involved with international fact-finding or justice processes.

The report does not provide an in-depth analysis of all the different facets of victim participation in political negotiation processes regarding transitional justice, which would require more intensive, long-term field-based research in the countries concerned. Instead, it highlights key issues and trends and provides a starting point for broader dialogue on how to advance victim participation.

4. Conceptual framings

Several conceptual framings underpin how the research was conducted. This conceptual clarity is essential to accurately analyse findings across countries and ensure the applicability of the good practices and strategies identified.

4.1 Definition of participation

How one defines 'participation' will depend on context.³ It can be linked to notions of citizenship and being an integral member of society. More broadly, it is also connected to the rights of citizen engagement and public participation. In this sense, all individuals have the right to actively contribute to their societies, particularly to policies and decisions which affect them.⁴ The state and its institutions must ensure that such participation is possible, taking full account of differences, vulnerabilities, and marginalisation. Ultimately, these rights of citizenship engagement and public participation are connected to other rights, including the right to access information, freedom of expression and the right to know.

In a peacebuilding or transitional justice context, "there is a consensus that victims and affected communities should be given opportunities to participate at each stage of a transitional justice process and at all levels of decision-making, and ideally during the process of designing and shaping the transitional justice process".⁵ Victim participation must not be tokenistic, but "meaningful".⁶ This means it must empower and strengthen the agency and influence of victims and victims' groups, by including their perspectives, and ensuring those in positions of power recognise their validity and expertise. In this sense, victim participation is not only an important procedural component of

³ Jennifer Tsai and Simon Robins (2018). *Strengthening Participation in Local-Level and National Transitional Justice Processes: A Guide for Practitioners*. The International Coalition of Sites of Conscience.

⁴ See, UN Human Rights Committee (12 July 1996). *General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service*. UN Doc. CCPR/C/21/Rev.1/Add.7.; OHCHR (20 July 2018). *Draft guidelines for States on the effective implementation of the right to participate in public affairs*. UN Doc. A/HRC/39/28; OHCHR (2 February 2022). *Good practices and challenges faced by States in using the guidelines on the effective implementation of the right to participate in public affairs*. UN Doc. A/HRC/49/42.

⁵ Tsai and Robins, n. 3.

⁶ Fiona McKay (2025). *Guidelines for Victim Participation in Justice Processes*. INOVAS, 10.

transitional justice mechanisms but also serves the substantive function of repairing the relationship between victims and those with power.⁷

Meaningful victim participation values diverse actors' knowledge and expertise, enabling victims to share insights with outsiders and each other, rather than relying solely on external experts.

Meaningful participation necessarily “values different actors’ forms of knowledge and expertise and enables knowledge to be transferred from locals to outsiders and between locals, thereby overcoming the reliance on ‘legitimate’ knowledge being derived from privileged (external) experts”.⁸ Furthermore, participation must be meaningful for the process itself, strengthening its legitimacy, ensuring it responds to real needs and concerns, and increasing its potential to drive lasting change. As the International Network of Victims and Survivors of Serious Human Rights Abuses (INOVAS) explained:

“Without the full trust and backing of victims and survivors, these processes will be not only less empowering, dignifying and healing experiences for us, but also less effective in contributing to tangible change.”⁹

Formal participation typically includes victim and survivor representation in official mechanisms or institutions and advisory roles in peace processes. *Informal participation* is much broader and more diverse, encompassing, but not limited to, victim-survivor mobilisation and advocacy, parallel work engaging victims’ communities around particular themes or issues that feed into, or develop beyond formal participation structures, or take on a life of their own.¹⁰ This research mainly examines the formal participation of victims and survivors, while also considering the extent to which informal participation has catalysed, or had important synergies with formal participation.

The research examines the trajectory of the processes: from direct and meaningful involvement in the design and development phase, through implementation, the formulation of recommendations to subsequent phases. These include transforming some transitional justice mechanisms into permanent bodies, either as new institutions or incorporated into existing ones, at the end of the period of transition.

Meaningful participation also depends on key precursors, including transparent information sharing, advance notice of the decision-making timings and engagement structures that consider the contexts, needs and limitations of victims. This research analyses these precursors.

7 Ibid, 22.

8 Ibid.

9 Ibid, 6.

10 Christalla Yakinthou (2024). *“We lead justice efforts”*: How victims organise, advocate and resist: Lessons learned on how to enhance solidarity from Colombia, the DRC, Guatemala, Indonesia, Syria and Tunisia. Overview report commissioned by Impunity Watch and others.

Most research studies assessing victim participation in transitional justice or related processes have focused on the implementation phase, especially on how mechanisms engage with victims as witnesses, claimants or beneficiaries, rather than on their potential roles and their agency in developing mandates and assessing their effectiveness. As such, the semi-structured interviews have sought to supplement this by collecting data on all phases of the process.

The research focuses on victims', and victims' associations or groups' participation in processes about these mandates. For the purposes of this report, it places less emphasis on victims' direct engagement with the mechanisms as witnesses, claimants or beneficiaries.

Participation must go beyond mere consultations or information provision. Decision-makers must be prepared to shift their decisions, and mechanisms should be transformed by inputs from victims and victims' groups. Ideally, victims should not only influence decision-making; they should also be involved as decision-makers. The research thus analyses participation from this wide spectrum of approaches.

4.2 Definition of victim

Victims are generally defined as persons who, individually or collectively, suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.¹¹ However, the notion of victimhood is complex. Suffering can be experienced in different ways and over long timeframes, for example through structural victimisation or unaddressed historical forms of oppression that can affect multiple generations.¹² Victimhood can also be contested, particularly in contexts where entire societies will have suffered harm, and where a comprehensive mapping exercise has not been undertaken or seen as legitimate by all facets of the society.¹³

In the context of transitional justice initiatives, the notion of victims can also be linked to eligibility for programmes of assistance, benefits, or reparations. Such eligibility requirements will typically comprise a narrower constellation of persons and groups than what would ordinarily be understood as 'victims'. This narrowing is often chosen for efficiency, pragmatism and at times political reasons, and often justified based on contested notions about hierarchies of suffering.

Who fits within the definition of 'victims' is therefore diverse and heterogeneous in terms of their personal characteristics, the harms they have experienced, the impacts of these harms and how this influences their wish to participate in political or related processes. When an individual's or

11 UN General Assembly (2005). *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. A/RES/60/147 (16 December 2005), para. 8.

12 Yael Danieli (ed.) (1998). *International handbook of multigenerational legacies of trauma*. Plenum Press; Mosangoaneng Leteane (2025). *Justice undefined: A dialogue on the state of intergenerational justice in South Africa*, African Youth for Transitional Justice (AY4TJ) and Impunity Watch; *Maastricht Principles on the Human Rights of Future Generations* (July 2023).

13 See, Kora Andrieu (2015). *"To participate is to have hope": Victim participation in Tunisia's transitional justice process*: 22–26. Kadem, Impunity Watch and CAHR, University of York.

group's perception of their own victimhood differs from a particular mechanism's eligibility criteria, this can exacerbate rifts in society. This was raised in the research on Colombia,¹⁴ where the Victims and Land Restitution Law of 2011 (Law 1448) did not consider members of armed groups as victims, unless they were still minors when they were demobilised. However, the Colombian Constitutional Court overrode this requirement in relation to female ex-combatants who were victims of sexual and reproductive violence.¹⁵ Who is considered a victim is often contested, especially, but not exclusively, in divided societies and can be constrained by a mechanism's focus on a smaller subset of crimes. Recently, this has emerged as one of the concerns regarding Syria's Decree No. 20. While the decree establishes a national commission on transitional justice, there is a prevailing fear that its mandate and purview may be too narrowly restricted.¹⁶

Victimhood is diverse and heterogeneous, spanning different personal characteristics, harms experienced, impacts felt and participation preferences. This requires transitional justice mechanisms to fully consider contextual and intersectional factors.

When evaluating victim participation, it is essential to consider the full context of harms suffered in the country or region, the different violations and crimes understood to have taken place, the many ways in which harms were or continue to be experienced and the intersectional impacts of identity characteristics such as gender, ethnicity, socio-economic status, citizenship status, age and ability.

As highlighted in recent community dialogue sessions in Syria:

“Participants also pushed back strongly against narrow, legalistic categorizations that prioritize direct, physical harm—such as torture or death—over other forms of suffering, including psychological trauma, economic deprivation, social exclusion and long-term displacement. They also stressed that transitional justice policies must acknowledge the breadth of victims, including direct and indirect, individuals and collective groups, and historical and ongoing injustices. For instance, in Damascus, a former detainee insisted that family members should also be considered victims: “[...] my daughter stopped speaking after watching me disappear for four years. Is she not a victim too?”¹⁷

A typical challenge for governments and for peacebuilding or transitional justice mechanisms is how to best ensure that victim participation is representative of the widest possible constellation of victims. This is both a procedural and substantive issue. Procedurally, it concerns how to facilitate the participation of all relevant persons and groups, taking into account their particular needs and limitations, and ensuring equitable procedures. Substantively, the failure to remove barriers to

14 Interview pertaining to Colombia.

15 Colombian Constitutional Court (2019). Judgment SU-599/19.

16 Syrians for Truth & Justice (2025). *Statement on Decree No. 20 Stipulating the Establishment of a National Commission for Transitional Justice* (23 May).

17 Bridges of Truth and the International Center for Transitional Justice (2025). *“Our Pain Turned into Policy”: Advancing Peace and Justice Through Community Dialogue in Syria*, July 2025: 13.

access for certain victims' groups may effectively deny their right to participate and raise concerns about discriminatory treatment.

Excluding certain victim groups may foster incomplete narratives that hinder a more nuanced account and understanding of the historical events and their root causes, which may in turn undermine the proposed solutions. Similarly, requiring victims to participate in groups may be efficient for organisers, but may disrupt complex group dynamics, such as clashing interests.

Excluding or narrowly grouping victims can hinder nuance and limit meaningful participation. Meanwhile, relying solely on civil society intermediaries, or allowing others to speak on victims' behalf, can further sideline victims.

Transitional justice mechanisms sometimes delegate consulting with victims to local or international civil society groups. This may further complicate how particular victim groups access formal processes and is typically not an effective means to enable broad-based victim participation, on its own. Some civil society groups may be perceived as elitist or having different concerns from victims. Victims may also rightfully feel sidelined when civil society groups seek to speak in their place or on their behalf. As the INOVAS network explained:

“While civil society organisations, community or legal representatives, public officials and others provide vital support to victims and survivors and can be valued and trusted partners, they must not try to speak for survivors or undermine our agency. Entities working in the transitional justice sector must never treat victims and survivors as passive beneficiaries and they should always look for ways to enable [us] victims to speak directly for ourselves.”¹⁸

4.3 Scope of political negotiations

Given the selected case studies, the research centres on peace and conflict resolution negotiation processes, such as multi-stakeholder negotiations led by neutral third parties to develop sustainable peace. These processes typically include components related to ending hostilities, addressing power imbalances, mechanisms for elections, disarmament, and justice processes, including reparations for victims and addressing the root causes of conflict. The research pays special attention to how far-reaching victim participation was able to be in negotiations: was it restricted to areas where victims were perceived to have a special interest, or was it embedded throughout the process? Were victims' groups able to table agenda items, or simply respond to them? Wherever possible, the research notes

¹⁸ Fiona McKay (2025). *Guidelines for Victim Participation in Justice Processes*. INOVAS, 40.

practices from peace negotiations led or sponsored by international or regional organisations such as the African Union or the UN.¹⁹

The research also examines related negotiations to establish peacebuilding and transitional justice mechanisms, such as truth commissions, commissions of inquiry, reparations programmes and measures of satisfaction and to guarantee non-recurrence. Here too, the research considers how victims and victims' associations contributed to decisions to establish certain mechanisms, the framing of their mandates, procedural development, as well as monitoring the implementation. The research also examines whether victims' participation in certain processes served as a catalyst for victim-centred procedures in other processes. Consideration is also given to the breadth of participation, the measures put in place to facilitate access beyond victims who already had greater opportunities to engage, and how victims themselves perceived their participation.

5. Distilling the practice

5.1 Factors that enable victim participation in political negotiation processes

Victims' ability to participate in political negotiation processes tends to depend on several enabling factors.

a) Existing victim organisation

A first enabling factor is the degree to which victims were already 'organised' before the start of the political negotiation process. Often, victims' networks develop organically as a form of solidarity and support during periods of conflict or authoritarian rule. Sometimes activists become victims because of their activism, and victims become activists because of their experience of victimisation, either directly or because of what happened to members of their family. Victims' networks serve as vehicles to share information, discuss common concerns, and consider immediate needs for survival and how to meet them.

Victim organisation, often emerging organically from victim solidarity and survival needs during conflict or authoritarianism, enables more effective participation.

In The Gambia, for example, family members of the disappeared, some of whom returned from the diaspora after the fall of the Yahya Jammeh regime in 2017 to look for their loved ones, used to sit in a little restaurant and talk, "and so, from there it grew, grew the numbers, and the victims, the Gambia Victim Centre was born".²⁰

¹⁹ See for example, on the UN sponsored peace process regarding Libya, the statement by Ms. Hala Bugaighis, member of the Libyan Women, Peace and Security Advisory Group, at the United Nations Security Council Meeting on Libya on 9 October 2024; Carla Ferstman (2021). *Victims' Voices: The Libyan Political Dialogue Forum*, Lawyers for Justice in Libya.

²⁰ Interview pertaining to The Gambia.

In Syria, an interview respondent co-founded a victims' association as a result of her experience of arbitrary detention. During her detention, she met many women in similar situations, women who had no information about their families and were suffering.²¹ As a representative of the Syrian survivor network Synergy explained, "previously, it was just a few people coming together to hold some meetings, but then they saw that maybe if they gathered under one unified umbrella, their voices would be stronger". These initial gatherings and what they led to, "had concrete impacts with the efforts of the Truth and Justice Charter [a document agreed in 2021 by Syrian victims' organisations and their families reflecting their common vision on advancing victims' rights and the cause of justice and truth in Syria]²² and with the decision to establish the UN Independent Institution on Missing Persons (IIMP)".²³

Solidarity networks sometimes have lengthy trajectories which far precede any engagement on transitional justice. In Colombia, there is a long history of grassroots mobilisation, such as peasants' organisations (like the Colombian Peasant Movement, ANUC), unions and women's organisations,²⁴ which has fed into the culture of advocating for rights. Similarly, the long experience of solidarity networks in Guatemala, such as indigenous women's networks and unions, helped foster the space for victims' advocacy related to the peace process and transitional justice efforts.²⁵

b) Building strategic advocacy networks

A second critical factor is the extent to which victims' groups have built networks to maximise their advocacy potential. This requires the groups to act strategically and recognise the benefits of engaging in common advocacy platforms. As one of the founding members of the Caesar Families Association in Syria explained:

*"First we built our group, then we built the coalition with Syrian NGOs and built our strategy together to advocate for, and establish the institution for the missing, and the third step, we built a coalition with international NGOs."*²⁶

As has also been explained by Bernath, "the emergence and alliance of the [Syrian] Truth and Justice Charter associations has relied upon the development of an emotional community, that is, a community of meaning and affection based on strong emotional ties, resulting from shared experiences of enforced disappearance and detention and the everyday struggles that come with it, as well as on emotion labour, and practices of care".²⁷

21 Interview pertaining to Syria.

22 See, Impunity Watch, Truth and Justice Charter Syria, Truth and Justice Charter Syria (web page). <https://www.impunity-watch.org/grassroots-voices/truth-and-justice-charter-syria/>.

23 Interview pertaining to Syria.

24 Interview pertaining to Colombia.

25 Christalla Yakinthou and Manal Sarrouf (eds.) (2023). *The Struggle for Truth and Justice in Guatemala: Victim and Survivor Participation in Informal Transitional Justice Processes*. Impunity Watch.

26 Interview pertaining to Syria.

27 Julie Bernath (2025). "Mobilizing for Syria's Disappeared: Survivor-Led Movements, Emotions, and Transitional Justice." *Journal of Human Rights Practice* 17, no. 2 (July), huafo06.

Building grassroots advocacy networks to drive forward transitional justice measures have been important strategies in many additional countries including Germany,²⁸ Guatemala,²⁹ Argentina,³⁰ Lebanon,³¹ Chad,³² South Africa,³³ Northern Ireland,³⁴ Uganda,³⁵ and as set out below, Nepal.

This common purpose, which fosters solidarity among disparate groups, can be difficult in situations where the groups do not see themselves as part of a collective, or do not share a unified vision of their goals. Victims often have vastly different experiences of rights violations during conflict or authoritarian rule. These differences are shaped by real or perceived political affiliation, and the 'side' of the perpetrators, socio-economic, ethnic or religious differences, geographical location, and whether they lived in exile or remained in the country throughout the conflict.

Victims' groups strengthen advocacy by building strategic local-to-global networks and emotional solidarity through shared experiences, though unifying goals can be challenging.

In Nepal, for instance, there was significant distrust between victims from the different sides, Maoist or Government. While some of those differences remain, an appreciation of common experiences developed over time. As one interviewee from Nepal explained, "we started to realise that, regardless of who caused the violation, the pain is similar".³⁶ Similarly, in The Gambia, there were challenges finding commonalities between the different issues facing those who returned from exile after the change in regime and those who stayed. There was resentment and some friction, making it clear that "you need to know your space in the space".³⁷ This heterogeneity of victimhood and victims' experiences, and victims' complex relationships with the concept of victimhood, is further exacerbated by long periods of conflict and rights abuses involving different actors. It is also intensified by the co-option of the concept of victimhood by governments, often narrowing who is to be considered

28 Jenny Wüstenberg (2017). *Civil Society and Memory in Post-War Germany*, Cambridge University Press; Philipp Neumann-Thein, Daniel Schuch und Markus Wegewitz (2022). *Organisiertes Gedächtnis. Kollektive Aktivitäten von Überlebenden der nationalsozialistischen Verbrechen. Buchenwald und Mittelbau-Dora Forschungen und Reflexionen*. Band 3. Wallenstein Verlag, Göttingen.

29 Christalla Yakinthou and Manal Sarrouf (eds.) (2023). *The Struggle for Truth and Justice in Guatemala: Victim and Survivor Participation in Informal Transitional Justice Processes*. Impunity Watch.

30 Valeria Vegh Weis (2017). "The Relevance of Victims' Organizations in the Transitional Justice Process: The Case of the Grandmothers of Plaza de Mayo in Argentina." *Intercultural Human Rights Law Review* 12:1–70.

31 See, e.g., Lebanon Memory Archive. "Memory documentation." <https://www.lebanonmemory.com/memory-documentation>; See also, UMAM Documentation and Research (2019). *Law 105: Law on Missing and Forcibly Disappeared Persons*. <https://www.umam-dr.org/Uploads/2020-05/PublicationPDF1.pdf> (charting the steps leading to the adoption of the law).

32 Reed Brody (2017). "Victims Bring a Dictator to Justice: The Case of Hissène Habré." *Brot für die Welt*.

33 Khulumani Support Group. "Objectives and activities." <https://khulumani.net/objectives-activities>.

34 Paul Gallagher (2021). *New Social Movement Theory and the Reparations Movement in Northern Ireland: The Case of the WAVE Injured Group and Its Campaign for Recognition*. Queens University Belfast.

35 Fatuma Abiya and Erin Baines (2025). "Practices of Love and Care in the Women's Advocacy Network, Northern Uganda". In: Julia Zulver and Kieran Stallone (eds.). *Brave Women: Fighting for Justice in the 21st Century*. Palgrave Macmillan Cham.

36 Interview pertaining to Nepal.

37 Interview pertaining to The Gambia.

a victim or prioritising certain groups of victims, within peace negotiations and transitional justice processes.³⁸

c) External context (catalytic opportunities)

A third contributing factor is the changing external context which can present catalytic opportunities for victims to come together to address a new challenge or opportunity. In some cases, this relates to arrests or other court proceedings. Most often this stems from the changing political context within a country, such as a new government or new openings for peace negotiations.

In the case of the German Foundation Remembrance, Responsibility and Future (EVZ)³⁹, which implemented a compensation programme for forced labour workers of the National Socialist regime in the early 2000, the impetus for negotiations over its formation and mandate stemmed from the Jewish victims and their representatives filing class action lawsuits in the United States against German companies. In response, the companies sought the support of the German Government to negotiate a settlement with the Jewish victims and other affected groups, ultimately resulting in the formation of the foundation.⁴⁰

d) Broad and accessible participation channels

A fourth factor concerns the different channels available for participation. When those routes are broad and accessible throughout the country, involving not only national or central-level actors but also regional and local authorities, this can widen the range of voices involved in the process.

As was illustrated in the case of Colombia: “At the regional level, at least, it certainly opened the field for local voices. We needed to work with specific local leadership, and that was, I think, very healthy in terms of democratising the field of voices that were involved in this process.”⁴¹ However, limited time and resources, and challenges in accessing victims directly can lead transitional justice mechanisms to use shortcuts to victim outreach, consultation and participation, such as relying on intermediaries or purely online methods. This can impede the success of victim participation. It is important for international fact-finding missions to plan their operations in a way that allows them to gather information from the widest array of sources possible, including those without access to online platforms.⁴²

38 Interview pertaining to Colombia.

39 The Law on the Creation of the Foundation Remembrance, Responsibility and Future (EVZ) established a system of humanitarian payments to former forced labourers and others affected by the injustices of National Socialism, while preserving the memory of their suffering for future generations. For more information, see: EVZ (2000). “The Law on the Creation of the EVZ Foundation.” <https://www.stiftung-evz.de/en/who-we-are/history/law>.

40 Interview pertaining to Germany. See also: <https://www.stiftung-evz.de/en/who-we-are/history/law>; Günter Saathoff, Uta Gerlant, Friederike Mieth and Norbert Wühler (eds.) (2017). *The German Compensation Program for Forced Labor: Practice and Experiences*. EVZ; Benno Nietzel (2017). “The Foundation ‘Remembrance, Responsibility and Future’ 1999-2007: The Final Chapter of Compensation for Nazi Injustice?”, in Constantin Goschler (ed.) (2017). *Compensation in Practice: The Foundation ‘Remembrance, Responsibility and Future’ and the Legacy of Forced Labour during the Third Reich*. Berghahn.

41 Interview pertaining to Colombia.

42 Carla Ferstman (2021). *Victims’ Voices: The UN Independent Fact-Finding Mission on Libya*, 9.

Limited resources and direct access challenges can result in transitional justice mechanisms cutting corners on victim outreach, undermining participation success.

e) Constructive support from external actors

A fifth factor is the constructive support provided by some civil society groups and other actors, such as donor governments and United Nations bodies, to help maximise the reach of victims' advocacy goals. For instance, in Syria, the European Centre for Constitutional and Human Rights actively supported Syrian groups to engage with German prosecution services on the investigations and prosecutions of Syrian suspects based on universal jurisdiction: "They help us to use our voices," and "when we talk together, we think in a different way, because we think outside the box".⁴³

Nevertheless, support can be counter-productive if it is top-down; victims and victims' groups require dedicated spaces and, sometimes, the flexibility to choose their own path to justice.⁴⁴ This point has also been underscored by Syrians:

*"Our commitment to Syrian ownership of the justice pathways does not preclude benefiting from the experiences of others who have undergone transitional justice processes. However, we will work to adapt and reinterpret these experiences in a manner congruent with the Syrian context."*⁴⁵

5.2 Initial outreach and communications to victims and victims' groups

Many mechanisms and processes announce that they are adopting a victim-centred approach. This approach refers to ways of engaging with victims that prioritise listening, avoid re-traumatisation and systematically focus on safety, rights, well-being and expressed needs and choices.⁴⁶ The Council of Europe's Register of Damage for Ukraine, for example, has expressed its commitment to pursuing a victim-centred approach in its operations. Aligning with the Riga principles,⁴⁷ this approach emphasises the importance of recognising and addressing the needs and rights of victims of the

⁴³ Interview pertaining to Syria, referring to European Centre for Constitutional and Human Rights' support in respect to criminal trial proceedings in Koblenz, Germany.

⁴⁴ Interview pertaining to Nepal.

⁴⁵ Hevdesti (2025). *The General Principles for Applying Justice, Truth, and Remedy in Syria from the Perspective of Civil Society and Survivor Groups. First Edition of the General Principles*. <https://hevdesti.org/wp-content/uploads/2025/09/The-General-Principles-for-Appling-Justice-Truth-and-Remedy-in-Syria.pdf>.

⁴⁶ See, e.g., UNHCR (2020). *Policy on a Victim-Centred Approach in UNHCR's response to Sexual Misconduct*. UNHCR/HCP/2020/04.

⁴⁷ Council of Europe (2023). *Declaration of the Informal Conference of Ministers of Justice of the Council of Europe on the occasion of the Conference: "On the Path to Justice for Ukraine: Advancing Accountability, Reuniting Children with Their Families, and Supporting the Resilience of its Justice System"* (11 September, Riga, Latvia). A victim-centred approach is listed as the first principle in the Riga Principles: "Victim-Centred Approach: The Register should be guided by a victim-centred approach, in a manner consistent with States' obligations to provide remedies and redress to victims, in particular the most vulnerable, such as women and children. Its organisation, functioning and structure, and rules for eligibility of claims for inclusion in the Register, evidence, and procedures shall enable the Register to document, promptly and with due priority, claims for human rights violations and abuses, such as those involving loss of life, enforced disappearance, conflict-related sexual violence, serious injury, torture, arbitrary arrest and detention, while pursuing the timely and efficient registration of other claims, such as damage to property, infrastructure, environment and cultural heritage."

Russian aggression against Ukraine, ensuring that their voices are heard, and their experiences acknowledged in the process of the collection of compensation claims.⁴⁸ For the Register, the victim-centred approach rests on four fundamental principles: inclusivity, participation, accessibility and security.

Other mechanisms committed to a victim-centred approach include: the Independent Investigative Mechanism for Myanmar, whose “procedures shall be victim-centred and duly sensitive to considerations of sex, gender, age, religion and ethnicity,”⁴⁹ the UN Independent Institution on Missing Persons in Syria, which is mandated to take a victim-centred, participatory approach⁵⁰ and the International, Impartial and Independent Mechanism (IIIM) for Syria, which has adopted a Victim/Survivor Centred Approach (VSCA), noting that the VSCA Strategy “acts as the foundation for all the IIIM’s thematic strategies for inclusive justice”. The VSCA Strategy is designed to operationalise the IIIM’s committed focus on the experiences, perspectives and priorities of the broad range of victims or survivors of the Syrian conflict, as a core part of its daily work.⁵¹ The IIIM for Syria has indicated that:

“A key methodology for the development of the VSCA is ongoing dialogue with victims/survivors of crimes in Syria, particularly through relevant victim/survivor associations, which the IIIM has prioritised from an early phase of its work. This dialogue continues to inform the IIIM’s understanding of the broad spectrum of issues arising in relation to the Syrian situation, especially its thematic strategies concerning gender, children/youth and broader justice objectives.”⁵²

In a transitional justice context, a victim-centred approach has been described as:

“Advancing specific ways of enhancing the quality of transitional justice processes. It challenges external and prescriptive approaches, counters elite control of the transitional justice agenda and optimises the addressing of victims’ needs. For these needs to be considered, a victim-centred approach requires either broad consultation with victims or for victims and their representatives to be engaged at all levels of planning and implementation. The effectiveness of a victim-centred transitional justice process can then be measured in terms of its ability to address victims’ needs.”⁵³

Messaging that a mechanism is taking a victim-centred approach is helpful to those involved, as it underscores how the mechanism approaches its own work and how it understands its goals. This is also a welcoming signpost for individuals and groups who might be fearful of engaging with formal

48 Council of Europe. “Victim-Centred Approach.” <https://rd4u.coe.int/en/victim-centred-approach>.

49 UN Human Rights Council (3 October 2018). *Resolution 39/2: Situation of human rights of Rohingya Muslims and other minorities in Myanmar*. UN Doc. A/HRC/73/716.

50 UN General Assembly (2023). *Independent Institution on Missing Persons in the Syrian Arab Republic*. UN Doc. A/RES/77/301 (5 July 2023). <https://docs.un.org/en/A/Res/77/301>.

51 IIIM. “Victim/Survivor Centred Approach.” <https://iiim.un.org/what-we-do/victim-survivor-centred-approach>.

52 Ibid.

53 Simon Robins (2011). “Towards victim-centred transitional justice: Understanding the needs of families of the disappeared in postconflict Nepal.” *International Journal of Transitional Justice* 5, no.1: 75-98, 77.

processes. However, such language must be backed up by practical measures which place victims front and centre. This involves the state or the mechanisms themselves putting in place systems to inform victims in a timely manner of what is happening and how to engage; developing accessible channels to enable and foster meaningful participation from the earliest stages; and addressing logistical and other barriers to participation, sometimes with the support of civil society or other actors. Mechanisms designed to foster participation must do so by factoring victims' realities, needs, constraints and barriers into the design of participatory processes from the outset.

Making information publicly available and accessible to victims and victims' groups is crucial to enable victims to organise themselves and engage effectively. At times this may happen incrementally, particularly when the events creating openings for peace processes and transitional justice mechanisms are unexpected or unplanned.

Adopting victim-centred language is welcome, but must be accompanied by practical steps involving victims from the start, including making information accessible.

In the case of Colombia, the Government's strategy was to adopt a victim-centred agenda as part of the negotiations, and to bring victims into that discussion.⁵⁴ In Syria, with the fall of the Assad regime, victims' issues automatically became a central concern, as detention centres were opened, and many families were confronted with the fact that their missing family members would not return. The new Government established, via a Presidential Decree, the National Commission on the Missing and the National Commission on Transitional Justice. In both these examples, while victims' groups were not necessarily part of those initial decisions, they influenced them, and the resulting openings catalysed their further engagement.⁵⁵

However, depending on the context, many victims' groups can be pessimistic, fearful of, or lack trust in governments' expressed commitments to justice, peace, truth and related processes. This is particularly the case when alleged perpetrators of past atrocities have assumed senior roles in new governments.⁵⁶ Building trust is an important role for new governments. It requires showing autonomy, transparency and inclusivity through dialogue and concrete actions.

The ability of governments and transitional justice mechanisms to plan for and address barriers which impede victims' access is variable. Part of the reason for this stems from the enormity of the task in countries newly undergoing transitions, such as The Gambia and Syria, or simply a lack of capacity

54 Interview pertaining to Colombia.

55 In relation to the Syrian Decree No. 20 on the establishment of a commission on transitional justice, Syrian victims' associations and civil society groups were quick to express their concerns about the narrow mandate of the Commission (focusing only on atrocities committed by the Assad regime). See, Syrians for Truth & Justice (2025). *Statement on Decree No. 20 Stipulating the Establishment of a National Commission for Transitional Justice* (23 May). <https://stj-sy.org/en/joint-statement-on-decree-no-20-stipulating-the-establishment-of-a-national-commission-for-transitional-justice>.

56 Interview pertaining to Nepal.

to address victims' needs, considering the massive scale of those needs, particularly in more remote parts of a country, including in Colombia and Nepal.

Often, civil society groups provide support and assistance in generating community dialogue, carrying out outreach to victims in hard-to-reach communities, and supporting victims with special needs or those who fear engaging with official bodies or being stigmatised.⁵⁷ As the co-founder of WAVE-Gambia explained, the organisation:

"...was specifically set up because we wanted to address the issue of women who were not engaging [in the transitional justice processes]... we really took it upon ourselves to try and find out why women were not registering, what were the hindrances, and just try to bridge that gap."⁵⁸

The co-founder of WAVE-Gambia also explained how they supported women who were victims of the Witch Hunt, a state-run campaign in 2008-2009, to engage with the Truth, Reconciliation and Reparations Commission. It was done incrementally, through word of mouth. Some of those who received information through WAVE went back to their communities and spread the message further:

"They went back to their community. They called us a few weeks later to say, we have 25 women who are also victims of the witch hunt like us but never registered with the TRRC. It was a lived experience. So they were able to share the lived experience, and they were able to say, look, we have been, we have put ourselves at the forefront, we now have more information, we're empowered with this information, and it's not all bad. And if you don't register, you will not stand to be counted for reparations. So that was one of the messages which we kept re-emphasising."⁵⁹

5.3 Forms of victim participation in political negotiation processes

a) Participation in the design stage

In all the countries under review, victims participated in the design stage of transitional justice processes to an extent, including negotiating the mandate of a transitional justice mechanism, or discussing the inclusion of justice mechanisms during peace processes. However, this was not always done fully and/or at the invitation of the formal negotiating bodies or implementers.

The picture is mixed. Often, victims engaged not because they received an invitation to participate, or because their opinions were solicited from the outset. The participation often resulted from victims' bold advocacy strategies, detailed planning, organisation and coalition building. This is evident in countries like Chad, where victims' creativity and persistent advocacy led to mechanisms crafted through their own ingenuity. Victims' associations lodged domestic criminal complaints, complaints

⁵⁷ On The Gambia, see, e.g., Fatou Baldeh and Lena Houma (2025). *Transitional Justice in The Gambia: Enabling Popular Participation*. CSVr.

⁵⁸ Interview pertaining to The Gambia.

⁵⁹ Interview pertaining to The Gambia.

in other countries, such as Belgium, before UN treaty bodies, and the African Commission on Human and Peoples' Rights. These efforts were instrumental in the eventual decision by Senegal, together with the African Union, to establish the Extraordinary African Chambers in Senegal to try former Chadian president Hissène Habré.⁶⁰

Syrian victims' associations proactively led the calls for measures to address the fate of the missing, and to deal with matters of detention through the Truth and Justice Charter, an initiative they conceived and launched. This led directly to the creation of the UN-mandated Independent Institution on Missing Persons.⁶¹ While the Presidential Decree establishing the National Commission on the Missing and the National Commission on Transitional Justice did not involve consultations with victims' groups, they were involved in the lead up and are closely engaged in the follow-up.

However, Syrian victims' groups have reminded stakeholders of the need to place victims at the centre:

“We commit to working towards ensuring that the pathways to justice, truth and remedy in Syria are driven by genuine Syrian leadership and national efforts that stem from the priorities and needs of the Syrian people, not from premade templates or imposed models. We affirm that Syrian leadership and ownership do not mean the state or official bodies monopolizing these processes. Instead, it means that the pathways for justice, truth and remedy must be the product of meaningful and broad participation by victims, survivors, victims' families' associations, civil society organizations and local communities. They are the primary stakeholders and rightful owners of these processes, possessing the full right to design the future of justice not as observers, but as active agents who hold the vision, expertise and societal legitimacy.”⁶²

In Colombia, the initial framework agreement from 2012 was the result of back channel closed talks without the engagement of victims.⁶³ Once the broad agenda was defined, victims and victims' associations participated from 2012-2014 in the submission of proposals to the detailed negotiations. There was a website, an email address and a postal address, and anyone in Colombia could send in their comments, ideas, proposals or criticisms. All the proposals received were tabulated, systematised and provided to the negotiating delegations.⁶⁴

Victims were also able to participate in regional and national forums bringing stakeholders together to discuss the negotiation agenda issues. For each of the thematic issues on the agenda, before starting the formal negotiations, forums were organised in the main cities of Colombia to discuss

60 Sharon Weill, Kim Thuy Seelinger, and Kerstin Bree Carlson (eds.) (2020). *The President on Trial: Prosecuting Hissène Habré*. Oxford University Press.

61 UN General Assembly (2023). *Independent Institution on Missing Persons in the Syrian Arab Republic*. UN Doc. A/RES/77/301 (5 July 2023). <https://docs.un.org/en/A/Res/77/301>.

62 Hevesti (2025). *The General Principles for Applying Justice, Truth, and Remedy in Syria from the Perspective of Civil Society and Survivor Groups. First Edition of the General Principles*. <https://hevesti.org/wp-content/uploads/2025/09/The-General-Principles-for-Applying-Justice-Truth-and-Remedy-in-Syria.pdf>.

63 Interview pertaining to Colombia.

64 Ibid.

proposals. With the support of the UNDP and the National University of Colombia, proposals from these forums were systematised and sent to the negotiations table.⁶⁵

In addition to the public forums, when time came to negotiate victims' rights, including transitional justice and justice arrangements, there was already a growing demand for greater inclusion by victims' associations. Consequently, a further mechanism of participation was put in place. Five delegations of 12 victims each presented individual testimonies and proposals for the victims' agreement at the peace talks in Havana in 2014. Significant efforts were made to select delegation members who represented the broadest possible constellation of victims, reflecting the different types of crimes experienced, perpetrators involved, geographical locations and identity characteristics.⁶⁶ Although some criticised these engagements as tokenistic, given the vast number of victims, they were generally recognised to have played a transformative role in the negotiations.⁶⁷

In the case of Nepal, victims' groups were not part of the actual peace negotiations, a factor they viewed as problematic for justice efforts. Some victims' groups presented their concerns to political party leaders and protested in the streets to ensure those concerns were heard,⁶⁸ while also engaging in additional public advocacy and community awareness raising efforts.⁶⁹ Victims' associations became effective in public campaigning and engaging with the media to generate greater knowledge and attention for their positions. However, this initial gap of exclusion from the peace talks got the transitional justice process off to a weak start. According to certain victims' leaders, the Government attempted to divide victims' groups and use them against one another, and many of the accountability provisions were watered down in the negotiations between political parties.⁷⁰

In response, victims' groups instituted legal challenges. More than 200 conflict victims filed a petition that led to a 2015 Supreme Court ruling that declared certain provisions of the 2014 Truth and Reconciliation Act, such as the possibility of amnesties for serious international crimes, unconstitutional and in violation of Nepal's international human rights law obligations, including victims' right to a remedy.⁷¹ However, instead of proceeding to amend the law to align with the Supreme Court ruling, the Government sought to appoint commissioners to activate the Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons. Victims' groups protested and continue to advocate vigorously for a transparent and independent appointment process.⁷² The two commissions remain largely ineffective without support from victims' groups.

65 Ibid.

66 Interview pertaining to Colombia.

67 Interview pertaining to Colombia. See also: Pedro Barbabela and Yulieth Martínez Villalba (2021). "Reflections on listening and democracy: women's and feminist organizations in the Victims' Forums in Colombia" (2014). *International Feminist Journal of Politics* 24, no.1: 111–132; Brett Roddy (2025). *Victim-Centred Peacemaking: Colombia's Santos-FARC-EP Peace Process*. Bristol University Press; Roddy Brett (2022). "Victim-Centred Peacemaking: The Colombian Experience." *Journal of Intervention and Statebuilding* 16, no.4: 475-497.

68 Interview pertaining to Nepal.

69 Interview pertaining to Nepal.

70 Interview pertaining to Nepal.

71 *Suman Adhikari and Others v. Office of the Prime Minister and Council of Minister and Others*, Writ no 070- WS-0050 (Judgment delivered on 26 February 2015).

72 Binod Ghmire (2025). "Calls grow for proper vetting of transitional justice candidates." *The Kathmandu Post* (28 April 2025). <https://kathmandupost.com/national/2025/04/28/calls-grow-for-proper-vetting-of-transitional-justice-candidates>.

As a result of the delays, in March 2024, in response to a further writ petition filed by 21 conflict victims, the Supreme Court again ordered the Government to promptly establish the two commissions. Although both houses of Nepal's Parliament passed amendments to the 2014 TRC Act in August 2024, new appointments to the two commissions in May 2025 were again criticised for their lack of transparency and inclusivity, leading to further petitions being filed with the Supreme Court.⁷³

In Guatemala, victims' associations participated in and contributed to the negotiation of the peace accords. Many victims' associations, including Mayan organisations, were part of the Assembly of Civil Society, an official consultation body mandated to bring recommendations to the formal (track one) negotiations between the Guatemalan Government and a unified coalition of armed opposition groups.⁷⁴

The difficulties in the design stage mainly concern questions about which victims were at the table. Invariably, victims' involvement was relatively tokenistic given the massive scales of victimisation (Colombia), involved indirect participation via civil society groups, at least at the outset (The Gambia, Nepal), or focused on a narrow set of issues. Groups from marginalised areas or with less means or profile had less access at least at the outset, as in the cases of Syria with respect to victims in the North, and Germany with respect to Roma and Sinti victims and victims of medical experiments. Given the importance of the design stage in shaping mechanisms with profound impacts on victims, these challenges are notable.

b) Victim engagement with newly established mechanisms

Once established, most transitional justice mechanisms have put in place general frameworks to engage with victims as part of the development of their procedures. This is separate from the procedures used to engage with victims on specific cases, such as complainants, witnesses, or applicants for reparations.

For example, in Syria, the UN Independent Institution on Missing Persons in the Syrian Arab Republic has included in its first Advisory Board six members in its victims category.⁷⁵ Similarly, the newly established National Commission on the Missing has incorporated victims' associations directly into its advisory structure.⁷⁶ According to victims' associations, this is a good thing; they are happy to be part of, and to be seen to be part of it.⁷⁷ At the time of writing, the National Commission was still in its early stages of development, but expressed plans to engage with victims and family members, with some preliminary meetings taking place. Building trust is essential for victims to engage with

73 The Kathmandu Post (2025). "Court clears blocked petition against transitional justice appointments, law." *The Kathmandu Post* (13 August 2025). <https://kathmandupost.com/national/2025/08/13/court-clears-blocked-petition-against-transitional-justice-appointments-law>.

74 Inclusive Peace and Transition Initiative (2017). *Case Study Series Women in Peace and Transition Processes*. <https://www.inclusivepeace.org/wp-content/uploads/2021/05/case-study-women-guatemala-1994-1999-en.pdf>.

75 IIMP (2025). *Press Release: The Independent Institution on Missing Persons in Syria Announces the Composition of First Advisory Board* (3 September 2025). <https://iimp.un.org/en/press-release-independent-institution-missing-persons-syria-announces-composition-first-advisory>; UN General Assembly (2023). *Independent Institution on Missing Persons in the Syrian Arab Republic*. UN Doc. A/RES/77/301 (5 July 2023). <https://docs.un.org/en/A/Res/77/301>.

76 Interview pertaining to Syria.

77 Interview pertaining to Syria.

these government structures. Victims' associations are still figuring out how to engage with these bodies, which themselves are only at the very beginning of their mandates, meaning their operational procedures are not fully clear.⁷⁸ Furthermore, families are in a difficult situation; they are grieving, yet lack the necessary sense of closure.

However, victims' associations are already planning ways in which they can support the work of the Commission, such as by serving as a bridge between victim voices and decision-makers, providing evidence-based reports and documentation as well as recommendations. "[We] are really willing to help and facilitate anything that we can do, under one condition – as long as the transitional justice is comprehensive and not excluding anyone".⁷⁹

In other countries, such as Nepal, however, some victims' associations felt that they would be better able to advocate for strong transitional justice mechanisms if they remained outside of the mandates' organising and advisory structures. Multiple commissions were being set up, and victims' associations were regularly demanding through the courts that the terms of reference be strengthened. In 2018, after the government dismissed the first set of commissioners, it re-started the process. Victims' associations wanted the government to amend the law before committing to engaging fully with the commissions. When that did not happen, they chose to monitor the work of the commissions from the outside.⁸⁰

c) Victims' involvement in shaping the practices of transitional justice mechanisms

Victims' groups also play a role in shaping the practices of justice mechanisms once they are underway. The advocacy around the mandates and the focus of such mechanisms tends to shift during the implementation phase to more operational concerns.

An example of this during implementation is the Caesar Families Association's engagement with German prosecution and court services during the Koblenz trial of Anwar R. and Eyad A., two former officials of the security apparatus of the former Syrian regime (Anwar R. was convicted as a co-perpetrator of torture, murder and sexual violence as crimes against humanity and given a life sentence; Eyad A. was convicted of aiding and abetting 30 cases of crimes against humanity, and sentenced to four and a half years). A lack of translation was a key operational barrier to the trial's accessibility. From the beginning of the trial through August 2020, proceedings were only translated into Arabic for formal parties to the case, including the joint plaintiffs. Advocacy from victims' groups and civil society led the German Constitutional Court to issue a temporary order extending translation to pre-accredited Arabic language journalists.⁸¹ Efforts were also made to obtain an audio recording

78 Interview pertaining to Syria.

79 Interview pertaining to Syria.

80 Interview pertaining to Nepal.

81 ECCHR (2020). "German Constitutional Court verdict in the Syria torture trial: Public is entitled to Arabic simultaneous interpretation: Syrian journalist and human rights organization secure access to Arabic translation of the Al-Khatib trial" (19 August 2020). <https://www.ecchr.eu/en/press-release/german-constitutional-court-verdict-in-the-syria-torture-trial-public-is-entitled-to-arabic-simultaneous-interpretation>.

of the trial proceedings, though this was rejected. Civil society groups helped fill some of these gaps by providing extensive reporting on the trial.⁸²

Victims' groups also played an important role in the implementation of the German EVZ foundation's procedures. Since the compensation fund required difficult judgments regarding hierarchies of suffering between the different categories of victims to determine standard allocated sums, victims' groups became involved directly in those considerations. As one interviewee explained: "In this very difficult process, victims played a very important role, because amounts of money should represent a certain kind of individual suffering... for us as the Germans, we could not determine what kind of camp is better or worse."⁸³

Victims' engagement also helped shape the procedures before the Colombian Special Jurisdiction for Peace, *Jurisdicción Especial para la Paz* (JEP). While interactions with victims typically occur in proceedings where they are petitioners or interested parties, occasionally, such engagements have led to procedural innovations that have had a structural impact on the JEP's procedures, beyond the individual case.

First, the very large numbers of victims made it difficult to ensure victims' participation in the legal proceedings. Because of this, a novel approach was taken to better accommodate the scale of the crimes and the large victim population. A 'macro-case' investigation system was devised. Instead of focusing on one specific alleged perpetrator, these macro cases focus on structural aspects and deal with patterns of conduct, including kidnappings committed by the FARC-EP (Macro case 01), the situation of 'false positives', or civilians killed by state security forces but staged as guerilla fighters killed during combat (Macro case 03), and systematic targeting of political opponents (Macro case 06). Under this macro-case model, sanctions include reparative community service projects.

Another significant innovation stems from the JEP's approach to sites containing the bodies of victims of enforced disappearances, such as *La Escombrera* (The Dump) and *La Arenera* (Sandpit), both located in the *Comuna 13* area of Medellín.⁸⁴ In 2018, the National Movement of Victims of State Crimes (MOVICE), together with families of disappeared victims, submitted a request to the JEP for precautionary measures regarding 16 locations where the bodies of missing persons were allegedly located. As a result, in December 2019, the JEP's Chamber for the Absence of Recognition of Truth and Responsibility (SAR) ordered an in-person inspection of the sites where several companies were conducting operations in the *Escombrera and Arenera* mines. Usually, this kind of precautionary measure is a desk-based standard administrative procedure. But in this transitional justice setting, the applicants sought a process in the field, with the participation of the organisations concerned, as well as the families of the victims. The JEP decided to hold a public hearing, to underscore the

82 ECCHR (2021). *The al-Khatib trial in Koblenz: A documentation*, and a later version (2023), with versions in English, German and Arabic. <https://www.ecchr.eu/en/publication/torture-in-syria-on-trial-in-koblenz-a-documentation-of-the-al-khatib-proceedings-2-edition>.

83 Interview pertaining to Germany. See also, Ben Ferencz, Michael Bazylar and Kirsten Nelson (2020). "Seeking Redress for Hitler's Victims: Personal Remembrances". In Carla Ferstman and Mariana Goetz (eds.) (2020). *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity*. Second revised and updated edition. Leiden, The Netherlands: Brill. Nijhoff. https://doi.org/10.1163/9789004377196_006.

84 See Order AI 010 of 11 August 2020 of the JEP.

importance of the process for the victims.⁸⁵ The JEP clearly understood that it “had a responsibility to act as a guarantor, not only of the protection of these sites, but also of the right of relatives to search for their loved ones”.⁸⁶ This commitment included applying the UN Guiding Principles for the Search for Disappeared Persons, which incorporate restorative measures and measures to reconstruct memory.⁸⁷

As a result of this victim-centred process, forensic points of interest were found, where “clandestine burials of unidentified persons could have been carried out”.⁸⁸ In 2020, the JEP determined it essential to protect the area as a precautionary measure to prevent irreversible damage to the site, and to identify remains and return them to families in a dignified manner. This was achieved by fencing off the site and prohibiting its alteration or modification by people, machinery, or heavy vehicles.⁸⁹ This precautionary measure was extended several times. Similar precautionary measures were ordered in other sites. This victims-centred approach to precautionary measures involving public hearings was possible because of the ability of victims’ associations to advocate for the JEP to adopt this approach, recognising it as necessary to upholding victims’ dignity.

5.4 Effectiveness of victim participation

There is evidence to suggest that victims felt empowered by the participation processes in which they engaged, though the matter is complex and views will clearly vary within and between victims and victims’ groups.

In most cases, victims’ goals have not been fully achieved, though goals have tended to shift over time in response to lengthy justice-seeking processes, shifting political dynamics and victims’ changing needs and priorities, especially as more time passes since the acts which caused their victimisation. What appears important is that openings were created, whether by the governments, mechanisms concerned, or directly by the victims through advocacy. Victims’ communities have taken advantage of these openings, resulting in dialogue and engagement. While progress has varied significantly in scope and form from country to country and reflecting contextual differences, it has nonetheless been achieved, regardless of whether all initial goals were met, and how those goals evolved over time.

Many victims felt empowered by participation, even if their goals shifted or weren’t fully achieved. What mattered was that new openings for engagement and dialogue emerged over time.

85 Interview pertaining to Colombia.

86 Lina Malagón Díaz (2025). “Interview with Ana Cristina Portilla Benavides, Assistant Magistrate of the Special Jurisdiction for Peace (Colombia).” *Journal of Disappearance Studies* 1, no.1: 146-154.

87 Ibid.

88 See Order 105 of 19 December 2019 of the JEP.

89 See Order AI 010 of 11 August 2020 of the JEP. https://relatoria.jep.gov.co/documentos/providencias/5/1/Auto_SARV-AI-010-MC-002_11-agosto-2020.docx.

For instance, in Nepal, leaders of victims' groups repeatedly explained the importance of grassroots advocacy and building a collective movement on behalf of conflict victims, not only for the purpose of supporting formal transitional justice processes, but for reclaiming identity and dignity. Many victims' advocates have become involved in local politics and in supporting their communities. Victim participation has fostered victims' mobilisation to advocate for an effective transitional justice process and empowered a whole movement of victims to engage in society and assert their rights in much broader ways. Nevertheless, they are conscious of the work that remains to be done and have expressed anger about the delays and the government's instrumentalisation of their situations.⁹⁰

In Colombia, the impact of victims on the peace and transitional justice processes is significant. When the five victims' delegations went to Havana, "it was a closed encounter – no media, no recording, not even notes", yet was described as "one of the most powerful exercises of reconciliation and coexistence".⁹¹ When victims spoke about their expectations and their vision for transformation, it was a game-changing moment for the negotiations, helping them move forward.⁹² However, the participation of 60 victims in Havana did not represent the millions of victims across the country.

While the symbolism of victim participation is clearly important, this does not always translate into personal satisfaction with the peace process, or the transitional justice measures that follow.⁹³ Victims' satisfaction with court procedures would arguably improve if they were more accessible, victim-friendly, used plain language, simplified court judgments (or provided user-friendly summaries) and shortened hearings, or provided summarised briefings of hearings for those who could never follow a nine-hour hearing.⁹⁴

Symbolic participation doesn't ensure victim satisfaction. Court procedures would improve by adopting plain language, simplified judgments, shorter hearings and victim-friendly access.

In The Gambia, victim engagement has been personally and politically important and transformative for victims. However, because the transitional justice mechanisms have not always incorporated victims' concerns, there is still considerable work to be done. This is evident with the reparations process, where some of the measures adopted were rigidly applied and did not adequately take account of victims' particular situations or needs. For example, the provision of funds for accommodation, which boosted victims' living arrangements, was only temporary, and there was inadequate planning for the period after the grants ended. Another example is the failure of the reparations programme to adapt to the complexities of family relations, leading to women missing out when their male relatives decided on their behalf whether they would engage with the process.

90 Interview pertaining to Nepal.

91 Interview pertaining to Colombia.

92 Interview pertaining to Colombia.

93 Interview pertaining to Colombia.

94 Interview pertaining to Colombia.

In Syria, victims' participation and advocacy fostered solidarity, a sense of community and common purpose, which helped build and sustain an activist movement. It has also led to concrete results, including criminal prosecutions and convictions. The Truth and Justice Charter work resulted in the establishment of the UN Independent Institution on Missing Persons in Syria and created the impetus for the national commissions established following the change in regime.⁹⁵

As an interviewee related to the German compensation programme explained, a political process will never end in a 'just' solution, and there will inevitably be imbalances. The work of the EVZ foundation was therefore to continue to support redressing those imbalances. Accordingly, this foundation offers an important lesson: the need to combine compensation efforts with cultural initiatives that promote remembrance, recognition, documentation and the preservation of testimonies. The combination of all these initiatives can contribute meaningfully to reconciliation.⁹⁶

5.5 Effective participation strategies

In sum, each of these strategies was used by victims' associations with some success, often in some combination:

- **Coalition and network building:** This strategy was deployed in all case studies and in other contexts. The makeup of a coalition depends on the prevailing context. In Syria and Germany, the coalition and network building were naturally transnational, considering the significant displacement of victim populations. When victims from different regions or with diverse experiences and contexts of victimisation manage to find common ground, as seen in Nepal and Syria, their collective voice is strengthened.
- **Advocacy with local and national governments:** This strategy has been particularly important in countries like Nepal, where the central government has often been blocked, and local or regional politicians have been better placed to take up the cause of victim constituents. In some cases, victims' leaders sought local elected office to advance their cause, as part of broader empowerment objectives.
- **Public awareness raising (public events, education, narrative storytelling):** Such types of public-facing initiatives have proven to be extremely important when large segments of the population are unaware of the extent or significance of victims' experiences of violations and crimes (Guatemala, Nepal, Uganda, Germany), or where younger generations have less knowledge or awareness of the violations suffered by older generations (The Gambia, Cambodia).
- **Media engagement (local and international print and broadcast media; social media):** Media can be extremely important in fostering awareness of victimisation and building community understanding and cohesion. This will depend on the local context, the independence and

95 Interview pertaining to Syria; interview pertaining to Syria.

96 Interview pertaining to Germany.

openness of the press, and the degree of polarisation within a society, which can accentuate discord, particularly on social media platforms.

- **Resort to regional and international human rights mechanisms (non-judicial, quasi-judicial and judicial):** Use of regional and international human rights mechanisms has been important in some contexts to create momentum towards transitional justice where one was previously lacking. Examples include Chad, with the use of the UN Committee Against Torture, the African Commission on Human and Peoples' Rights and universal jurisdiction criminal trials;⁹⁷ and Uganda, with the momentum created by the International Criminal Court (ICC) arrest warrants, which likely influenced the decision of the Ugandan Government to establish the International Crimes Division – a specialised division of its High Court to prosecute war crimes, genocide, crimes against humanity and terrorism under international law.⁹⁸ Similarly, the ICC's preliminary examination into the situation in Colombia likely motivated the Colombian Government to ensure that the JEP would satisfy the complementarity requirements of the ICC Statute. The earlier engagement of the Inter-American Court in conflict-related cases involving Colombia also likely influenced the Colombian Government's commitment to upholding victims' rights to justice and adequate and effective reparation.

6. Conclusion

1. This research demonstrates the following core lessons: Advance planning and mobilisation by victims and victims' groups, often in coordination with civil society, are important indicators for later success.

- It is important for victims and victims' groups to begin to consider their needs and priorities for possible future transitional justice processes long before any transition occurs, whether from conflict to peace or authoritarian rule to a more inclusive governance structure.
- Where possible, bridging divides within and between victims' groups may improve the opportunities for effective advocacy. Locating commonalities even amongst widely disparate groups can enhance the effectiveness of advocacy to convince governments and other policymakers of the importance of embracing transitional justice.

2. There is no blueprint for successful victim participation in political negotiation processes.

- What works largely depends on the local context and current situation, the constraints victims face, dynamics amongst victims and victims' groups, and the political and security context within a country.

⁹⁷ Reed Brody (2017). "Victims Bring a Dictator to Justice: The Case of Hissène Habré." *Brot für die Welt*.

⁹⁸ Christian de Vos (2020). *Complementarity, Catalysts, Compliance: The International Criminal Court in Uganda, Kenya, and the Democratic Republic of the Congo*. Cambridge University Press.

- Victims are only likely to press for the creation and operationalisation of formal transitional justice processes if they have sufficient confidence in the government and/or other actors to implement effectively, fairly and safely.
 - Informal, or victim-led processes are highly important processes in their own right as well as serving to lay the groundwork for more formal processes which may be introduced later.
- 3. Creativity and dynamism are key to successful victim engagement in political negotiation processes.**
- Victims or victims' groups are seldom invited into such processes, nor are the multiple and intersecting hurdles which impede victim participation addressed by those doing the inviting.
 - More often, victims and victims' associations use their creativity and perseverance to create their own openings for participation, whether through public-facing advocacy, media campaigns, legal or other strategies.
 - Similarly, governments and formal mechanisms rarely address barriers to participation effectively. Instead, victims and victims' associations, often with the support of civil society, identify routes to bridge access gaps, advocating for those gaps to be addressed or taking action directly.
- 4. Civil society plays a crucial role in supporting victims and victims' associations to participate effectively in political negotiation processes on transitional justice.**
- Care should be taken to ensure that their efforts empower victims and victims' associations as much as possible.
- 5. Transitional justice processes are more effective and have more legitimacy when victims and victims' groups are able to engage at all stages in the process.**
- States and transitional justice mechanisms should therefore create genuine opportunities to enable and strengthen such participation.

Appendix: List of persons interviewed

Thank you to everyone who agreed to be interviewed for this research.

Lonjin, ABDO (Co-Founder of Lelun Association for Victims, Syria)

Suman, ADHIKARI (Founding Chairperson of the Conflict Victims Common Platform, Nepal)

Yasmen, ALMASHAN (Founding Member of the Caesar Families Association, Syria)

Natalia, ARBOLEDA (Co-Founder of Fundación Acordemos, Colombia)

Ram, BHANDARI (Founder of the Network of Families of the Disappeared in Nepal, and Co-Founder of the International Network of Victim and Survivor of Serious Human Rights Abuses, INOVAS)

Priscilla, CIESAY (Co-Founder of the Women's Association for Women and Victims' Empowerment, WAVE-Gambia, where she serves as Senior Technical Advisor, The Gambia)

Nagma, MALI (Programme Officer at Voices of Women Media, and treasurer of Conflict Victim Women National Network, Nepal)

Ralf, POSSEKEL (Head of Programmes of *Stiftung Erinnerung, Verantwortung und Zukunft, EVZ*, 'Remembrance, Responsibility and Future', Germany)

Zeina, SHAHLA (Journalist and member of the Advisory Council of the National Commission for Missing Persons, Syria)

Ariel, SÁNCHEZ (Former Head of the Restorative Justice Office of the Special Jurisdiction for Peace, JEP, Colombia)

Barin, SHARAF (Synergy Association for Victims, HEVDESTI, Syria)

Paula, VARGAS and Camilo, TORRES CASANOVA (Institute for Integrated Transitions, IFIT, Colombia)

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ABOUT THE INITIATIVE

The Global Learning Hub for Transitional Justice and Reconciliation is a network of organisations from Germany and across the world, initiated by the Berghof Foundation and the German Federal Ministry for Economic Cooperation and Development in early 2022. We want to facilitate an inspiring space for dialogue and learning that is driven by solidarity, inclusivity and innovation. By building bridges, generating knowledge and amplifying voices, the Hub seeks to advance the policy and practice of dealing with the past to strengthen peace and justice.

Impunity Watch is an international non-profit organisation working with victims of violence to uproot deeply ingrained structures of impunity, deliver redress for grave human rights violations and promote justice and peace. We gather and share knowledge on priority themes, build partnerships and coalitions, and conduct international advocacy work to overcome impunity and transform justice. We work in Central America, North Africa and the Great Lakes region of Africa, the Middle East and the Western Balkans, with specific country offices in Guatemala and Burundi. While our headquarters are in The Hague, the Netherlands, our work takes place at local, national, regional and international levels.

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