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**Promotion and protection of all human rights, civil
political, economic, social and cultural rights,
including the right to development**

Documentation of gross violations of human rights and serious violations of international humanitarian law

Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Bernard Duhaime

Summary

In the present report, submitted to the Human Rights Council pursuant to its resolution 54/8, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Bernard Duhaime, outlines the key activities carried out during the reporting period and examines the issue of the documentation of gross violations of human rights and serious violations of international humanitarian law.



I. Introduction

1. In the present report, submitted to the Human Rights Council pursuant to its resolution 54/8, the Special Rapporteur lists key activities carried out between July 2024 and June 2025 and examines the issue of the documentation of gross violations of human rights and serious violations of international humanitarian law in the context of transitional justice.¹

II. Activities carried out by the Special Rapporteur

A. Country visits

2. The Special Rapporteur conducted an official visit to Brazil from 30 March to 7 April 2025.² He is grateful to the Governments of Guatemala, the Marshall Islands and Nepal for extending invitations to visit in 2025 and 2026. He regrets that the restrictions placed on the availability of the regular budget prevented the organization of a second country visit in the reporting period; he is in contact with the concerned States to schedule the visits as soon as possible, subject to the availability of funds.

3. Requests for invitations to carry out country visits are still awaiting responses from: Bangladesh, Cambodia, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia, Guinea, Indonesia, Japan, Kenya, Liberia, Peru, Romania and Rwanda. The Special Rapporteur calls upon States to respond promptly to visit requests to ensure that they are carried out in a timely manner so that they can produce effective results.

B. Reports and related consultations

4. On 12 September 2024, the Special Rapporteur presented his annual report to the Human Rights Council at its fifty-seventh session.³ During his time in Geneva between 9 and 12 September 2024, he met with representatives of Armenia, Brazil, Canada, Ethiopia, Nepal and Switzerland, civil society actors and United Nations entities.

5. On 21 October 2024, the Special Rapporteur presented his annual report to the General Assembly at its seventy-ninth session.⁴ During his time in New York between 21 and 22 October 2024, he met with representatives of Switzerland, the United Kingdom of Great Britain and Northern Ireland and the Counter-Terrorism Committee Executive Directorate, and participated in academic events.

6. Between 6 November and 22 December 2024 and between 4 December 2024 and 30 January 2025, the Special Rapporteur held open consultations to gather input for the present report and his report to the General Assembly at its eightieth session.⁵ Related meetings with experts were held online on 7 and 21 February 2025. The Special Rapporteur is grateful for those contributions.

7. Between 17 March and 30 April 2025, the Special Rapporteur held an online consultation to gather input in relation to his country visit to Brazil.

C. Communications and press releases

8. During the reporting period, the Special Rapporteur sent 32 communications to 24 Governments and 4 other entities and 20 follow-up communications, and issued 20 press

¹ The Special Rapporteur wishes to thank Myriam Pigeon, Skylar Gleason, Rachel Walters and the McGill Transitional Justice Clinic, Montreal, Canada, for their academic support.

² See A/HRC/60/32/Add.1.

³ [A/HRC/57/50](#).

⁴ [A/79/180](#).

⁵ See <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-documentation-serious-human-rights-violations-context-transitional>; and <https://www.ohchr.org/en/calls-for-input/2025/call-inputs-economic-social-and-cultural-rights-context-transitional-justice>.

releases. The Special Rapporteur thanks the Governments of Argentina, Australia, Azerbaijan, Colombia, Germany, Honduras, Italy, Namibia, Netherlands (Kingdom of the), the Niger, the Republic of Korea, Spain, Sweden, the United Kingdom and the Holy See for the responses received. He regrets not having received responses from the Governments of Algeria, Canada, the Democratic People's Republic of Korea, El Salvador, France, Mauritania, the Syrian Arab Republic, Ukraine and the United States of America. He recalls that they are expected to cooperate in good faith with the special procedures by responding promptly to their communications. A detailed analysis of those communications and press releases is available on his web page.⁶

D. Other activities

9. Between 9 and 13 December 2024, the Special Rapporteur participated in the annual meeting of special rapporteurs, independent experts and chairs of working groups. During his time in Geneva, he participated in diplomatic and academic events, and met with representatives of Bangladesh, Guatemala, the Marshall Islands and Nepal.

10. On 10 January 2025, the Special Rapporteur submitted an *amicus curiae* brief to the Constitutional Court of Peru on the unconstitutionality proceedings against Law No. 32107.⁷

11. On 6 February 2025, the Special Rapporteur participated as an observer in the appeal hearing in relation to the sentence passed in 2018 in the *Molina Theissen* case in Guatemala City.

12. During the reporting period, the Special Rapporteur participated as a keynote speaker in dozens of workshops and conferences related to his mandate organized by United Nations entities, regional and United Nations human rights mechanisms, regional and international courts, parliamentarians and ministerial authorities, academic institutions and civil society organizations in Armenia, Brazil, Canada, Chile, Colombia, El Salvador, Ethiopia, France, Jordan, Mexico, Morocco, Netherlands (Kingdom of the), the Republic of Korea, the Syrian Arab Republic, Sweden, Switzerland, the United Kingdom, the United Republic of Tanzania, the United States and Yemen.

13. The Special Rapporteur held technical, substantive and diplomatic meetings with representatives of civil society, victims' organizations, United Nations agencies, regional and international human rights mechanisms and courts, national human rights institutions, government entities and academic institutions to address issues pertaining to his mandate and provide technical assistance. Technical assistance was also provided through substantive briefings, legal and policy reviews and training on issues pertaining to the mandate.

III. General considerations about documentation processes

14. In the present report, the Special Rapporteur examines legal standards, existing practices and lessons learned concerning the collection, mapping, recording, preservation and archiving of information, evidence and testimonies of gross human rights violations and serious violations of international humanitarian law. The comprehensive documentation of those violations is crucial for the successful implementation of transitional justice mechanisms. Adequate documentation supports positive outcomes in the implementation of truth-seeking initiatives, the search for missing persons, accountability processes, reparation programmes, memorialization efforts and guarantees of non-recurrence. Documentation carried out in the context of transitional justice processes can also further peace and reconciliation, as it helps maintain and disseminate accurate accounts of past violations, thus promoting mutual understanding and preventing possible distortions of historic facts for political reasons.

⁶ See <https://www.ohchr.org/en/special-procedures/sr-truth-justice-reparation-and-non-recurrence>.

⁷ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/amicus-curiae-peru.pdf> (in Spanish).

15. Although the information generated by documentation initiatives constitutes the backbone of such processes, it is rarely prioritized, and is often overlooked, in the design, financing, implementation and monitoring of transitional justice systems. That can lead to serious failings, such as reports from truth commissions that present an incomplete depiction of the scale and breadth of human rights violations; stunted criminal investigations; reparation programmes that exclude entire categories of victims; and negationist memorialization processes that foster division and risk the recurrence of violence.

16. Over the years, the mandate of the Special Rapporteur has monitored varied practices and reported on numerous challenges facing the documentation of serious human rights violations in transitional justice contexts. Thematic and country visit reports, as well as communications addressed to States and non-State actors, have highlighted shortcomings related to the insufficient mapping of such violations committed in authoritarian or conflict settings; incomplete records of victimhood; obstacles accessing archives containing information about violations; destruction or inadequate preservation of documentary and testimonial evidence; failure to analyse and archive the documentation obtained; failure to identify and gather the testimony of victims and witnesses; lack of transparency of documentation processes; manipulation of documentation or underrepresentation of data about past violations; and impairment of civil society efforts to gather testimonies and record violations. Furthermore, documentation processes have often excluded marginalized groups and socioeconomic harms, leading to incomplete narratives and inadequate efforts to address historical abuses and the root causes of violence.

17. To address those challenges, the Special Rapporteur decided to devote the present report to assessing the state of play on the matter, providing an overview of the obligations and expectations of States relating to the documentation of serious human rights violations and offering specific guidance to States, international actors and civil society partners to ensure that documentation is adequately embedded in transitional justice processes from inception to completion.

IV. Transitional justice principles applicable to documentation processes

18. The documentation process and the outcome thereof should support the fulfilment of transitional justice pillars and thus must be prompt, comprehensive, inclusive, participatory, context-specific, victim-centred and gender sensitive.

19. The documentation and collection of evidence present unique challenges and must be conducted with sensitivity in relation to the specific context of each case. It is crucial to clearly identify and assess the preconditions in the country and address them in a manner that is fine-tuned, targeted and sensitive to its context, while ensuring full compliance with international standards in the field of transitional justice.

20. In addition, documentation should be prompt and continuous, starting as soon as initial evidence of serious human rights violations emerges and persisting while truth-seeking and accountability initiatives are ongoing. It should also be exhaustive, recognizing that valuable information for transitional justice processes extends beyond material evidence of the crimes to encompass information about root causes, structures and patterns that facilitated the commission of crimes, social or political contexts that contributed to the violence and testimonials from victims, their families and affected communities.

21. Moreover, documentation should be comprehensive, adopting a wide geographic, temporal and demographic scope in the investigation and collection of evidence, testimonies and information to ensure that all violations and all categories of victims are accounted for and taken into consideration in transitional justice processes. Such processes should implement a variety of scientific, technical, communicational and psychosocial tools and procedures to account for the diversity of experiences and resources available in each context; and adopt a wide examination lens to facilitate the comprehensive identification of the structures, conditions and responsibilities that enabled the perpetration of the violations.

22. Documentation processes should be inclusive, ensuring that the experiences of all affected stakeholders, regardless of their political, social, religious or ethnic backgrounds, are considered, paying particular attention to those who are traditionally or frequently marginalized. In addition, documentation should be participatory, ensuring the meaningful consultation and participation of all affected people and communities.

23. A victim-centred approach should guide all documentation processes not only because redressing the harm suffered by victims is an immediate goal of transitional justice, but also because none of this can happen behind the backs of victims, without their meaningful and effective participation.⁸ Documentary activities must prioritize the rights and dignity of the victims, placing them in a position in which they feel secure, confident and respected, with their interests and claims taken seriously. Victims have endured atrocities and, therefore, documentary activities should be conducted with a harm-neutral and empathetic approach, avoiding revictimization and providing the necessary support to victims during the process. Streamlining documentation and reducing repetitive documentation requests are essential to alleviate victims' distress and uphold a victim-centred approach.

24. The adoption of a gender perspective should be transversal to documentation efforts, as sensitivity to the different ways in which serious human rights violations affect women is a condition sine qua non of their successful implementation. Documentation should include a gender analysis or mainstreaming strategy and be grounded in the understanding of structural inequalities and prevailing gender dynamics in the family and/or community.⁹ Documentation must consider the differentiated impact of violations on the rights of women and their secondary impacts on them. Documentation teams must be trained to adopt gender-sensitive and trauma-informed practices.

V. Procedural standards applicable to documentation processes

25. The quality of the information, testimony and evidence collected directly correlates with the probability of effectively documenting the violations committed and must therefore be given the necessary attention and resources. To ensure adequate documentation, States must establish clear and rigorous practices and procedures for the investigation, collection and preservation of evidence related to serious human rights violations, including protocols for the preparation and conduct of investigations, the collection and preservation of evidence, the chain of custody of evidence, the archiving documentation, the conduct of interviews, witness protection and the qualification and training of experts.

26. Those procedures must be guided by international standards and other relevant guidance on the matter, such as the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989); the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2000), the updated set of principles for the protection and promotion of human rights through action to combat impunity (2005); the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016); the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) (2022 edition); the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles) (2021); the Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights (2016);¹⁰ the Universal Declaration on Archives (2011); and the United Nations Educational, Scientific and Cultural Organization Recommendation concerning the Preservation of, and Access to, Documentary Heritage, including in Digital Form (2015). Other relevant guidelines produced by civil society or international actors to be followed include: the Standards for Casualty Recording (2016);¹¹ the Guiding Principles for Safe

⁸ A/HRC/21/46, para. 54.

⁹ A/75/174, paras. 17 and 97–99.

¹⁰ See <https://www.ica.org/resource/basic-principles-on-the-role-of-archivists-and-records-managers-in-support-of-human-rights>.

¹¹ See <https://everycasualty.org/wp-content/uploads/2020/03/StandardsforCasualtyRecording-Version1.0.12020-en.pdf>.

Havens for Archives at Risk (2012);¹² the Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence (Murad Code) (2022);¹³ and *Documenting International Crimes and Human Rights Violations for Accountability Purposes: Guidelines for Civil Society Organisations*.¹⁴

27. People in charge of investigating and documenting violations should be qualified and receive regular training to ensure that they operate with technical expertise, adopt methodologies that are rigorous, reliable and appropriate to the context and comply with professional deontology and international standards on the matter. Therefore, they should receive regular training and certification on international and national protocols and professional ethical standards on the matter. They should also receive training on the general obligations in the field contained in international and regional norms and the specific obligations contained in specialized norms.

28. The adoption and discharge of adequate documentation procedures at all stages of the investigation, collection, preservation and dissemination of information about past human rights violations help ensure the legitimacy and credibility of the measures adopted to redress them and the veracity of the information on which they are based, thus providing a solid foundation for the transitional justice system and a powerful antidote against the manipulation and distortion of historical facts, which can lead to the resurgence of social divides and violence.

VI. Legal framework

29. Under international law, States have an obligation to document and effectively investigate gross violations of human rights and serious violations of international humanitarian law in the context of transitional justice. That duty derives from their obligation to protect human rights and provide effective remedy for violations thereof, as established in the International Covenant on Civil and Political Rights and numerous international and regional human rights instruments. To give effect to that obligation, States must conduct prompt, thorough, independent and impartial investigations through independent and impartial mechanisms,¹⁵ as well as provide effective access for the claimant to the investigative procedure.¹⁶ The absence of an effective investigation, involving documentation and the gathering of evidence, violates that obligation and can lead to impunity, hampering access to an effective remedy.¹⁷

30. In addition to the duty to investigate, the right to an effective remedy encompasses the obligation of States to make reparation to victims of human rights violations, including through measures of satisfaction.¹⁸ To achieve that, States must verify and elucidate the facts related to violations, fully and publicly disclose the truth, search for disappeared persons, commemorate the victims, include accurate accounts of past violations in education and other memorialization measures and bring perpetrators to justice, as established in international standards.¹⁹ Documentation processes are integral parts of those processes and are therefore critical in providing effective satisfaction to victims.

¹² See https://www.ica.org/app/uploads/2023/12/guiding_principles_for_safe_havens_for_archives_at_risk_copyright_creative_commons_cc_by_nc_4.0_ica.pdf.

¹³ See <https://www.muradcode.com/murad-code>.

¹⁴ See https://www.icc-cpi.int/sites/default/files/2022-09/2_Eurojust_ICC_CSOs_Guidelines_2-EN.pdf.

¹⁵ Human Rights Committee, general comment No. 31 (2004), para. 15; and updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 19.

¹⁶ European Court of Human Rights, *Aksoy v. Turkey*, Application No. 21987/93, Judgment, 18 December 1996, para. 98.

¹⁷ Human Rights Committee, general comment No. 31 (2004), para. 15.

¹⁸ *Ibid.*, para. 16.

¹⁹ 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, para. 22.

31. Documentation processes are also instrumental in guaranteeing the right to truth about gross violations of human rights and serious violations of international humanitarian law, an inalienable right, particularly of victims and their families. Irrespective of any legal proceedings, victims have the right to access information about the circumstances surrounding human rights violations, including the identity of perpetrators, the methods and motives behind the abuses, as well as the fate and whereabouts of disappeared persons.²⁰ The right of victims to know the truth is codified in international treaties,²¹ soft law instruments²² and recognized by the General Assembly,²³ the Human Rights Council,²⁴ the Organization of American States²⁵ and in domestic legislation and jurisprudence.²⁶

32. States must take appropriate measures to give effect to that right through judicial procedures and non-judicial mechanisms, such as truth commissions and commissions of inquiry,²⁷ ensuring an enabling environment for truth-seeking, including promoting transparency and impartiality and cooperating with investigative mechanisms. Accordingly, States must adopt adequate mechanisms to research, document and collect information about past human rights violations. That obligation extends to situations of ongoing conflict or authoritarianism, in which efforts to seek and document the truth may be hindered by violence, censorship, State secrecy or impunity.

33. Documentation is also instrumental in facilitating memorialization, as required by international human rights standards,²⁸ in order to ensure the preservation of the collective memory about past human rights violations, as well as to prevent the repetition of such acts and the development of revisionist and denialist theses.²⁹ Such processes should be based on accurate and comprehensive accounts of past harm suffered by all victims and, therefore, they rely on the availability of adequate investigation and documentation initiatives and on the careful preservation and facilitated access to documental repositories of those accounts.³⁰

34. Documentation processes should also encompass measures to preserve and make available evidence and testimonies about serious human rights violations. States have an obligation to preserve archives relating to those crimes and to ensure access to those who request it, be they victims, the accused or interested parties.³¹ Thus, States must adopt technical, administrative, legal and judicial measures to combat the theft, destruction, concealment or falsification of archives. They must also facilitate access and prevent censorship through formal requirements, except through reasonable restrictions aimed at safeguarding the privacy and security of victims and other individuals.³²

²⁰ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 2.

²¹ International Convention for the Protection of All Persons from Enforced Disappearance, art. 24; and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 32.

²² Updated set of principles for the protection and promotion of human rights through action to combat impunity; and the 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.

²³ General assembly resolution 68/165.

²⁴ Human Rights Council resolutions 9/11, 12/12 and 21/7.

²⁵ Resolution 2175 of 6 June 2006.

²⁶ For an overview, see [A/HRC/54/24](#), para. 20.

²⁷ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 5.

²⁸ [A/HRC/45/45](#), para. 99.

²⁹ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 3.

³⁰ 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, para. 22.

³¹ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 3.

³² *Ibid.*, principles 3, 5, 14 and 15.

VII. Actors involved in documentation efforts

35. At the national and international levels, different mechanisms can play a vital role in the documentation of human rights violations for transitional justice purposes.

36. To seek and establish the truth about past human rights violations, many transitional justice processes establish truth commissions, which gather evidence and testimonies, identify victims and sometimes perpetrators, map violations and record violations committed and locate mass graves, secret detention centres and other crime scenes, as well as document patterns and responsibilities related to those violations. To conduct that work, those commissions rely on a broad variety of information stemming from existing military, security and judicial archives, hospital and morgue records, civil society reports, victims' claims, as well as interviews with witnesses and victims. As such, they usually become the main mechanism at the national level to document such violations. Thus, reparation and accountability mechanisms established as part of transitional justice processes tend to rely heavily on the information documented by truth commissions, to grant status to victims or to substantiate criminal investigations, for example. To ensure that those commissions can effectively fulfil their fact-finding and documenting roles, international standards require them to be endowed with independence, autonomy, sufficient resources and full authority to requisition documentation for their investigations and to compel witnesses or suspects to provide testimony.³³ However, as exemplified in later sections, in many cases truth commissions face barriers accessing State archives and refusals to provide the requested information, which hampers their documenting work. The Truth and Reconciliation Commission of South Africa faced challenges such as the destruction of evidence and other obstacles imposed by former apartheid authorities.³⁴

37. Domestic commissions of inquiry established by parliamentary and other governmental bodies can become another important source of documentation of serious human rights violations in transitional justice processes. Moreover, after large-scale enforced disappearances, States usually establish domestic entities to assist in the search and identification of victims of that crime by collecting personal records and DNA samples of victims and their families, as well as conducting investigations, exhumations, forensic examinations and DNA testing, which help compile a vast source of relevant data.

38. National human rights institutions and the offices of ombudspersons can also support documentation work, acting *ex officio* or in response to complaints filed by victims. Those entities hold crucial material at their disposal, such as the depositions of victims and witnesses, evidence supporting allegations and information resulting from their own monitoring and investigative work, which they can subsequently make available to the relevant transitional justice mechanisms. In Brazil, the Federal Prosecutor for the Rights of the Citizen played an important role in the transitional justice process, launching several judicial processes related to the search for the remains of the disappeared.³⁵

39. At the international level, investigative mechanisms established by the General Assembly, the Security Council, the Human Rights Council, the Secretary-General and the United Nations High Commissioner for Human Rights have been incrementally used to document serious violations of human rights and international humanitarian law and preserve evidence for future accountability and other transitional justice processes. Those bodies, which are bestowed with independent international mandates, have been able to access a wide variety of sources and collect extensive information. They have also developed innovative and sophisticated mechanisms to collect and record information leading to important advancements in the field of documentation. As many of those mechanisms aim to support domestic judicial processes, they have developed rigorous criteria and evidentiary standards to document violations. As a result, they have been able to produce a variety of documental outputs crucial for transitional justice processes, including records of violations, analytical

³³ See [A/HRC/24/42](#) and [A/HRC/54/24](#).

³⁴ See <https://www.taylorfrancis.com/reader/download/41fb2471-048e-4fdf-99ba-1e36fca73329/chapter/pdf?context=ubx>, p. 119.

³⁵ See https://pradpi.es/wp-content/uploads/2018/10/The-role-of-the-ombudsman-in-transitional-justice-processes_diagramado.pdf.

reports, incident chronologies, geolocation analyses and organizational charts of responsible structures.³⁶ The International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 strengthened its means to preserve, process, obtain and manage evidence; established a central repository of information; adopted new data management techniques and digital analytical platforms; and enhanced information security and data protection capacities.³⁷

40. In most pre- and post-transitional justice settings, civil society also plays a leading role in the documentation of human rights violations, complementing or substituting for government efforts. In cases in which authorities are unwilling or unable to document ongoing or recent violations, or where they delay the process of establishing truth-seeking or accountability mechanisms, civil society actors often monitor those violations, receiving victims' claims, mapping and recording crimes and collecting testimonies. In the former Yugoslavia, organizations such as Documenta and the Humanitarian Law Center spent decades documenting and preserving data and testimonies of war crimes, in the absence of national or regional truth commissions.³⁸

41. In cases of recent or continuing conflict or authoritarianism, civil society is often best positioned to gather evidence of violations, given its presence on the ground at the time of events, in-depth knowledge of the specific local context and proximity to victims and witnesses, sometimes constituting the sole independent or credible partner in the sociopolitical spectrum. Faced with fear of reprisal and mistrust in public institutions, victims and witnesses may also be more willing to give testimony to civil society actors, especially when they share a common ethnic, religious or political background. Despite government restrictions, Amnesty International was able to document fatalities in Tigray by communicating with personal contacts in the region.³⁹

42. Civil society documentation efforts are also timely, typically starting while violations are ongoing and, therefore, much earlier than State-led or international initiatives. Timeliness allows civil society actors to collect and preserve sensitive physical or testimonial evidence before it is lost or deliberately destroyed. In Cambodia and the Syrian Arab Republic, civil society organizations acted promptly to rescue records from abandoned detention centres and burning sites and have actively taken action to preserve evidence, including human remains.⁴⁰

43. Civil society organizations are also best suited to conduct onsite research and to determine the geographical location of evidence of mass violence. They can also help collect records and produce databases in the shorter and longer term, playing a key role in present and future transitional justice processes. Those collections provide valuable tools to understand precisely who suffered violations and when, where and how they were committed, thus supporting accountability, truth-seeking and reparation processes. The Documentation Center of Cambodia located and mapped 196 prisons, 19,733 mass graves and 81 genocide memorials throughout Cambodia; and established a collection of approximately 600,000 pages of documents in relation to the Khmer Rouge, which vastly contributed to the trials in the Extraordinary Chambers in the Courts of Cambodia.⁴¹

44. Civil society actors have also pioneered innovative methodologies to search for victims of human rights violations and document those crimes. In the 1980s in Argentina, the Argentine Forensic Anthropology Team and the Grandmothers of the Plaza de Mayo spearheaded the collection of DNA samples of families and victims of enforced disappearances and the use of DNA forensic techniques to identify victims of this crime and

³⁶ See <https://iiim.un.org/what-we-do/information-and-evidence-collection/#collection-&-investigations>.

³⁷ [A/77/751](#), paras. 3, 16 and 17.

³⁸ [A/HRC/51/34/Add.1](#), para. 28; and [A/HRC/54/24/Add.2](#), para. 17.

³⁹ See <https://www.amnesty.org/en/documents/afr25/7152/2023/en>.

⁴⁰ See <https://everycasualty.org/documentation-of-serious-human-rights-violations-in-the-context-of-transitional-justice-processes>.

⁴¹ See <https://www.ictj.org/sites/default/files/ICTJ-DAG-Global-Documenting-Truth-2009-English.pdf>, p. 31.

find their children kidnapped by the dictatorship, a methodology now widely utilized in the search for disappeared persons.⁴²

45. Religious institutions have also played an important role in documenting serious human rights violations during dictatorships or armed conflicts, supporting national accountability and truth-seeking initiatives. The Vicariate of Solidarity in Chile documented human rights violations during the regime of Augusto Pinochet, allowing the identification of victims and perpetrators for future accountability processes.⁴³

46. Despite the leading role of civil society organizations in the documentation of serious human rights violations, they often face serious challenges in the conduct of their work, such as lack of financial and human resources commensurate with their vast workload; the continuous need to train new and existing staff that carry out documenting work; the insecurity inherent in the task of recording evidence and testimonies of crimes, including the risk of physical or judicial retaliation; and the lack of financial and logistical support from State actors and international donors for the work that they do. In the Russian Federation, organizations documenting human rights violations were shut down and some of their members prosecuted.⁴⁴ Domestic documentation efforts, particularly civil society-led endeavours, is an area of transitional justice that requires further attention and support at national and international levels.

VIII. Insufficient mapping of violations and collection of testimonies

47. The process of mapping and recording the range of serious human rights violations endured by a society serves numerous objectives: providing solid information for accountability purposes, feeding truth-seeking processes, facilitating the search for missing persons, estimating the number and type of victims requiring reparation and informing related policies, and developing accurate accounts of past violations on which to ground educational, academic and memorialization processes. Nevertheless, in practice, the recording and mapping of violations has hardly been prioritized in past transitional justice processes and only in recent years such efforts are becoming more prominent, in part due to civil society and the international community. In El Salvador, for example, the mandate of the Special Rapporteur decried the number of crimes and massacres that had not been mapped or documented despite the information provided by victims to judicial authorities.⁴⁵

48. In most nationally led processes, efforts to record and map violations have been almost exclusively led by civil society. For example, the Humanitarian Law Center produced the Kosovo Memory Book,⁴⁶ documenting the circumstances of death or disappearance of 13,535 victims of the 1998–2000 conflict.

49. Recognizing the importance of that field of work, in recent years the international community has stepped up efforts to establish independent investigative bodies mandated to map and record serious human rights violations, leading to a wealth of information that can inform transitional justice policymaking.

50. The testimonies of victims, families and witnesses of serious human rights violations constitute an important source of evidence and contextual information that is essential in transitional justice processes, supporting the work of truth commissions and criminal tribunals and providing a testimonial foundation for memorialization, research and educational work. Such testimonies help understand the human experiences of victims and families, provide detailed factual accounts of crimes, as well as of the responsibilities and

⁴² A/HRC/54/22/Add.5, para. 35.

⁴³ See https://www.vicariadelasolidaridad.cl/archivo_y_centro_de_documentacion (in Spanish).

⁴⁴ See communication RUS 7/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28086>. See also the submission by the International Council of Archives.

⁴⁵ A/HRC/45/45/Add.2, para. 44.

⁴⁶ All references to Kosovo shall be understood to be in full compliance with United Nations Security Council Resolution 1244 (1999).

structures involved therein, offer contextual knowledge about the root causes and consequences of the violations, provide a medium for victims and families to establish a record of the harm suffered and help transmit the memory of the victims to future generations. Nevertheless, many States fail to integrate the collection of testimonies into the design and implementation of their transitional justice agenda, leading to serious information gaps and, thus, to incomplete processes in several pillars of this field. That can undermine reconciliation efforts, chances to design transformative responses to address the root causes of violence and, inevitably, the prospects for peace. In El Salvador, for example, the State failed to collect the testimonies of witnesses and survivors of massacres committed in El Mozote and neighbouring villages, many of whom have never been recorded, hindering justice and reparation.⁴⁷ In countries of the former Yugoslavia, insufficient official efforts to collect and transmit testimonies of victims of different ethnic backgrounds hindered mutual understanding and sustained societal divisions.

51. One notable exception in that regard has been of course the role of national truth commissions. In many countries, commissions have been equipped with a mandate, or have established *ex officio* working methods, to take and collect testimonies from victims and witnesses, and have done so effectively and sometimes systematically across the country or categories of victims. In Colombia, the final report of the National Truth Commission is the product of 14,971 interviews with 28,580 individuals from different regions and social groups.⁴⁸

52. Failure to collect and assess information possessed by actors intrinsically affected by serious human rights violations prevents society and transitional justice actors from fully appreciating the past and effectively moving towards a future of non-recurrence. Recognizing the relevance of such information, civil society organizations have played a vital role in collecting victims' testimonies. In Argentina, the Grandmothers of the Plaza de Mayo collected testimonies of families of victims of enforced disappearances across the country to create a family biographic archive available to the children of victims and for future records.⁴⁹ Despite the existence of numerous positive examples, most State and international actors involved in transitional justice fail to adequately support or amplify civil society efforts to collect testimonies.

53. Mapping and collecting testimonies about serious human rights violations is a vital tool transversal to all pillars of transitional justice, yet in many cases it is still an afterthought of national policymakers and international partners. Crucial information has been lost to negligence in this field. Civil society has stepped in to fill the gap on numerous occasions but often lacked the required resources and support, precisely because documentation is deprioritized in most transitional justice agendas. That trend needs to be reversed with adequate planning and prioritization, and concerted national and international efforts.

IX. Inadequate preservation of documents

A. Destruction and tampering

54. The deliberate destruction or tampering of documentation are significant barriers to transitional justice processes. Those practices obstruct truth-seeking and perpetuate impunity. The motives for such obstruction are multiple and often rooted in complex political, social and institutional contexts. Individuals may destroy documents to conceal evidence of human rights abuses or of collaboration with abusive regimes and ultimately protect themselves or others from prosecution. Cultural and social pressures to forget divisive events can also lead to the intentional obliteration of records that could serve the memorialization of past atrocities. Underresourced or poorly managed record-keeping systems can also lead to inadvertent loss or destruction of records.

⁴⁷ A/HRC/45/45/Add.2, para. 22.

⁴⁸ See <https://www.comisiondelaverdad.co/datos-de-la-escucha-y-fuentes-externas-de-la-comision> (in Spanish).

⁴⁹ See http://conti.derhuman.jus.gov.ar/2018/03/seminario/mesa_5/duran_mesa_5.pdf (in Spanish).

55. States can sometimes voluntarily engage in the destruction or loss of evidence and existing archives. In South Africa, for example, a massive illegal destruction of records was ordered in the period leading up to the 1994 elections, hindering the work of the Truth and Reconciliation Commission.⁵⁰ In Argentina, the current administration announced the purge and possible partial shredding of the General Archive of the Navy, which contains files relevant to transitional justice processes.⁵¹ State authorities also engage in the destruction and degradation of sites at which crimes and serious human rights violations occurred, as was the case with the project to rebuild the Kravica agricultural cooperative in Bratunac, Bosnia and Herzegovina, where more than 1,300 Bosniak men and boys were executed, and where physical evidence of the crimes was still available.⁵² States also fail to protect sites containing records or evidence of serious human rights violations purposely or as a result of negligence. The Government of the Gambia made insufficient efforts to preserve documentary and onsite evidence at the premises of the infamous National Security Agency before its renovation.⁵³ Loss of documentation can also happen because of the discontinuation of mechanisms that protect sensitive information. In Guatemala, the non-renewal of an inter-institutional agreement between the Ministry of the Interior and the Ministry of Culture and Sports regarding the Historical Archive of the National Police placed it at risk of dismantling.⁵⁴

56. Documentation may also be the subject of tampering, often with the objective of shielding perpetrators from accountability, disparaging victims and witnesses and interfering with truth, justice and memorialization efforts. In Guinea, for example, authorities cleared the site of mass human rights violations and altered the medical records of victims in army-controlled morgues and hospitals.⁵⁵

B. Loss of evidence due to delayed documentation and extrinsic factors

57. Transitional justice processes are sometimes implemented long after human rights violations took place. The passage of time can lead to the deterioration or loss of material and immaterial evidence and, if not gathered promptly, it can become permanently unavailable. The more time elapses between the violations and the documentation processes, the less successful the outcome is likely to be.⁵⁶

58. The timely collection of documentation and testimonies is crucial to avoid victims and witnesses becoming unable to share their experiences due to the passage of time. In Morocco, the passing of victims and witnesses hindered access to information for members of the Equity and Reconciliation Commission.⁵⁷ Similarly, time can impede access to the testimonies of perpetrators of human rights violations and their accomplices, as is the case with enforced disappearances, where the knowledge of events is often solely available to perpetrators.

59. Time can also lead to the deterioration of physical evidence about past human rights violations, including victims' remains, crime scenes and objects involved in the commission of crimes. In Bosnia and Herzegovina, for example, the passage of time led to topographical changes at the sites of potential graves, which hindered the search for missing persons.⁵⁸

⁵⁰ See <https://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf>, pp. 234–236.

⁵¹ See communication ARG 1/2025, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29733> (in Spanish).

⁵² A/HRC/51/34/Add.2, para. 72.

⁵³ A/HRC/45/45/Add.3, para. 64.

⁵⁴ See communication GTM 3/2019, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24645> (in Spanish).

⁵⁵ See <https://admin.dullahomarinstitute.org.za/acjr/resource-centre/Guinea%2028%20September.pdf/view>.

⁵⁶ See <https://everycasualty.org/documentation-of-serious-human-rights-violations-in-the-context-of-transitional-justice-processes>.

⁵⁷ Submission by Morocco.

⁵⁸ A/HRC/51/34/Add.2, para. 28.

60. Loss of evidence can also happen as a result of extrinsic factors, such as emergencies, fires or natural disasters, which expose records to the risks of degradation, loss or destruction. In Sri Lanka, evidence and documentation about cases of human rights violations were reportedly lost during natural disasters.⁵⁹

C. Approaches to ensure the preservation of evidence

61. To mitigate the risks of destruction, tampering or loss of sensitive information, some States have passed legislation or issued recommendations for their safeguarding. Mexico recently passed a law prohibiting the destruction of documents related to children born in captivity.⁶⁰ In Morocco, the Equity and Reconciliation Commission recommended disciplinary and criminal sanctions for the concealment or destruction of information about human rights abuses.⁶¹ However, most States undergoing transitional justice processes have not implemented measures to prevent the deliberate or involuntary loss of documentation about human rights violations and must step-up efforts to include these considerations in their national strategies.

62. International investigative bodies have taken positive measures to protect existing evidence, as is the case with the Afghanistan Independent Human Rights Commission and the United Nations Assistance Mission in Afghanistan, which developed protection strategies to preserve the evidence contained in mass graves.

63. In certain contexts, third-party States and non-governmental organizations have used or provided safe havens to preserve documentation at risk of destruction. Switzerland conserves digital copies of documentation related to human rights violations in Colombia, Guatemala and the Marshall Islands. Civil society organizations have sent security copies of their documentation to neutral parties or “safe havens” to be preserved during situations of conflict or dictatorship and in anticipation of future transitional justice processes. States have also developed innovative mechanisms to safeguard documentation. Switzerland led the establishment of the Safe Havens for Archives at Risk initiative, which acts as a hub to enable endangered archives to find a suitable hosting institution and provides advice on safe haven solutions that comply with good practice standards defined by the Guiding Principles for Safe Havens for Archives at Risk.⁶²

64. Innovative technological solutions are also being explored to safeguard the integrity of evidence and records. Among them, blockchain technology has emerged as a potential means to enhance the integrity, transparency and security of digital archives. Its decentralized and tamper-proof nature can protect sensitive documentation from manipulation, contributing to the credibility and longevity of the information.

X. Impeded access to records of human rights violations

65. Access to archives about human rights violations is paramount in transitional justice processes, since they serve as a foundation for the work carried out by truth commissions, judicial processes, reparations programmes and memorialization initiatives. Thus, it is important that State and non-State entities in possession of such records not only adequately preserve them but also facilitate access to interested parties, including investigators, victims and their legal representatives. However, access to those archives is often obstructed by legal, political and practical barriers.

A. Legal and political barriers

66. States have a duty to preserve and facilitate access to State files and other archives related to serious human rights violations. Some countries have established official

⁵⁹ A/HRC/45/45/Add.1, para. 48.

⁶⁰ See https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-05782019000200125.

⁶¹ Submission by Morocco.

⁶² See <https://www.safehavensforarchives.org/en/about-the-initiative>.

institutions or programmes to maintain, analyse, categorize and disseminate such archives, such as the Stasi Archives in Germany⁶³ and the National Memory Archive in Argentina.⁶⁴ Others have mandated existing archival institutions to preserve documentation and make it available to victims and the public, such as the National Archives of Brazil, which holds the documental repository of the National Truth Commission and other documents related to the dictatorship.⁶⁵ Archives produced by repressive bodies have also been placed under the tutelage of courts, as was the case in Paraguay.⁶⁶

67. However, some States deliberately restrict access to archives by adopting legal and policy frameworks that create hurdles or by resorting to spurious justifications to refuse access. Some have invoked State secrecy, national security or public order grounds for restricting access to documentation and archives, arguing that certain records contain information that could reignite social tensions, compromise ongoing intelligence operations, endanger informants or reveal vulnerabilities in State infrastructure. Access to the National Archive Fund of Azerbaijan can be restricted to protect State secrecy.⁶⁷ The Russian Federation extended the classification of most Soviet security services archives until 2044.⁶⁸ States have also refused access to sensitive files arguing their non-existence or prior destruction, as is the case of the armed or security forces (or their respective ministries) of several countries that have prevented access to archives that could shed light on the operations, structures and responsibilities involved in serious human rights violations allegedly committed by them. The National Truth Commission in Brazil was not granted access to records of the military forces, which claimed that they had been destroyed.⁶⁹ Hindered access to sensitive military information about the location of mass graves in countries of the former Yugoslavia prevents progress in the search and identification of missing persons decades after the end of the war.⁷⁰

68. Privacy rights and data protection regulations closely intermingle with the right to access and the duty to document and investigate serious human rights violations. Governments and institutions may rightfully limit public access to victims' data to protect their privacy and safety. While that can be legitimate, sometimes privacy and data protection regulations have been abused by States to restrict access to archives by victims, families, legal representatives and investigators in order to withhold incriminating information. The European Court of Human Rights has noted several instances in which the Russian Federation has abused personal data protection laws to deny access to documentation about human rights violations.⁷¹

69. Access to documentation can also be hampered by ongoing conflict, repression and emergencies, in which national and international actors cannot access affected areas or communities to collect testimonies or record ongoing human rights violations. For example, investigators cannot enter the territory of the Democratic People's Republic of Korea to document violations; therefore, they only obtain testimonies from refugees and the diaspora.⁷² Other conflict-related physical barriers, such as the presence of landmines, can permanently obstruct access to evidence about serious human rights violations.

70. International investigative bodies also face similar constraints. As the consent of the concerned State is necessary to conduct a fact-finding mission on its territory or to reach certain locations or premises, some entities cannot have direct access to evidence and

⁶³ See <https://www.bundesarchiv.de/en/stasi-records-archive>.

⁶⁴ See <https://www.argentina.gob.ar/derechoshumanos/ANM> (in Spanish).

⁶⁵ A/HRC/60/32/Add.1, para. 51.

⁶⁶ Submission by the International Council of Archives.

⁶⁷ Submission by Azerbaijan.

⁶⁸ See https://www.fidh.org/IMG/pdf/russie-_pad-uk-web.pdf; and https://www.fidh.org/IMG/pdf/overcoming_the_past_0aan_overview_of_memorial_s_transitional_0a_justice_jurisprudence_in_russia.pdf.

⁶⁹ A/HRC/60/32/Add.1, para. 10.

⁷⁰ A/HRC/51/34/Add.1, paras. 25 and 26; A/HRC/51/34/Add.2, para. 31; and A/HRC/54/24/Add.2, paras. 12 and 47.

⁷¹ European Court of Human Rights, *Suprun v. Russia*, Application No. 58029/12, Judgment, 18 June 2024.

⁷² See <https://en.nkdb.org>.

testimonies. The authorities of Burundi, the Democratic Republic of the Congo, the Sudan and Venezuela (Bolivarian Republic of), among others, have prevented investigators from moving freely or have excessively delayed providing the requested documents. Insecurity inside the countries concerned preventing access to certain locations, as well as the deliberate destruction or degradation of evidence, have also hampered their investigations. Faced with such hurdles, international investigative bodies have resorted to collecting evidence through testimonies and material evidence provided by refugees and the diaspora; interviewing victims and witnesses through virtual telecommunication means; using information technologies, such as radars and GPS, to corroborate information; and receiving photographs, films and other forms of evidence from local actors in digital form.

71. Comparable problems have been reported regarding information held by international or regional organizations. In certain cases, such entities have restricted access to documentation, arguing respect for the principles of confidentiality, non-disclosure or neutrality. The 2009 fact-finding mission report by the Economic Community of West African States and the United Nations on the killing of 50 foreign nationals in the Gambia during the dictatorship of Yaya Jammeh remains confidential despite requests from civil society and special procedures.⁷³ In many cases, archives of international tribunals and truth commissions are not accessible or their whereabouts are unknown. The archives of the United Nations-backed Truth Commission of El Salvador are preserved in a United Nations storage unit, but access is restricted due to confidentiality measures and digitalization requirements.⁷⁴

72. Accessing archives of civil society organizations can also be problematic as many do not have in place policies and procedures to ensure the long-term preservation and access to their records, mainly due to the lack of resources.⁷⁵ Other non-State actors, such as private business and armed groups involved directly or indirectly in serious human rights violations, can possess records of great relevance to transitional justice processes, but are often not easily accessible to victims and investigators.

73. National and international actors have attempted to address barriers to access by restricting classification periods, banning their application in the case of human rights violations, declassifying sensitive files or integrating them into archives. The Inter-American Court of Human Rights ruled that States could not invoke State secrecy or confidentiality of information about human rights violations to refuse access to investigative authorities.⁷⁶ Brazil adopted legislation reducing the time frame for confidentiality in relation to documentation and prohibiting the classification of such information.⁷⁷ Some States, such as Canada, Jamaica and New Zealand, have regulated the right of victims and complainants in relation to access to information in their legislation. Other States have tried to strike a balance between the relevant interests and rights at play. For example, in Uruguay, access to archives is allowed to those with a “legitimate interest”, including the owners of the data or their heirs, national and foreign jurisdictional bodies and human rights organizations.⁷⁸

B. Other barriers

74. Practical barriers can also hinder access to archives and may disproportionately affect persons in vulnerable situations. Documentation systems often fail to provide appropriate accommodations for persons with disabilities (physical access for persons with reduced mobility or alternative formats, such as Braille or audio, for those with visual impairments, for instance). In addition, language and literacy barriers exclude marginalized groups from engaging meaningfully with available archives. Diaspora communities and other interested

⁷³ A/HRC/45/45/Add.3, para. 65.

⁷⁴ A/HRC/45/45/Add.2, para. 27.

⁷⁵ Submission by the International Council of Archives.

⁷⁶ Inter-American Court of Human Rights, *Maldonado Vargas et al. v. Chile*, Judgment, 2 September 2015, para. 89.

⁷⁷ See https://www.planalto.gov.br/CCIVIL_03/_Ato2011-2014/2011/Lei/L12527.htm (in Portuguese), art. 21.

⁷⁸ Submission by Uruguay.

stakeholders who reside outside the country in which the documentation is held may also face difficulties accessing physical archives.

75. A further barrier is the limited availability of digital archival systems that can facilitate access by victims, legal representatives, civil society and other actors who cannot visit the place of storage of physical archives and documentation due to distance, lack of resources, access requirements and other impediments. To address such challenges, the Inter-American Court of Human Rights recommended the establishment of digital tools to improve access to information.⁷⁹ Digital tools can play a crucial role in enhancing access, preservation and dissemination of documentation, particularly in geographically dispersed or resource-limited contexts. For example, the archives of the Commission for the Clarification of Truth, Coexistence and Non-Repetition of Colombia are fully digitalized and public.⁸⁰ Similarly, the National Memory Archive of Argentina developed a robust approach to digitalizing archives and establishing databases for classification and consultation.

76. Another challenge stems from the diversity of actors holding relevant archives, including State institutions, international organizations, and academic and other civil society entities. The absence of coordination or convergence among those actors can result in fragmented, incomplete or inaccessible documentation. In some cases, it is unclear which institution has custody over specific records, making it difficult for truth commissions and judicial bodies to know whom to approach.

XI. Capacity and resource availability

77. Documentation processes are capacity and resource intensive. States and civil society employing them must rely on the availability of skilled personnel, specialized procedures and tools and material resources. However, in countries in or coming out of conflict or repressive regimes, States often lack the financial and technical capacities to carry out those efforts. Others may have struggling economies or be undergoing situations of emergency and may not have the means to search, retrieve and store information at scale in compliance with international standards. In the Syrian Arab Republic, the vast number of serious human rights violations to be recorded and the unavailability of resources made documentation daunting. Civil society organizations in many countries often lack the necessary resources, capacities or training commensurate with the task. In the Gambia, years of dictatorship weakened civil society and organizations emerging after the transition required capacity-building to carry out work related to transitional justice, including documentation.⁸¹

78. Those constraints must be addressed early on in transitional justice settings by embedding documentation in the design and implementation of transitional justice programmes and devoting concerted efforts to: improve the technical capacities of State and non-State actors involved in documentation; adopt procedures compliant with international standards tailored to local needs; develop technical infrastructure; and support documenting teams. It is also important to help build collaborative relationships among those relevant actors to encourage coordination, information exchange and/or technical collaboration where possible and advisable, including by developing common technical, methodological and regulatory procedures.

79. While legal proceedings often set high evidentiary standards, documentation can also serve broader objectives, including advocacy, supporting humanitarian interventions, shaping policy and preserving the narratives of survivors. Therefore, entities carrying out documentation can be encouraged to adjust their approach and methodologies, focusing on objectives that align with their capacities while ensuring their efforts remain impactful.⁸²

⁷⁹ Inter-American Court of Human Rights, *Serrano-Cruz Sisters v. El Salvador*, Judgment, 1 March 2005, paras. 189–191.

⁸⁰ [A/HRC/57/50/Add.1](#), para. 52.

⁸¹ See <https://www.csvr.org.za/wp-content/uploads/2023/10/GIJTR-Gambia-Transitional-Justice-Practice-Brief.pdf>, pp. 3–5.

⁸² Submission by the International Center for Transitional Justice.

80. Transitional justice strategies developed by States and international partners often fail to prioritize documentation processes and their funding. That limits the ability of national actors to collect, manage and safeguard vital information, as well as to protect the personnel and institutions involved. Faced with local financial constraints, support is often required from external partners, such as donor States, agencies or foundations, which in turn often do not prioritize this line of funding, especially in early stages of transition. In some rare cases, funding for documentation efforts was considerable at the start of a conflict or transition, but dwindled when international interest in the situation decreased, as was the case with the armed conflict in Ukraine.⁸³ Without sustained resources, it is not possible for State or non-State actors to pursue such efforts. In some instances, donors may not be interested in funding documentation unless it is clear that it will lead to accountability, notwithstanding the multifaceted uses of documentation in transitional justice processes and the importance of solid funding to achieve comprehensive results.⁸⁴

81. Despite those gaps, some donor States have indeed supported documentation processes led by States and civil society actors. Switzerland provided expert and technical support to document the human rights violations committed by the national police of Guatemala and the work of the National Peace and Reconciliation Commission in Zimbabwe.⁸⁵ International donors funded the Kosovo Memory Book.⁸⁶

XII. Safety measures

82. Inadequate safety measures for victims, witnesses and their families can be significant barriers to transitional justice processes as they may be reluctant to report human rights violations, even after the end of a conflict, due to fears of retaliation, threats or societal stigma. Documenters of human rights violations often face serious risks, particularly while conflicts or repression are ongoing, including physical harm, targeted attacks, surveillance, defamation and judicial harassment. Civil society and victims' organizations managing documentation are also vulnerable to physical and digital attacks aimed at destroying evidence.

83. To address those challenges, it is imperative that States act effectively, in compliance with international standards, to protect those stakeholders, including through the adoption of legislative, judicial and administrative measures to shield them from threats or retaliation and to provide legal guarantees for the preservation of the documentation that they possess.

84. Documentation procedures must adopt a victim-centred approach to avoid causing revictimization and retraumatization during the collection of testimonies, data and evidence. The participation of victims and witnesses in those processes should ensure their voluntary informed consent and permit them to provide evidence anonymously. There should be sensitive handling of documentation to protect their identity, including the use of encryption and the protection of metadata. The use of trauma-informed interviewing techniques is important when collecting evidence, to avoid traumatization, as is the adoption of appropriate psychosocial and mental health support, for victims and witnesses, as well as for those collecting traumatic evidence. While archives and databases relating to human rights violations should be made public, appropriate privacy measures should be taken to protect the physical and psychosocial safety and the dignity of victims, witnesses and family members, including by storing data in secure locations or technological tools.

⁸³ Submission by the Norwegian Helsinki Committee.

⁸⁴ See <https://everycasualty.org/documentation-of-serious-human-rights-violations-in-the-context-of-transitional-justice-processes>.

⁸⁵ Submission by Switzerland.

⁸⁶ See <https://everycasualty.org/documentation-of-serious-human-rights-violations-in-the-context-of-transitional-justice-processes>.

XIII. Conclusions

85. Documentation has received limited attention in transitional justice processes. At the same time, the importance and effectiveness of documentation processes are increasing due to the availability of new technologies and methods that facilitate the collection and analysis of information.

86. The timely and adequate integration of documentation mechanisms into transitional justice processes remains uneven across contexts and is too often treated as secondary. Despite its critical role in ensuring the credibility, coherence and effectiveness of transitional justice processes, documentation is frequently sidelined in the early stages of their negotiation, design and implementation. That omission undermines the establishment of a solid evidentiary foundation essential for truth-seeking, accountability, reparations, education and institutional reform.

87. In many contexts, the initial impetus to document human rights violations comes from civil society organizations and victims' associations, often operating under precarious conditions and with limited resources. While their efforts are indispensable, the absence of coordinated State involvement from the outset contributes to critical gaps in data collection, preservation and accessibility.

88. In situations in which truth commissions are established, documentation tends to be more systematically integrated. Indeed, they play a vital role in compiling, verifying and archiving information related to serious human rights violations. In such settings, documentation serves as a core element of the transitional justice process, informing findings, shaping decisions and guiding follow-up actions. Nonetheless, the quality and consistency of documentation strategies within truth commissions vary significantly, often depending on the degree of political support, clarity of mandate and availability of resources.

89. In situations of ongoing conflict or insecurity, documentation efforts are frequently delayed, obstructed or excluded altogether due to unstable conditions and the prioritization of peace and security imperatives. Such delays can obstruct the pursuit of accountability and deprive victims of timely acknowledgement and redress.

90. To address those gaps, it is essential that States, the international community and donor institutions embed documentation as a core component of transitional justice from the outset. That should not be perceived solely as a technical exercise, but as a human rights imperative and a prerequisite for the realization of truth, justice, reparation and non-recurrence.

XIV. Recommendations

A. Recommendations addressed to States

91. The Special Rapporteur recommends that States:

(a) Embed documentation and archiving processes in the design and implementation of transitional justice strategies, assigning them sufficient resources;

(b) Establish clear and rigorous processes, policies and procedures for the investigation, documentation, collection, preservation and archiving of evidence, information and testimonies related to serious human rights violations, in accordance with the aforementioned international standards;

(c) Train personnel responsible for collecting, documenting, preserving and archiving evidence and information about such violations, in accordance with appropriate methodologies and international standards to ensure the quality and reliability of results;

(d) Ensure the integrity of documents, testimonies and archives and, where relevant, the confidentiality of personal data contained therein, by securing their place

of storage, implementing security and access controls, producing copies and digitalizing the information, storing evidence in different locations and in electronic media, and using advanced encryption technologies for digital archives;

(e) Seek, if unable to document or preserve documentation related to those violations due to prevailing circumstances, the support of national and international partners specialized on the subject;

(f) Adopt all necessary legislative, judicial and administrative measures to prevent the deliberate destruction, degradation, tampering or loss of evidence, documentation and archives relating to serious human rights violations and ensure accountability for such actions;

(g) Ensure access for victims, families, investigators and civil society actors to the archives of State institutions and transitional justice mechanisms relating to serious human rights violations, in accordance with international standards; remove legal, administrative and practical barriers to access these archives, including those based on principles of national security, State secrecy and data protection; and ensure that secrecy classification and confidentiality periods do not apply to them;

(h) Disseminate information and archives resulting from investigations into human rights violations through physical and digital media, ensuring that they are available in multiple languages and accessible formats for the entire population;

(i) Ensure that data and testimonies from victims and witnesses are collected ethically and sensitively, avoiding their retraumatization, in accordance with international standards; and facilitate the participation of all concerned individuals, including women, children, lesbian, gay, bisexual, transgender and intersex persons, migrants, refugees, Indigenous Peoples and minority groups, by employing procedures tailored to their needs, providing psychosocial support, offering language, disability and cultural accommodations, providing specialized support and adequation for victims of sexual violence, and safeguarding the safety of interviewees, including through privacy and witness protection programmes where needed;

(j) Provide the necessary institutional, material, financial and legal support to civil society organizations working on the collection, documentation, preservation and archiving of information about serious human rights violations; facilitate their access to information relevant to their work; and ensure that they can exercise their functions without obstruction, intimidation or reprisals.

B. Recommendations addressed to the international community

92. The Special Rapporteur recommends that the international community:

(a) Support the integration of documentation processes related to serious human rights violations (including the mapping, collecting, recording, preserving and archiving of relevant evidence, testimonies and information) in the design and implementation of transitional justice strategies, as well as in early stages of transition, and in ongoing situations of conflict or authoritarianism; and provide financial, material and technical support to States and civil society organizations involved in those processes;

(b) Develop strategies and procedures to provide protection or safe havens for documentation and archives relating to serious human rights violations stemming from State institutions, national transitional justice mechanisms, international investigative bodies and national or international tribunals; and ensure access to this information to victims and their legal representatives, affected communities and investigators, in accordance with international standards.

C. Recommendations addressed to civil society organizations involved in documentation

93. The Special Rapporteur recommends that civil society organizations involved in documentation establish clear and rigorous internal guidelines and procedures for the investigation, documentation, collection, preservation, safeguarding and archiving of evidence, information and testimonies related to serious human rights violations, as well as for the interviewing of victims and witnesses, in accordance with the international standards on the matter, as reviewed in the present report; and ensure the adequate training of personnel in charge of these functions.
