



Victim and Survivor Consultation Protocol: A tool for policy-makers

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The Center is a founding member of the **Atrocity Response Coalition (ARC) for Justice**, which is a global consortium of organizations that aims to transform how the world responds to atrocities by creating a victim-centered, evidence-based, trauma-informed justice ecosystem. ARC members, including CNS, the Center for Victims of Torture (CVT), the Mukwege Foundation, Harvard Humanitarian Initiative (HHI), SEMA (the Global Network of Victims and Survivors to End Wartime Sexual Violence) and the International Network of Victims and Survivors of Serious Human Rights Abuses (INOVAS), have provided invaluable input, analysis, and insights for this Protocol. Learn more: ARCforJustice.org

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Anna Cave, Executive Director of Georgetown Law's Center on National Security, conceptualized the principles and served as the Principal Investigator of the project to develop this Protocol from its inception, through research and review, to completion. She established the [Innovation Council for International Justice](#), which served as the advisory committee for the Protocol, and subsequently launched [ARC for Justice](#), in support of implementing the Protocol. The concept and need for this Protocol emerged from Ms. Cave's nearly two decades of experience, including as a senior policy-maker, a practitioner, and advocate working to advance innovative justice strategies alongside communities affected by mass atrocities to promote long-term healing and repair.

Ms. McIntosh and Ms. Cave are indebted to the many victims and survivors who courageously strive for justice for atrocities around the world and the advocates and justice champions who stand with them.

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Front cover: An official of the International Organization for Migration (IOM) supervises the provision of assistance to Dinka Bor internally displaced persons (IDPs) en route to Bor in Jonglei State from Bahr el Jabal State, today on the Juba-Yei road in Juba, Sudan. Photo: UN Photo/Arpan Munier.

Back cover: Refugees, host community members, partners and UN staff came together to commemorate the World Refugee Day in an event organized in Aleppo Governorate.. Photo: UNHCR/Hameed Maarouf.

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FOREWORD

UN Secretary-General António Guterres (centre) meets with Rohingya youth at a learning center in a refugee camp in the southern Bangladesh coastal district of Cox's Bazar. Bangladesh is hosting over one million Rohingya refugees who fled violence in neighbouring Myanmar and Cox's Bazar is home to the world's largest refugee camp. As drastic aid cuts by major donors threaten food supplies to the camps, Mr. Guterres described Cox's Bazar as "ground zero" for the impact of funding cuts. The visit took place during the holy month of Ramadan and was a mission of solidarity with the Rohingya refugees and the Bangladeshi people who generously host them. "I'm here to shine a global spotlight on the plight—but also the potential—of Rohingya refugees," Mr. Guterres said. Photo: UN Photo/Shari Nijman.



Foreword

During the 1994 Genocide against the Tutsi, my eyes could see, but they were too innocent to grasp the horrors unfolding around us. My mother carried me on her back when we were stopped and pulled aside at a roadblock—one of many set up to capture those trying to flee. As she sat down with the others, still trying to shield me from the thorny bushes nearby, one of the Interahamwe militia members mocked her efforts, asking, “What are you protecting that baby from? We’re going to kill you all anyway.” But I survived. We survived. And ever since, we have been involved in a range of efforts to pursue justice and accountability and to make sure victims’ perceptions of justice are taken into account.

The Rwandese experience highlights just how critical it is that policy-makers listen to victims and survivors when designing and implementing justice mechanisms. In the absence of official victim consultation processes, countless community-led initiatives worked to make victims’ voices heard and to ensure that the distinct needs and priorities of different survivor groups were taken into consideration. For example, my mother and other widows of the genocide formed AVEGA Agahozo, the Genocide Widows’ Association. AVEGA advocated and continues to advocate for policies that responded to their specific challenges, including access to housing, medical care for women who had been raped and infected with HIV, and finding pathways to collective healing.

Other organizations have also sought to fill in the mosaic of survivors’ needs. In high school, I was involved in the Student Survivors’ Association (AERG in the French Acronym) which focused on securing financial aid, moral support, and a sense of belonging for students who had lost family members. And in my professional and community work, I have contributed to other initiatives, like Digital Kwibuka, focused on preserving the memory of the genocide. The lesson of all these community-led initiatives is that justice extends beyond legal processes. Mass atrocities impact every part of being human. So too must the policies that seek to remediate them. Thus policy-makers should take these diverse perspectives and needs into account when making decisions about the direction of costly and time consuming policy initiatives to advance holistic justice.

The Victim and Survivor Consultation Protocol gives policy-makers tools to pursue this aim. It urges them to consider, support and elevate such victim-led justice

efforts as an essential part of the holistic justice process, recognizing that transformational and holistic justice cannot be achieved when other foundational needs are overlooked. The Protocol fills a critical gap in the literature by providing concrete advice and guidance to policy-makers on how to conduct rigorous, trauma-informed, and safe victim and survivor consultation. This Protocol outlines key interconnected principles and considerations that policy-makers and decision-makers should consider when designing, implementing, and funding justice measures. Each principle is supported by case studies that demonstrate how meaningful consultation is essential in developing mechanisms that elicit and respond to the specific needs, priorities, and expectations of affected communities. It emphasizes what I know to be true based on my own experience: victim and survivor consultation is a critical component of truly transformational justice for mass atrocities.

This Protocol is more than just a resource for policymakers. It will also serve survivors and victims. It recognizes that their understanding of justice not only matters but holds value. It shifts their role from passive recipients to active co-creators of justice mechanisms tailored to their realities. At the same time, it validates the fact that some victims and survivors may only begin confronting their experiences or engaging in the pursuit of justice decades after the mass atrocities have occurred. In this regard, the Protocol complements prior research conducted by the authors, including [Pursuing Justice for Mass Atrocities: A Handbook for Victim Groups](#), which provides practical guidance to victim groups about how they can influence or participate in the justice process.

The Protocol recommends that the consultations be made on an ongoing basis and revisited regularly as justice processes are adopted and implemented, recognizing that victims’ and survivors’ perspectives evolve and shift over time.

It has been an honor to contribute to this Victim and Survivor Consultation Protocol. To me, it stands as a recognition that the world survivors imagine can, at the very least, be advocated for. And I hope that it will encourage and facilitate a meaningful collaboration between victims and survivors and the decision-makers in the pursuit of a comprehensive and transformational justice.

– **Fabiola Uwera Ratamu**, (*Lawyer, survivor of the 1994 Genocide against the Tutsi in Rwanda, and Affiliate Fellow with the Center on National Security*)

EXECUTIVE SUMMARY

General view of the UN grounds in Juba, which has transformed into a camp for internally displaced persons (IDPs) seeking refuge from the ongoing violence throughout the country. Some 355,000 people have been driven from their homes since the conflict erupted a month ago between President Salva Kiir's forces and those of former deputy president Riek Machar. Photo: UN Photo/Isaac Billy.



Executive Summary

Justice in the aftermath of mass atrocities is a basic human need. It also aims to help entire societies recover, prevent recurrence, reestablish and reinforce the rule of law, address underlying grievances, heal communities and even societies, and promote more durable peace. It is a go-to priority for policy-makers and a frequent demand from victims and survivors.

At great personal cost and usually with little support, victim and survivor networks play a critical role in advocating for justice, connecting victims and survivors to the justice ecosystem, and providing peer-to-peer support on the long and arduous path to justice. But when justice processes are designed through a top-down approach—as is far too often the case—the resulting justice processes often do not accomplish these goals. This Protocol highlights how policy-makers can better deliver on these goals by incorporating victim and survivor consultations as a critical part of the design and implementation of transformational and comprehensive justice policies and processes.

This Protocol is a tool for policy-makers on how to incorporate victims' and survivors' perspectives into a comprehensive and transformational justice process. **The Protocol focuses on victim and survivor consultation as a critical—but under-explored and frequently neglected—component of a victim and survivor-centered, evidence-based, trauma-informed approach to justice.** It provides a practical guide for those responsible for designing, implementing, funding, and evaluating a range of justice measures on how to prioritize, support, coordinate, and manage meaningful consultations of victims and survivors about their justice perspectives, needs, priorities, and expectations. "Victim consultation" goes beyond *ad hoc* engagement with victims or their civil society partners; instead, it **is a process of reciprocal learning. Consultation is defined here as a meaningful, rigorous, and educational feedback process providing one avenue for victims and survivors to participate in the co-creation of justice mechanisms** for

atrocities with policy-makers, decision-makers, and donors.

"Victim consultation" [...] is a process of reciprocal learning.

The Protocol was developed over two years through a thorough desk review of existing guides, articles, and manuals on the topic of victim participation and consultation and almost forty interviews with victim and survivor leaders, civil society representatives, experts, practitioners, and policy-makers around the world. The research team developed and analyzed over a dozen case studies of countries undergoing transitional justice processes to evaluate the extent to which victim consultation occurred, the nature of such consultations when they did occur, the impact of consultation on eventual justice processes, and victim and survivor satisfaction with such processes. The Protocol was reviewed by dozens of experts in the fields of transitional justice, victim leadership, trauma-informed psychosocial support, policy-making, and data-gathering and empirical research. This Protocol complements INOVAS's recent [Guidelines on Victim Participation in Justice Processes](#).¹

This research revealed that despite the increasing commitment to a victim and survivor-centered approach, victim and survivor consultation is not currently a common part of the policy-making process when designing, implementing, and evaluating justice mechanisms for mass atrocities. Victim and survivor engagement tends to occur on a partial and irregular basis. While some sectors (such as the humanitarian and peacebuilding sectors) are increasingly seeking input from affected communities about their needs, perspectives, and priorities when designing and implementing policies and programs, the justice sector has lagged behind. This Protocol aims to change this status quo. It proposes four core principles, each of which is supported by several interdependent best practices for coordinating, funding, managing, and using the results of

¹ Note: Through the Atrocity Response Coalition for Justice (ARC), the research team has an ongoing partnership with two global networks of atrocity survivors—SEMA (the Global Network of Victims and Survivors to End Wartime Sexual Violence) and the International Network of Victims and Survivors of Serious Human Rights Abuses (INOVAS)—as well as the Center for Victims of Torture, Harvard Humanitarian Initiative, and the Mukwege Foundation. <https://arcforjustice.org/>

consultations to co-create justice mechanisms with victims and survivors of mass atrocities. In implementing these principles in different contexts, policy-makers will often have to balance competing principles and weigh tradeoffs between comprehensiveness and feasibility.

Overview of principles and best practices

Principles and best practices for victim and survivor consultation at a glance

- 1. Safe**, meaning trauma-informed, safe and secure for survivors and society, and realistic about both the process and eventual justice options
- 2. Survivor-centered**, meaning participatory, coordinated, and representative and inclusive
- 3. Rigorous and ethical**, meaning timely and periodic, data-informed, educational and empowering, and comprehensive and transformational
- 4. Accountable**, meaning transparent and visible, and effective, meaningful, and incorporated into decision-making

Principle 1: Safe

Victim and survivor consultation is an inherently sensitive process that can surface difficult emotions, memories, and attitudes that trigger trauma and distress, as well as tensions within and between affected communities. It is therefore critical for those conducting consultations to adopt protective mechanisms and safeguards, both for victim and survivor participants and for society writ-large. This involves not only securing informed consent and adopting a trauma-informed approach, but also ensuring that the consultation process does not create unrealistic expectations (both regarding the consultation process itself, as well as the eventual justice measures that may be adopted).

Best practices for Principle 1:

- (a) Trauma-informed and trauma-responsive**, meaning that the consultation process in its entirety is empowering; informed by the needs, expectations, and priorities of survivors; and is not retraumatizing.
- (b) Safe and secure for survivors**, meaning that appropriate safeguards are adopted at all stages of the consultation process to ensure that it does not expose victims and survivors to additional risk, and that any potential risks are clearly disclosed and discussed as part of the informed consent process.
- (c) Safe and secure for society**, meaning that measures are adopted to protect against vigilantism and acts of revenge during contentious discussions about justice in contexts where rule of law is weak and trust in public institutions is low.
- (d) Realistic about both the consultation process and eventual justice outcomes**, meaning that those conducting consultations avoid creating unrealistic expectations in light of limitations and obstacles to pursuing comprehensive and transformational justice such as limited political will, funding, and access to affected communities.

Principle 2: Survivor-centered

Adopting a survivor-centered approach is critical to the effectiveness of any consultation process. Those conducting victim and survivor consultations must strike a balance between involving survivors as active participants in the design of the consultation mechanism, while also avoiding overly taxing and retraumatizing them. Those conducting consultations should gather perspectives from a representative cross-section of victims and survivors and ensure that these communities receive accurate information about future potential justice options.

Best practices for Principle 2:

- (a) Coordinated**, meaning that the various entities undertaking or funding consultations seek to ensure that they are organized with one another, and do not unnecessarily tax, retraumatize, or oversaturate affected communities.
- (b) Participatory**, meaning that wherever possible, victims, survivors, and affected communities are

involved in designing the consultation process itself.

- (c) **Representative and inclusive**, meaning that the consultation process does not treat victims and survivors as monolithic and strives to gather and fairly represent the opinions of a broad and representative sample of affected communities.
- (d) **Educational and empowering**, meaning that the consultation process does not treat victims and survivors as monolithic and strives to gather and fairly represent the opinions of a broad and representative sample of affected communities.

Principle 3: Rigorous and ethical

Victim and survivor consultations should produce data and information that is complete, accurate, and current. To do so, delivery and implementation should be rigorous and maintain ethical best practices, both methodologically (with respect to when and how often survivors are consulted as well as the research approach adopted) and substantively (in terms of the comprehensiveness of the range of justice mechanisms that are discussed).

Best practices for Principle 3:

- (a) **Timely and periodic**, meaning that, to the extent ethical and possible, consultations occur both before decisions are made and on an ongoing basis throughout the lifecycle of lengthy justice processes as victims' and survivors' perspectives evolve and as the context changes.
- (b) **Data-informed and ethical**, meaning that a systematic, evidence-based approach is taken to designing and analyzing the data and information gathered, and that where possible, a mixed methods approach that combines qualitative and quantitative elements is used.
- (c) **Comprehensive and transformational**, meaning that the issues included in the consultation are multifaceted and comprehensive, encompassing the full spectrum of justice options, broadly defined, and aim to transform society from oppression and conflict to victim and survivor empowerment, peace, and healing.

Principle 4: Accountable

At its best, a consultation is a form of meaningful and ongoing dialogue between victims, survivors,

and affected communities; policy-makers, decision-makers, and other officials; civil society and NGOs; and funders, and other stakeholders. To be a genuine dialogue process, it is critical to promote transparency, openness, and visibility of the consultation process itself (i.e., how the consultation is conducted) and its outcomes as much as possible. Moreover, those conducting consultations should ensure that subsequent decisions, activities, and processes are informed, shaped, and determined by the outcome of the consultations.

Best practices for Principle 4:

- (a) **Transparent and visible**, meaning that a public outreach campaign accompanies the process so that affected communities and the broader society know that the consultation is taking place and are informed of the results, and that, where possible, those conducting consultations are open and transparent about their methodology.
- (b) **Effective, meaningful, and incorporated into decision-making**, meaning that the consultation process is not a mere "box-ticking exercise" and that there is a vehicle or mechanism for translating the findings into decision-making so that the programs, funding priorities, policies, and laws ultimately adopted incorporate the perspectives and opinions of those affected.

Annex I provides an overview of qualitative and quantitative research methodologies, with examples of how to design consultations with victims and survivors. **Annex II** provides a list of additional resources on related and relevant topics including trauma-informed interviewing techniques, documentation for case-building purposes, and transitional justice and victim participation.

The **goal** of this Protocol is to transform the way decisions regarding justice and accountability for atrocities, conflict, and periods of oppression are made by putting victims and survivors at the center of the design and implementation process. The **vision** is that a trauma-informed, evidence-based, victim-centered approach to consultation surrounding justice mechanisms will make those justice mechanisms more effective at promoting healing, repair, and recovery, and preventing recurrence over the long-term.

INTRODUCTION

Secretary-General António Guterres traveled to Bangladesh to highlight the continuing plight of nearly one million Rohingya refugees driven from their homes in Myanmar. While there he traveled to Cox's Bazar to visit Rohingya refugee communities and humanitarian workers, and to advocate for increased donor support. Mr. Guterres was joined on the trip by Jim Yong Kim, President of the World Bank Group, and Filippo Grandi UN High Commissioner for Refugees. A view of the Kutupalong Rohingya Refugee Camp in Cox's Bazar. Photo: UN Photo/K. M. Asad.



Introduction

Today, more conflicts are happening around the world than at any time since 1946.² From Ukraine to Sudan, and Myanmar to Gaza, atrocities are rapidly unfolding around the globe, generating untold numbers of victims and survivors. Conflict disproportionately impacts civilians, who comprise nearly 90% of all casualties.³ This violence causes deep trauma and keeps communities trapped in cycles of abuse, inequality, and instability.⁴ 60% of conflicts relapse.⁵ Justice in the aftermath of conflict, mass atrocities, and periods of oppression is a basic human need. It also aims to help entire societies recover, prevent recurrence, reestablish and reinforce the rule of law, address underlying grievances, heal communities and even societies, and promote more durable peace. It is a go-to priority for policy-makers and a frequent demand from victims and survivors. Yet, justice is often blocked, incomplete, or delivered only for a few, failing to meet the expectations of both survivors and policy-makers.

Against this backdrop, victims and survivors have tirelessly advocated for the establishment of new processes and institutions; created their own mechanisms, such as memorials and truth-telling processes; participated in efforts to search for missing persons; and established the critical—but often missing—link between official justice processes and affected communities, among many other vital

contributions on the long road to justice. Victim and survivor-led organizations and individuals often do this work at great risk and personal cost. Their work is instrumental in advancing justice for mass atrocities and yet it remains undersupported and underacknowledged. Moreover, **victims and survivors are often sidelined from official processes, and their voices are ignored or used to retroactively legitimize decisions that have already been made.** Justice, when it takes place, is too often negotiated by those with limited contextual knowledge or lived experience.

Decision-makers, policy-makers, donors, and advocates dedicated to promoting justice for mass atrocities increasingly recognize that in order to prevent recurrence, deter would-be perpetrators, and promote genuine individual and collective healing over the long-term, it is necessary to adopt an approach that prioritizes victims' and survivors' needs and perspectives. International declarations and resolutions, documents and speeches from government officials, and official reports of domestic, regional, and international governmental organizations and agencies more frequently stress the importance and value of adopting "victim-centered approaches" to the design and implementation of justice mechanisms.⁶

For example, reparations awards ordered by the International Criminal Court (ICC) in cases against

² Siri Aas Rustad, *Conflict Trends: A Global Overview, 1946–2023*, PRIO (2024), <https://www.prio.org/publications/14006>.

³ Press Release, *Ninety Per Cent of War-Time Casualties Are Civilians, Speakers Stress, Pressing Security Council to Fulfil Responsibility, Protect Innocent People in Conflicts*, U.N. Press Release, SC/14904 (May 25, 2022), <https://press.un.org/en/2022/sc14904.doc.htm>.

⁴ Laura Calderon de la Barca, Katherine Milligan, and John Kania, *Healing Systems*, STANFORD SOC. INNOVATION REV. (Feb. 12, 2024), <https://ssir.org/articles/entry/healing-trauma-systems>.

⁵ Scott Gates, Håvard Møkleiv Nygård, and Esther Trappeniers, *Conflict Recurrence: Conflict Trends*, 2 PRIO (2016), <https://www.prio.org/publications/9056>.

⁶ U.N. Office for the High Commissioner for Human Rights, *Rule of Law Tools for Post-Conflict States: National Consultations on Transitional Justice* (2009), https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf; Guidance Note of the U.N. Secretary-General, *Transitional Justice A Strategic Tool for People, Prevention and Peace*, <https://peacemaker.un.org/sites/default/files/document/files/2024/04/202307guidancenotetransitionaljusticeen.pdf>; U.N. Office for the High Commissioner for Human Rights, *National Consultations on Transitional Justice, Rule of Law Tools for Post-Conflict States*, U.N. Sales No. E.09.XIV.5 (2009); U.N. Rep. of the Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence, *Promotion of truth, justice, reparation and guarantees of non-recurrence*, U.N. Doc. A/71/567 (Aug. 9, 2016); U.N. Rep. of the Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence, U.N. Doc. A/HRC/34/62 (Jan. 20, 2017); U.N. Office for the High Commissioner for Human Rights, *Guidelines for States on the effective implementation of the right to participate in public affairs* (2018), https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesParticipationPublicAffairs_EN.pdf; U.N. Dep't of Pol. & Peacebuilding Affs., U.N. Peacebuilding Support Off. & UNDP, *United Nations community engagement guidelines on peacebuilding and sustaining peace* (2020), https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/un_community-engagement_guidelines.august_2020.pdf; UN-Women & UNDP, *Women's Meaningful Participation in Transitional Justice: Advancing Gender Equality and Building Sustainable Peace* (2020), <https://www.unwomen.org/en/digital-library/publications/2022/03/research-paper-womens-meaningful-participation-in-transitional-justice>.

perpetrators like Bosco Ntaganda and Dominic Ongwen, among others, have repeatedly recognized the importance of victim participation and consultation in designing reparations programs, mandating principles such as inclusivity and fairness, non-discrimination, and cultural sensitivity.⁷ This shift towards victim-centricity, although gradual and incomplete, signifies an important evolution in how we think and talk about justice. **However, the normative frameworks and institutional infrastructure required for consistently implementing a victim and survivor-centered approach are fragile and inadequate, if not entirely absent.**

[...] [T]he normative frameworks and institutional infrastructure required for consistently implementing a victim and survivor-centered approach are fragile and inadequate, if not entirely absent.

How do we move from rhetoric to reality? There is an urgent need to build on policy-makers' stated commitments to victim-centered justice, better define what victim-centered justice actually entails, and move toward implementation. To upend the status quo, it is necessary to recognize and champion the role of victims and survivors in advancing the justice process, to take steps to listen to their perspectives and priorities, and to incorporate these perspectives into transformational and comprehensive justice policies. **This Protocol offers concrete suggestions for how justice can better deliver on these goals by incorporating victim and survivor consultations as a critical part of the design and implementation of transformational justice policies and processes.**

"I recommend involving the survivors in planning any interventions. If people think survivors want pots and pans but they want glasses, it will fail."⁸

This Protocol puts forward four interdependent principles for victim and survivor consultation, each with several attendant best practice guidelines.

Principle 1: Safe, meaning

- (a) Trauma-informed and trauma-responsive
- (b) Safe and secure for survivors
- (c) Safe and secure for society
- (d) Realistic about both the consultation process and eventual justice outcomes

Principle 2: Survivor-centered, meaning

- (a) Coordinated
- (b) Participatory
- (c) Representative

Principle 3: Rigorous and ethical, meaning

- (a) Timely and periodic
- (b) Data-informed and ethical
- (c) Educational and empowering
- (d) Comprehensive and transformational

Principle 4: Accountable, meaning

- (a) Transparent and visible
- (b) Effective, meaningful, and incorporated into decision-making

Key terms

Victim and survivor consultation

The focus of this Protocol is **victim and survivor consultation**. "Consultation", as this Protocol defines it, refers to an **in-depth, rigorous, and meaningful process of gathering a wide range of perspectives on a specific topic with a view to determining what action or decisions should be taken**. A consultation methodology is the research process by which this information—or data—is gathered in a systematic and rigorous way to allow

⁷ Prosecutor v. Ntaganda, Case No. ICC-01/04-02/06, Reparations Order (Aug. 8, 2022); Prosecutor v. Ongwen, Case No. ICC-02/04-01/15, Reparations Order (Feb. 28, 2023).

⁸ Fiona McKay, *Guidelines for Victim Participation in Justice Processes*, INOVAS (2025), https://i-novas.org/wp-content/uploads/2025/03/INOVAS_Guidelines_EN.pdf at 18 (quoting a survivor from Kenya).

for conclusions and comparisons to be drawn. “Victim and survivor consultation” goes beyond *ad hoc* engagements with victims or their civil society partners. It is an **avenue for victims and survivors to participate in the co-creation of justice mechanisms** for atrocities with policy-makers, decision-makers, and pen-holders.

Note: Consultation differs from documentation and/or evidence-gathering, which details what an individual person or community experienced in the context of mass atrocities, often for the purpose of eventual use in a court or court-like proceeding. This Protocol does not provide guidance on documentation or how to conduct interviews with victims and survivors for case-building purposes. Additional resources on documentation in the context of atrocities are provided in **Annex II**. One important resource on this topic is the **Murad Code**, which is a global code of conduct for gathering and using information about systematic and conflict-related sexual violence. It provides guidance on adopting a trauma-informed and survivor-centered approach to documentation.⁹

Comprehensive and transformational justice

This Protocol uses the term **“comprehensive and transformational justice”** to refer to the full spectrum of formal and informal justice mechanisms that may be required in the aftermath of atrocities, conflict, and periods of oppression. The primary audience for this Protocol is policy-makers, decision-makers, and donors responsible for designing and implementing justice mechanisms. While the Protocol discusses justice initiatives and processes that occur at the nation-state level (either domestically or internationally), it also recognizes that local, traditional, and informal mechanisms are often a crucial component of truly comprehensive and transformational justice, and themselves could benefit from such consultations.

The Protocol uses the term “comprehensive and transformational justice” rather than “transitional justice.” There are two key reasons for this. First, not all atrocities or situations requiring extensive

justice mechanisms involve a political transition. Imposing the expectation of transition onto the goal of achieving justice can be fraught, inapplicable, and problematic. The term “transformational” is invoked to connote a shift from oppression, marginalization, conflict, and instability to victim empowerment, peace, reconciliation, healing, and civil-political and socio-economic equality. Second, transitional justice is traditionally understood as comprising four pillars: truth-telling, accountability, reparations, and guarantees of non-recurrence. There are other equally important comprehensive justice outcomes and approaches that victims and survivors may need and want, especially regarding societal transformation, searching for missing persons, trauma healing, agency, and solidarity groups. There are also justice goals that do not fit squarely into any one pillar, such as memorialization which may be a form of truth-telling, reparations, and a guarantee of non-recurrence.

Terminology: In the context of international justice, Simon Robins and Paul Gready coined the term “transformative justice” to respond to identified shortcomings of transitional justice. They originally defined transformative justice as justice that aims to achieve “transformative change that emphasize(s) local agency and resources, the prioritization of process rather than preconceived outcomes, and the challenges of unequal and intersecting power relationships and structures of exclusion at both local and global levels.”¹⁰ This Protocol uses the phrase “transformational and comprehensive” to refer to justice that transforms society from conflict and oppression to peace and equality and is comprehensive and interconnected rather than piecemeal and siloed.

Victim and survivor

This Protocol recognizes that the terms **victim** and **survivor** may resonate differently with different people and therefore uses both terms wherever possible. In the context of this Protocol, the terms “victim” and “survivor” refer to those who have

⁹ Global Code of Conduct for Gathering and Using Information About Systematic and Conflict-Related Sexual Violence (April 13, 2022), www.muradcode.com/murad-code.

¹⁰ FROM TRANSITIONAL TO TRANSFORMATIVE JUSTICE 2 (Paul Gready & Simon Robins eds., Cambridge Univ. Press 2019).

been harmed in the context of atrocities. This Protocol acknowledges that notions of victimhood and survivorship are often contested in conflict settings. Some may prefer the term survivor, which may connote a sense of agency, autonomy, and of having overcome trauma. Others may prefer the term victim, which may more explicitly acknowledge the experience of being victimized. It also corresponds to the legal status conferred on an individual when their human rights are violated, and carries with it a right to redress. The term “victim” may also refer to those who did not survive but who are still important to consider in justice processes. In addition to victims and survivors suffering from direct harm, family members and their communities are also directly and indirectly affected by atrocities and should be included in consultations on justice processes.

Example: *Victims’ organizations have played a crucial role in the transitional justice system in Colombia. The term “victimhood” has been the product of a long process of national deliberation, which has slowly given way to the presence of victims as political actors with increased rights and recognition.¹¹ However, some victims and survivors are not willing to join victims’ organizations, which can complicate their ability to participate actively in the transitional justice process.*

The **UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**— which enshrines victims’ rights to justice and fair treatment, restitution, compensation, and assistance—defines victims as:

“persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts

or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.”¹²

There are several relevant features of this definition for those conducting victim and survivor consultations in the context of mass atrocities, conflict, and periods of oppression.¹³ First, this definition of victim encompasses individuals who have experienced harm individually and collectively and who have experienced harm directly or indirectly as a result of a crime or violation. Family members or dependents of the direct victims, as well as individuals who suffered harm “intervening to assist victims in distress or prevent victimization” are also afforded victim status.¹⁴ In the context of atrocities and conflict, where widespread violations have occurred affecting vast swathes of society, it is likely that there will be large numbers of victims and survivors scattered throughout the population. It is usually therefore necessary to identify a sample—or subset of the victim and survivor community—to consult.

Second, and relatedly, it is necessary for those conducting victim and survivor consultations to define the term “victim and survivor” in the instrument used to conduct the consultation. Ideally, this would occur during a pre-screening phase to enable those conducting the consultation to determine whether a participant is a member of the target population. According to the Basic Principles, it is not necessary for the perpetrator to have been “identified, apprehended, prosecuted or convicted” for an individual to be considered a victim.¹⁵ Those conducting consultations may opt to allow victims and survivors to self-identify.

Third, an individual is considered a victim regardless

¹¹ Kristin Foringer, *Defining victimhood: The political construction of a “victim” category in Colombia’s Congress, 2007–2011*, 65 COMP. STUD. SOC’Y & HIST. 219 (2022); Karen Schouw Iversen, *Humanitarian activist citizens: The emergence of a ‘victim’ political subjectivity in Colombia*, 28 CITIZENSHIP STUD. 150, 151 (2024).

¹² “The term “victim” also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.” G.A. Res. 40/34, annex, art. 1 (Nov. 29, 1985).

¹³ Note: In addition to the Basic Principles of Justice for Victims of Crime and Abuse of Power, in 2005 the General Assembly adopted 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, which defines victims 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.” G.A. Res. 60/147 (Mar. 21, 2006).

¹⁴ *Id.* Art. 8.

¹⁵ *Id.* Art. 9.

of characteristics such as “race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.”¹⁶ This is relevant because those conducting consultations may be interested in focusing on a subset or subsets of the victim and survivor community (e.g., members of a specific ethnic group or individuals who have experienced specific types of violations). In such cases, **those conducting consultations should consider the potential unintended effects of prioritizing some subsets of victims and seek to mitigate those, including through providing contextual information on the reasons for their focus.**

Building on and updating prior research

In 2009, as part of its Rule-of-Law in Post-Conflict States series, the Office for the High Commissioner for Human Rights (OHCHR) published an important foundational guide on conducting national consultations for transitional justice.¹⁷ That guide, which canvases topics such as who should conduct consultations, who should be consulted, and where and when consultations should be conducted, provided a helpful baseline for this Protocol. It highlights that conducting national consultations is important because each country undergoing transition is different and because it can confer an important sense of local ownership over transitional justice processes.¹⁸ It grounds the need for consultations in human rights, citing **Article 25** of the **International Covenant on Civil and Political Rights (ICCPR)**, which guarantees the right of every citizen to take part in civic or public affairs¹⁹ as well as other human rights instruments.²⁰

“A human rights-based approach to transitional justice demands that programmes should be designed in a context of in-depth consultation with affected communities.”²¹

The present Protocol builds on and updates the OHCHR’s guide by providing:

- Tailored guidance on conducting consultations with victim and survivor communities specifically
- Recommendations around broadening the aperture of what is considered “justice” to include more comprehensive and transformational mechanisms
- Reflections on how the outcomes of consultations can be folded into the policy-making process
- Detailed guidance on how to adopt a trauma-informed approach, including risk assessment and mitigation strategies, securing informed consent, and ensuring staff interacting with victims and survivors have trauma training among other best practices
- An in-depth discussion of research methodologies including innovative methodologies, which may be suitable for victim and survivor consultation given its challenges (Annex I)

Consultation and citizen participation

An extensive body of research into citizen participation in public decision-making dating back to the 1960s has generated multiple approaches for theorizing and evaluating the meaningfulness, effectiveness, and relative importance of various

¹⁶ *Id.* Art. 3.

¹⁷ *National Consultations on Transitional Justice, Rule of Law Tools for Post-Conflict States*, *supra* note 6.

¹⁸ *Id.* at 2.

¹⁹ International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 art. 25.

²⁰ See: U.N. Econ. and Soc. Council, Feb. 8, 2005, E/CN.4/2005/102/Add.1, (“Institutional reforms aimed at preventing a recurrence of violations should be developed through a process of broad public consultations, including the participation of victims and other sectors of civil society.”)

²¹ OHCHR, *National Consultations on Transitional Justice, Rule of Law Tools for Post-Conflict States*, U.N. Sales No. E.09.XIV.5 (2009), at 1, https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf.

modalities of participation in civic affairs. In her seminal work on the subject, Sherry Arnstein developed a “ladder of participation” to theorize modalities for citizen participation in decision-making. Manipulation—a form of non-participation—appears at the bottom of the ladder, while citizen control appears at the top. Consultation is situated in the middle of the ladder and is described as a “degree of tokenism” because “it offers no assurance that citizen concerns and ideas will be taken into account.”²²

In the context of victim and survivor consultation, it is critical that their views be acted upon in a manner that upholds international human rights law. If this is not possible, the reasoning for this must be clearly explained to those consulted and the broader survivor community. More recently, scholars have demonstrated the importance of victim and survivor participation in the context of transitional justice for atrocities and conflict, and have persuasively argued that such participation must go beyond mere consultation.²³ This Protocol agrees with this perspective, recognizes that victim and survivor consultation in the context of justice for mass atrocities is one (imperfect) initial step toward citizen participation, and argues that it is nevertheless a necessary, important, and frequently overlooked aspect of justice policy planning.

“National consultations, conducted with the explicit inclusion of victims and other traditionally excluded groups, are particularly effective in allowing them to share their priorities for achieving sustainable peace and accountability through appropriate transitional justice mechanisms.”²⁴

“[...] involving communities in the design of transitional justice strategies makes it more likely the strategies respond to the unique needs and challenges of each community, whose experiences of the past (and their present circumstances) are likely to vary widely.”²⁵

Audience

This Protocol combines rigorous empirical research with highly practical advice and is primarily intended for policy-makers, decision-makers, and pen-holders (which may include donors and members of the diplomatic community) who are coordinating, funding, managing, and using the results of victim and survivor consultations. The goal of this Protocol is to serve as a resource and practical guide to help move the field from a “victim-centered” aspiration to reality, rather than to criticize deficiencies in the system as it currently exists. Intended readers include, but are not limited to:

- Executive branch and judicial officials in countries that have experienced atrocities, conflict, or oppression, and are designing and implementing comprehensive justice programs such as prosecutions and trials, reparations regimes, or truth-telling mechanisms
- Members of congress and parliamentarians writing legislation or making funding decisions about such justice processes
- Customary, transitional, or community-based authorities seeking to implement justice mechanisms

²² Sherry R. Arnstein, *A Ladder of Citizen Participation*, 35 J. AM. PLAN. ASS'N 216 (1969).

²³ Yvette Selim, *The Opportunities and Challenges of Participation in Transitional Justice: Examples from Nepal*, 29(8) J. INT. DEV. 1123, 1127-28 (2017).

²⁴ U.N. Secretary General., *Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice* (Mar. 2010), https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/TJ_Guidance_Note_March_2010FINAL.pdf.

²⁵ U.S. Agcy. for Int'l Dev., *Community Participation in Transitional Justice: A Role for Participatory Research* (Oct. 2014), <https://www.usaid.gov/sites/default/files/2022-05/CPTJUSAID.pdf>. Note: This document is no longer available online.

- Executive branch officials and members of congress and parliamentarians in countries making funding decisions, providing various forms of aid, technical expertise, and/or diplomatic support to respond to atrocities abroad
- Members of donor and diplomatic communities, which are increasingly influencing and funding consultation processes
- Outreach teams working for investigative and accountability bodies
- UN bodies and agencies operating in countries supporting domestic authorities to design and implement justice mechanisms for atrocities and conflict
- Domestic and international prosecutors and law enforcement agencies investigating and prosecuting atrocity crimes cases
- Officials searching for missing persons and conducting forensic anthropology investigations of deceased persons, often in mass graves
- Representatives of regional and international justice institutions, like the International Criminal Court; regional and international reparations authorities; and investigative mechanisms and commissions of inquiry
- Officials, organizations, and informal associations designing museums and memorials to commemorate past violence and atrocities
- Civil society organizations or academic groups interested in undertaking consultations and research or providing advice and expertise to policy-makers in the field of international justice
- Victims and survivors and their groups and coalitions interested in participating in or advocating for consultation processes related to justice

Methodology

The Protocol was developed over two years through a thorough desk review of existing guides, articles, and manuals on the topic of victim participation and consultation, and almost forty interviews with victim and survivor leaders, civil society representatives, experts, practitioners, and policy-makers around the world in English, French, and Spanish. All interviews were conducted with assurance of confidentiality, and the names of interviewees are withheld by mutual agreement. The research team developed and analyzed over a dozen case studies of countries undergoing justice processes to evaluate the extent to which victim consultation occurred, the nature of such consultations when they did occur, and the impact of consultation on eventual justice processes and victim and survivor satisfaction with them. Countries that are the subject of the case studies included Bosnia and Herzegovina, Colombia, Democratic Republic of the Congo, northern Iraq, Mali, Myanmar, Nepal, Rwanda, South Sudan, Sierra Leone, Sri Lanka, Syria, Tunisia, and Uganda, and others. The Protocol underwent an open comment period and has been reviewed in-depth by multiple experts in the fields of policy-making, trauma-informed psychosocial support, transitional justice, and data-gathering and empirical research. Views were also solicited and incorporated from multiple victims and survivors of mass atrocities; their input was primarily provided through the interviews mentioned above. The Protocol also includes input from the [Atrocity Response Coalition for Justice](#) (ARC) and members of [the Innovation Council for International Justice](#), and complements INOVAS's [recent guidance on victim participation](#).

In October and November 2023 in the early stages of the research process for the Protocol, the author and project designer, in partnership with the Harvard Humanitarian Initiative and a team of local Ukrainian researchers and pollsters from the Rating Group, conducted a nationwide justice perceptions survey in Ukraine of communities affected by Russia's full-scale aggressive war. The purpose of this survey was to determine Ukrainians' perceptions, priorities, and expectations regarding justice and justice actors and what measures it regards as meeting them.

This survey work, which was an early effort to develop, field test, and refine this Protocol, was conducted in conjunction with the Center on National Security's work on the Atrocity Crimes Advisory Group (ACA)—a multinational initiative of the US, EU, and UK governments for providing support to Ukrainian prosecutors in the development, investigation, and prosecution of war crimes cases. The survey work was funded by the Office of Global Criminal Justice at the US Department of State and Humanity United; the latter also funded the production of this Protocol.

PRINCIPLES AND BEST PRACTICES FOR VICTIM AND SURVIVOR CONSULTATION

UNHCR conducting focus group discussion with a group of Syrian refugees on return intentions at Bahirka Community Services Centre in Duhok. UNHCR regularly engages with Syrian refugees to gather feedback on programs and hear about their future plans, including return intentions. Their insights help shape and improve UNHCR's support and planning. Photo: UNHCR/Rasheed Rasheed.



Principles and Best Practices for Victim and Survivor Consultation

The following principles and attendant best practices serve as a practical resource and guide for decision-makers, policy-makers, donors, and advocates seeking to conduct victim and survivor consultation. Consultation should be seen and understood as a critical and integral part of the transformational justice process: the act of asking victims and survivors about their priorities, perspectives, wants, and needs is a tool in and of itself of restoring to and recognizing the agency of individuals from whom power has been taken through atrocity crimes, conflict, and oppression.

The Protocol recognizes that some of these principles and best practices may be aspirational initially, particularly as governments and other institutions develop their standing capacity to implement such consultations, or as they emerge from periods of conflict, atrocity, and repression. Moreover, as discussed throughout this section, methodologically rigorous, data-driven, and trauma-informed consultations require specialized technical expertise and substantial funding, which may not be available in fragile conflict-affected environments, thereby limiting the capacity of policy-makers to evaluate and oversee such processes. However, **a threshold requirement for implementing these principles and best practices is that governments, foundations, and international and multilateral organizations prioritize and incorporate mechanisms to reliably fund, implement, and politically support these consultations.** None of these principles can be upheld without this. While striving to uphold all of these principles, those conducting consultations should not insist on a perfect process at the expense of a good process that incorporates and balances many of these principles. Genuine progress toward fulfilling these principles is the goal.

“If you try and think for the survivors rather than getting their input at the design stage, it will be too late to make the process successful when you implement later.”²⁶

“If you don’t have consultations, you have marches, and demands in the press.”²⁷

“[...] if we are genuinely interested in the voices of victims, we must make the effort to listen rather than simply projecting our own agendas upon them.”²⁸

“Opening up a space and inviting groups to come to that space to air their needs does not make something consultative—there are other things to consider in making an effective consultation.”²⁹

Lack of victim consultation in Sri Lanka undermining justice efforts

Unlawful killings, enforced disappearances, arbitrary arrests, torture, sexual violence, and other atrocities characterized Sri Lanka’s brutal 26-year armed conflict.³⁰ In response, the Sri Lankan government has adopted multiple domestic transitional justice measures, including

²⁶ McKay, *supra* note 8 (quoting a Kenyan survivor).

²⁷ Telephone interview with anonymous expert (Oct. 25, 2023).

²⁸ Payam Akhavan, Sareta Ashraph, Barzan Barzani, & David Matyas. *What justice for the Yazidi genocide?: Voices from below*. 42(1) HUM. RTS. QUARTERLY 1 (2020).

²⁹ Telephone interview with anonymous expert (Nov. 20, 2023).

³⁰ ICTJ, *Sri Lanka*, INT’L CTR. FOR TRANSITIONAL JUST., <https://www.ictj.org/location/sri-lanka> (last visited Apr. 24, 2025).

multiple truth commissions.³¹ Their findings and recommendations have rarely been made public, let alone implemented, causing profound frustration, retraumatization, and commission fatigue among affected communities.³² Yet the roots of this frustration, retraumatization, and fatigue are much deeper: the Sri Lankan government has repeatedly failed to adequately, appropriately, or meaningfully consult victims, survivors, and affected communities in the design and implementation of these processes.³³ The consequence is that even though transitional justice measures have been introduced, they are perceived by affected communities to be superficial fig leaves, and have rarely responded to the explicit needs, priorities, and expectations of affected communities, leaving deep wounds to fester. This coexists with an environment of widespread impunity, which together foster repeated cycles of violence and hinder the possibilities for reconciliation.³⁴

Principle 1: Safe

Victim and survivor consultation is an inherently sensitive process that can surface difficult emotions, memories, and attitudes that trigger trauma and distress, as well as tensions within and between affected communities. It is therefore critical that those conducting consultations adopt protective mechanisms and safeguards, both for victim participants and for society writ-large. This involves not only securing informed consent and adopting a trauma-informed approach, but also ensuring that the consultation process does not create unrealistic expectations (both regarding the implementation of the consultation itself as well as the eventual justice measures that may be adopted).

(a) Trauma-informed and trauma-responsive

Victims and survivors of mass atrocities may experience retraumatization and vicarious trauma when discussing their perspectives, priorities, and expectations. It is important to take active steps to mitigate the potential impacts of emotional or psychological distress at each and every stage of the consultation process. Consultations should seek to empower victims by giving them a safe space to share their voice and assert their agency.

Terminology: ***Retraumatization** occurs when the same stress reactions that occurred during an original traumatizing event are triggered, potentially by speaking about these traumatic experiences or hearing about similar traumatic experiences of others.*
***Vicarious trauma** occurs when people hear about or witness other people's traumatic experiences and experience a direct trauma response themselves.*

A **trauma-responsive approach** is one that tries to ensure that participants feel physically and psychologically safe, have a sense of trust with the researcher, and maintain a sense of empowerment and choice, among other considerations.

A **gender-sensitive approach** is one that actively accounts for gender differences and inequities while also recognizing the roles and responsibilities undertaken by people of all genders.

- **Provide trauma training to anyone engaging with survivors:** Anyone conducting consultations with victim and survivor communities—including those conducting interviews/surveys and interpreters—must be trained in and actively take steps to adopt a trauma responsive and gender-sensitive approach. Funders of consultation work should ensure that those conducting consultations have this training and if not, budget to provide this

³¹ Hum. Rts. Watch, *Sri Lanka: New Transitional Justice Process Lacks Credibility* (Jan. 29, 2024), <https://www.hrw.org/news/2024/01/29/sri-lanka-new-transitional-justice-process-lacks-credibility>.

³² Amnesty Int'l, *Sri Lanka: Flickering Hope: Truth, Justice, Reparations and Guarantees of Non-Recurrence in Sri Lanka*, ASA 37/9715/2019 (2019), <https://www.amnesty.org/en/documents/asa37/9715/2019/en/> (last visited Apr. 24, 2025).

³³ *Id.*; Hum. Rts. Watch, *Joint Statement: Sri Lanka's Flawed Plans for a Truth Commission* (Sept. 4, 2023), <https://www.hrw.org/news/2023/09/04/joint-statement-sri-lankas-flawed-plans-truth-commission>.

³⁴ Hum. Rts. Watch, *Sri Lanka: Impunity Continues in the Country Amidst Multiple Crises* (July 12, 2023), <https://www.hrw.org/news/2023/07/12/sri-lanka-impunity-continues-country-amidst-multiple-crises>; Hum. Rts. Watch (Jan. 29, 2024) *supra* note 31.

training for them. This may be extremely difficult in conflict settings. Not all people have the training or disposition to be empathetic or approach consultations through a trauma-informed lens, and one cannot “self train” in a trauma-informed simply by reading handbooks. While this Protocol does not replace the need for this formalized training in trauma-informed best practices, it is nevertheless a helpful starting point. Moreover, a list of additional resources on this topic is provided in **Annex II**.

The challenges of adopting a trauma-informed approach in South Sudan

South Sudan’s brutal armed conflict, which began shortly after the country gained independence and has been characterized by brutal atrocities, has generated huge numbers of survivors. Deep-rooted cycles of violence and retaliation, coupled with ongoing displacement, have created a volatile environment where trauma-informed protocols risk being sidestepped by logistical realities or security incidents. In South Sudan, this plays out through a heavy over-reliance on cultural practices coupled with poor access to justice mechanisms and formal options for redress. In addition, the humanitarian sector is overstretched, making investment in trauma-trained personnel and evidence-based methodologies challenging.

- **Ensure dignity and respect:** Victims and survivors have critical and invaluable expertise. Those conducting consultations must treat victims and survivors with respect and dignity, and assume that they are reasonable actors with their own voice, agency, and diverse perspectives. Ensuring victims’ and survivors’ voices are genuinely heard in the policy-making process is one key way of ensuring respect, which means that their views should be incorporated into eventual decisions, as discussed below in **Principle 4**. It is also important to ensure that victims and survivors do not feel that they have

to prove the veracity of their statement as part of a consultation process.

Note: *In numerous reparations orders, the ICC has emphasized the importance of promoting dignity and respect of victims and survivors when designing and implementing reparations orders. This involves taking measures to protect the identity of victims and survivors who may be at risk of stigmatization in their communities for the violations they have experienced, such as victims of sexual and gender based violence and children born of rape.³⁵ Such measures may include adopting collective reparations measures that focus on entire communities rather than individuals.³⁶ Moreover, the Court has recognized the importance of involving victims and communities through consultation when designing reparations programs to ensure cultural sensitivity and respect so that individual victims and survivors are not singled out.*

- **Seek informed consent:** Consultations should only be conducted when victims and survivors provide informed consent. This means that victims and survivors should know how the information they provide will be stored, shared, used, and translated into policies, and any limitations or risks therein. Informed consent involves explaining to participants in clear and intelligible language the following points:
 - That the participant can freely choose whether or not to participate in the consultation
 - Why the information is being collected
 - What information is being collected
 - Whether the information will be shared and, if so, how and to whom
 - How the information will be stored (and shared, if relevant), data privacy procedures, and the limits of confidentiality
 - Whether data will be used for academic or other publications³⁷

³⁵ Prosecutor v. Ongwen, Case No. ICC-02/04-01/15, Reparations Order, ¶ 132 (Feb. 28, 2023).

³⁶ *Id.*

³⁷ Note: Even though this Protocol is concerned with consultation used to inform policy and program design, researchers who conduct the consultation may want to use the data for academic or other publications (which would require its own Institutional Review Board (IRB) procedures). This must be communicated to survivors.

- That there are limits to what the consultation process will provide in that it is about listening and perspective-taking as opposed to service provision or legal representation
- What risks and benefits are associated with providing information
- Whether and, if so, how the participant can revoke or amend their consent in the future (including contact information that the participant can use to revoke their consent)
- The identity, organizational affiliation, and contact information of the person conducting the consultation
- Whether those conducting consultation can provide any assistance to the participant and if so, the limits and extent of that assistance
- Whether the interviewer and interviewee will have the opportunity to speak again in the future

Note: Consent must be provided freely by a competent adult. Children who have not reached the age of majority cannot give informed consent. Moreover, adults with severe intellectual disabilities, mental illness, or any other physical, mental, or emotional conditions may not be able to fully comprehend all the relevant facts for providing informed consent. A legally authorized representative can give permission to those conducting consultations with individuals incapable of giving informed consent themselves in accordance with applicable law.³⁸

- **Be clear about information sought:** Clarify at the outset that victims and survivors do not need to disclose information about what happened to them and what they experienced as part of the consultation process as this may be retraumatizing. Language like, “You are not required to tell me anything that has happened to you but you are welcome to share with me what you find important ...” can be useful to avoid the risk that the consultation process becomes a very detailed description of traumatic events that ultimately ends up retraumatizing the person affected. In focus groups, for example, participants

may be invited—but not required or expected—to anonymously write down on Post-it notes violations that they or their communities have endured. These notes can be placed on a wall, making them visible throughout the focus group meeting so that their suffering is acknowledged, without being the focus and minimizing risks of re-traumatization or vicarious trauma.

Note: As mentioned above, consultation differs from documentation. Interviewing for the purpose of documentation and building cases has a separate methodology and this Protocol does not address that. However, any information gathered from victims, survivors, and witnesses through a process of consultation such as the one described in this Protocol—regardless of who conducts the consultation and even if the consultation is carried out by a non-lawyer (e.g., an outreach officer)—may become relevant in litigation. Anyone conducting interviews for the purposes of documenting crimes with survivors must undergo a full training, including conducting mock interviews, observing real-life interviews with experienced investigators, and then conducting interviews under the supervision of a more experienced supervisor. Adopting a victim-centered approach means: receiving proper training before engaging with survivors who may be traumatized; understanding the difference between information and evidence; knowing how to preserve chain of custody of evidence gathered; and taking steps to protect victims, not only in the immediate information collection process, but also from the eventual potential consequences of participating in documentation that has accountability as one possible objective. **Annex II** provides additional resources on documentation and evidence-gathering.

- **Provide the option to discontinue:** Those consulted should have the option (and be informed that they have the option) of discontinuing the consultation at any time in the process without any negative consequence. If there is an option to withdraw from the consultation process after the interview is complete, they should be alerted to this option. Withdrawing may not always be an option

³⁸ Sara Ferro Ribeiro & Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law*, U.K. FOREIGN & COMMONWEALTH OFFICE (2nd ed. 2017), at 89.

and those consulted should be notified if this is the case in advance.

• **Vet questions through a trauma-informed psychologist:** Psychologists typically review survey instruments to ensure that questions are clear and simple, appropriate for the target population, and neutral. When overseeing or funding a consultation with victim communities it is critical to ensure the consultation implementers also work with a psychologist with expertise and particular training in trauma-informed care and gender-sensitivity who can review the survey instrument or questionnaire to determine whether the consultation will be retraumatizing or triggering. This person should also be familiar with and attuned to the specific context (or contexts) in which the consultation will be conducted. The purpose of their review is to ensure that questions and areas of discussion are unlikely to trigger a trauma response in those interviewed. In many contexts, including in the Global North, trauma-informed care is not a common component of training for mental health experts and psychologists so it is often necessary to seek out this expertise.

• **Establish referral pathways:** Those conducting consultations should set up referral pathways to connect victims and survivors with relevant services during or after the consultation. Such services may include psychologists, social workers, mental health professionals, counselors, and trauma specialists so that individuals who exhibit signs of severe psychological impact or distress during the consultation can be referred on for additional support and services. Attention should be paid to providing traditional, community-based, or spiritual forms of care that may be relevant and helpful to affected communities. Protection specialists should be included in referral pathways for individuals identified to be at risk, for example of domestic abuse or trafficking.

Note: The availability of referral services may differ in different contexts. It is important to consider offering these services remotely where they are not locally available.

Note: Accessing referral services can carry its own risks for victims and survivors, especially if there is a risk of stigmatization. In addition, there may be some environments where referral systems do not work or could do more harm. Those organizing consultations should alert victims and survivors to the potential risks and take measures to mitigate against them.

• **Build rapport and a sense of trust with the participant:** It is critical that those conducting consultations have already built or take active steps to build rapport and a sense of trust with survivor participants.³⁹ This process is important because survivors—like anyone—may be mistrustful of authority figures given past negative experiences. Working with organizations who are trusted by victim and survivor communities to conduct the consultations on the ground can be a helpful approach. Those funding and overseeing consultations can encourage implementers to take the following steps to build trust:

- Providing clear communication about the aim of the research, its benefit, and any potential negative consequences
- Helping respondents confirm the authenticity of the organization conducting the survey by providing phone numbers, website addresses, and contact information for those conducting the survey
- Clarifying that those being interviewed will never be asked for money at any point in the survey process
- Providing parameters for the duration of the consultation discussion at the outset
- Ensuring that those conducting the consultation understand how to handle difficult conversations

• **Consider who is interacting with victims and survivors:** If the person interacting with victims and survivors in the consultation (including interviewers and translators) is from a community associated with a perpetrator group, this may be a trigger and diminish participants' trust in the process.

³⁹ IPA & Nw. Univ. Glob. Poverty Rsch. Lab, *Building Rapport and Trust in Phone Studies: Guidance from the Ghana Panel Survey* (n.d.), <https://poverty-action.org/sites/default/files/2022-11/Case-Study-Ghana-Building-Rapport-and-Trust-Updated-May-2021.pdf> (last visited Apr. 28, 2025).

This is particularly important in small countries or communities, where those being interviewed may fear that their interviewer personally knows potential perpetrators. Conversely, if the interviewer is from the affected community, they may be at risk of conflating their own experience or perspective with that of the interviewee. They may also make assumptions about the interviewee's experience based on their own, and will need to work hard to maintain appropriate boundaries. Of course, language barriers may make it necessary for the interviewer to come from the affected community. As in all cases, trauma training and support should be provided to anyone directly interacting with victims and survivors.

- **Provide trauma-informed staff support to the team that is working with individuals and groups who have experienced trauma:**

Budgeting for and providing mental health support to staff working with victims and survivors is important in all cases and particularly if the consultation team comes from the affected community. Such teams have an increased risk of vicarious traumatization. Over time, their capacity to provide services in a trauma-informed way may decrease because their own capacity to self-regulate will be impacted. Providing psychosocial support to interviewers can mitigate burnout and compassion fatigue, which can impact the victims and survivors being interviewed.

- **Choose an appropriate and secure location and method:**

The consultation should be conducted in a secure, safe, and appropriate location. Not only will this help the person conducting the consultation to build trust and rapport with the victim or survivor, it is also an important part of a trauma-informed approach.

- The interview should be conducted in private wherever possible. Note that some victims and survivors do not have access to private spaces. If they can be overheard by others, this could jeopardize their safety and cause them to modulate their responses.

- Depending on the violation experienced, it may be important to ensure that consultations are not occurring in spaces that are evocative of the violation. Local officials' offices or small rooms with harsh lighting and only one door are examples of spaces that may be triggering.
- Where possible and as culturally appropriate, the interview space should promote physical comfort, a sense of safety, and accessibility, including for victims and survivors with physical limitations and for children (noting that children can only be consulted if an authorized legal representative has granted permission through the informed consent process, as stated above).
- Consider the methods and modalities used by perpetrators to commit crimes and avoid any methodologies that may be triggering. For example, in some contexts anonymous phone threats may have been common, which would make it more challenging to get buy-in for participation or build rapport if this method of data collection is used.
- If it is not possible to find a secure location, it may be necessary to reconsider conducting the consultation or using alternative methodologies such as written surveys, conducting surveys in low-traffic areas, and focusing on non-sensitive questions.

Victim participation in designing spaces for consultations in Colombia's Special Jurisdiction for Peace (JEP)

As Colombia began to emerge from decades of internal armed conflict, which generated 10 million victims and which continues at the time of writing,⁴⁰ authorities have adopted and begun to implement a transformational transitional justice process. The judicial component of this justice system—known as the Special Jurisdiction for Peace (JEP)—is based on the principle of centrality of victims. Within the JEP, victims participate in judicial and non-judicial spaces, which include formal hearings, truth-hearings, and recognition

⁴⁰ ICRC, *The human cost of armed conflicts in Colombia*, (Mar. 4, 2024), <https://www.icrc.org/en/document/human-cost-armed-conflicts-Colombia>.

acts, as well as the presentation of reports.⁴¹ Through these various modalities, victims have been able to directly face perpetrators of crimes, and communicate the damage they suffered.⁴² What is particularly remarkable about this process is that victims were involved in designing the interlocution spaces, and had input on matters like the format of the room, the agenda, and the questions they would be able to ask those accused.⁴³ This ability to determine the nature of spaces, and be involved in dialogues with both the JEP and those most responsible can be a truly restorative exercise.⁴⁴

Nevertheless, the work of the JEP has not been free of criticism by victims' organizations and academia. There is still no visibility about the criteria that the JEP uses to determine who is invited to hearings, or who is deemed a victim. Additionally, victims have stated that they have not been heard in the process of formulating sanctions for perpetrators, which is still being developed.⁴⁵ Other studies have also documented certain degrees of disagreement of victims and survivors with the "special sanctions" and their restorative purpose in the JEP (discussed in more detail below).⁴⁶

• **Ensure cultural appropriateness and gender-sensitivity:** Those conducting consultations should ensure that the consultation process is culturally appropriate and gender-sensitive. This means that those designing the consultation process should be attuned to and account for cultural norms and gender dynamics within the specific context.

(b) Safe and secure for survivors

Conducting research in the midst of ongoing atrocities presents unique ethical and practical challenges. Ethically, there are questions about the ability to "do no harm" when speaking to victim and survivor communities, particularly amidst violence or widespread violations, because speaking to those conducting consultations can create a risk of surveillance and detention. Risks can also arise during transit to and from the consultation if victims and survivors are being followed, watched, or monitored by family (e.g., male "caretakers") or authorities. There may also be security concerns for those conducting or implementing the consultation. As stated above, any consultation process must take place within a safe and secure environment for survivors. Some risks cannot be mitigated against: planners should evaluate this at the outset and reconsider their plans to conduct consultations or amend their approach.

• **Decide which entity should conduct the consultation:** The decision about who leads, funds, or oversees the consultation should be informed by victims' and survivors' trust in and prior experiences with the organizations or entities under consideration. Whether these organizations have expertise in trauma-informed interviewing and data science is also relevant. It may be preferable for a government ministry in the affected country to lead the consultations because it indicates that the government is listening to victims. In other cases, a government initiative could be hosted through a trusted civil society organization or network, serving as an intermediary, if there is significant distrust in the government. In other cases still, it may be

⁴¹ Jurisdicción Especial para la Paz, *Participa en la JEP* (n.d.), <https://www.jep.gov.co/Paginas/participa-en-la-jep.aspx> (Last accessed Dec. 5, 2024); Instituto Colombiano-Alemán para la Paz, *¿Cómo participan las víctimas ante la JEP?* (Jul. 2020), <https://www.instituto-capaz.org/wp-content/uploads/2021/01/Policy-Brief-Azul-7-2020-Vargas-y-Galindo-Web.pdf>; Lizeth Carolina Pérez Salamanca, *Perspectiva de Género. El Caso de la Jurisdicción Especial para la Paz en Colombia*, 24 EUNOMÍA: REV. EN CULT. DE LA LEG. 137, 148 (2023).

⁴² UNIV. EXTERNADO DE COLOMBIA, *Audiencia de Reconocimiento Caso 01* (Jul. 19, 2022), <https://politicacriminal.uexternado.edu.co/audiencia-de-reconocimiento-caso-01/>; Paola Molano y Paula Valencia CORTES, *La participación de las víctimas en la JEP y sus Efectos Restauradores* DEJUSTICIA, (2023) <https://www.dejusticia.org/wp-content/uploads/2023/11/ParticipacionVictimasJEP-Web.pdf> at 6.

⁴³ *Id.*

⁴⁴ *Id.* at 23.

⁴⁵ DEJUSTICIA, *Los desafíos del Tribunal para la Paz para responder a las víctimas* (Jan. 2, 2023), <https://www.dejusticia.org/column/los-desafios-del-tribunal-para-la-paz-para-responder-a-las-victimas/>.

⁴⁶ Beatriz E Mayans-Hermida et al., *Between impunity and Justice? exploring stakeholders' perceptions of Colombia's special sanctions (Sancciones Propias) for International Crimes*, 17 INT'L J. TRAN'L JUSTICE 192, 201 (2023).

preferable for an outside organization—like an NGO or an international organization—that is considered to be more impartial to conduct the consultation. When it comes to actually implementing the survey or consultations, it may be necessary to partner with local actors who have knowledge of the local culture and local languages, exhibit a baseline understanding of human rights and transitional justice, and have the trust and respect of the local community.

Note: *Those planning, funding, or conducting consultations must be mindful of victims' and survivors' prior experiences with the organizations implementing the consultation. As one individual interviewed for this Protocol commented: "People who came here with a gun, now come here with a pen."*⁴⁷

• **Conduct a thorough and complete risk**

assessment: It is critical to conduct a risk analysis at the outset and to repeat this process as the situation evolves. This involves identifying the worst-case scenarios that could arise (and which may occur in the short, medium, and long-term) and taking steps to decrease the risk that those scenarios will occur. As part of the informed consent process and the planning process more broadly, it is critical to highlight the potential ongoing nature of security risks and to assess whether it is possible for the organizers of consultation processes to meet the challenges of mitigating long-term risks. This carries budget implications that those organizing consultations must consider.

Resources: *The World Health Organization has identified a set of ethical and safety recommendations that apply specifically to collecting information on sexual violence in emergencies and they provide helpful and relevant guidance for conducting research with victim and survivor communities generally.*⁴⁸ *The recommendations cover risks and benefits, methodologies, referral services, safety, confidentiality, informed consent, the information gathering team, and special advice about working with children.*

• **Recognize that risks can extend and evolve over time:** Convenors of consultations should consider whether they have the capacity to mitigate or address risks that extend beyond the time period of the consultation. If not, they need to notify victims and survivors of these risks as part of the informed consent process.

• **Re-evaluate or cancel the consultation**

where risks are too high: Consider whether the objectives being sought outweigh the potential risks and re-evaluate, re-organize, or cancel the consultation if the risks outweigh the benefits. In many cases, ongoing violence may necessitate waiting to begin consultations or to identify alternative methodologies (such as speaking to trusted intermediaries) that will ensure the wellbeing and safety of those on the ground.

• **Adopt a holistic approach to security:** Victims and survivors often have immediate concerns about their safety, livelihoods, and humanitarian needs. It is important to have a holistic and integrated approach to security, covering psychological, physical, digital, and legal risks. Moreover, having a referral network in place to address immediate needs or psychological distress that arises through participation in this process is ethically necessary. For a trauma-informed approach there should be a foundational level of security and stability.

• **Protect confidentiality of participants and data gathered as much as possible:**

It is important not to guarantee absolute confidentiality to victims and survivors as there is always a possibility of a data breach and measures that will be taken in case of a breach may not work. Nevertheless, steps must be taken to protect the confidentiality and anonymity of victims and survivors through redaction and other identity-protecting efforts. A secure and confidential log (ideally one that is password protected) should be maintained to store a unique identifier assigned to each participant. When transcribing or coding the data, participants' real names should not be

⁴⁷ Telephone interview with anonymous expert (Oct. 26, 2023).

⁴⁸ Cathy Zimmerman & Charlotte Watts, *WHO ethical and safety recommendations for interviewing trafficked women* (WHO 2007), <https://www.who.int/publications/i/item/9789241595681> (last visited Apr. 28, 2025).

used; instead, these unique identifiers should be used. The documentation log should be stored separately from the collected data to maintain confidentiality on secure, password protected servers. Any physical documents should be kept in a locked filing cabinet. Data should be stored and shared according to relevant legislation. All raw data should be stored safely for a period of time after publication and then be permanently deleted thereafter. Depending on where the surveys are taking place or where data is being stored, there may also be local rules and legislation governing storage of personal data (e.g., General Data Protection Regulation in Europe).

- **Take notes in the third person:** Those conducting consultations will need a way to keep a record of the data they are gathering in order to be able to analyze the data accurately and to ensure efficiency, quality, and consistency across interviews. Those overseeing and funding consultations should ensure that the data collection methodology aligns with relevant ethical standards and is subject to participants' informed consent. It is considered best practice to avoid recording interviews with victims and survivors when sharing perspectives, views, and preferences regarding justice for atrocities and conflict. While this approach can result in important information being missed, if a victim or survivor shares details about violations they have experienced, this may be construed as a first person statement, which can become directly admissible in court. If there is a risk of this occurring, those conducting consultations should take note of the discussion in the third person, which can help protect those being consulted in future potential criminal processes. In addition, taking notes may be less threatening than recording.

Note: *It is usually necessary to revisit any handwritten or typed notes immediately after the interview so that the interviewer can fill in any details or correct any errors. The interviewer should also check with the victim or survivor interviewed that the information noted down is completely correct.*

- **Retain victims and survivors' agency:** Any risk assessment must be designed in a way that does not remove or deny agency from those it is intended to serve. For example, some victims and survivors may want to incur the risk of speaking to those conducting consultations as a way to reaffirm their own agency. They should make this choice based on accurate information. Ensuring full and complete informed consent based on specific risks and risk mitigation measures that will be employed in such situations is critical. It is first and foremost the responsibility of those conducting interviews to consider the safety and wellbeing of those interviewed (and the research team on the ground), so it is important to engage with these stakeholders on their perception of risk and any concerns they might have, and take appropriate measures to mitigate such risk.

Resources: *Frontline Defenders*, Tools for HRDs, <https://www.frontlinedefenders.org/en/tools-hrds> (last visited Sept. 9, 2025).

Tactical Technology Collective, The Holistic Security Manual, <https://holistic-security.tacticaltech.org> (last visited Sept. 9, 2025).

(c) Safe and secure for society

While promoting victim and survivor participation and consultation in the design and implementation of justice mechanisms, it is important to adopt procedural safeguards and protections that promote safety and security for society writ-large. In contexts where the rule of law is weak and victims and survivors lack trust in existing justice processes, demands of justice can be expressed through vigilantism and acts of revenge. It is important to adopt mechanisms to mitigate this risk when conducting consultations.

- **Discuss restorative alternatives to retributive justice:** As part of a co-creation and transformative process of developing and designing consultation instruments (such as questionnaires) with victims and survivors, it is important for those planning consultations to be compassionate for feelings of revenge and the desire for retributive justice

while also holding space for larger goals that focus on promoting healing and peace. This can be especially important in the immediate aftermath of violations or where violations were particularly severe. Not all victim preferences or expectations will necessarily be consistent with international human rights norms. It is important to bear in mind the operative legal frameworks, both national and international, when developing the questions to be included in the consultation process. As discussed under Principle 4 below, it is critical that victims' and survivors' views be acted upon in a manner that upholds international human rights law, and that if this is not possible the reasoning for this is explained to them clearly.

Preferences for both retributive and restorative justice in the aftermath of the ISIS genocide

In 2014, ISIS perpetrated a genocide against the Yazidi community and other international crimes against other ethnic minorities in northern Iraq.⁴⁹ The genocide was characterized by widespread sexual enslavement and abuse of women and girls, extermination of men and older boys, and forced displacement of Yazidis to IDP camps.⁵⁰ In 2016, a team of international researchers and academics conducted a "soft empirical" study of over 1,000 internally displaced persons through surveys and unstructured interviews to contribute to a growing body of research about the Yazidi community's justice perceptions and priorities for the ISIS genocide.⁵¹

The study highlighted that amidst desires for retribution and punishment, many more members of the affected community expressed a desire for restorative justice mechanisms, as well as an interest in "becoming agents rather than victims."⁵² According to these findings, such mechanisms may include "remedying the uncertainties of what had happened to loved ones, being reunited with those still held in captivity, receiving financial support to overcome conflict-incurred debts and losses, retribution against those who had wronged them, and being in a position to continue with their lives."⁵³ Affected communities' prioritization of restorative justice contrasts with a perception that victims primarily wanted retributive justice,⁵⁴ including that their perpetrators be executed. This perception, which may nevertheless be felt by some or many affected community members, was advanced by Iraqi officials including the spokesman for the Iraqi joint operations command. General Yahya Rasool was quoted by the New York Times as follows: "To be loyal to the blood of the victims and to be loyal to the Iraqi people, criminals must receive the death penalty, a punishment that would deter them and those who sympathize with them."⁵⁵ This statement was made amidst "perfunctory trials in special counterterrorism courts,"⁵⁶ which were prosecuting ISIS members for terrorism offenses, rather than the international crimes that they had also committed. Significant problems with this practice of execution were identified by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions in a report from 2018.⁵⁷

⁴⁹ U.N. Hum. Rts. Council, *"They Came to Destroy": ISIS Crimes Against the Yazidis*, 32nd sess., ¶ 165, U.N. Doc. A/HRC/32/CRP.2, (2016); See also: Naomi Kikoler, *Our Generation is Gone: The Islamic State's Targeting of Iraqi Minorities in Ninewa* (USHMM) (2015) <https://www.ushmm.org/m/pdfs/Iraq-Bearing-Witness-Report-111215.pdf> at 3-4.

⁵⁰ Akhavan et. al., *supra* note 28, at 9-10.

⁵¹ *Id.* at 11.

⁵² *Id.* at 15.

⁵³ *Id.*

⁵⁴ *Id.* at 39 (stating, "Until now, the discourse on justice for the Yazidis has tended to focus on their victimhood and privileged retributive forms of justice, whether before the ICC or national courts.")

⁵⁵ Margaret Coker & Fali Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, N.Y. TIMES (Apr. 27, 2018) <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

⁵⁶ *Id.*

⁵⁷ Special Rapporteur, Extrajudicial, Summary or Arbitrary Executions on her Mission to Iraq, Hum. Rts. Council, ¶ 48, U.N. Doc. A/HRC/38/44/Add.1 (Jun. 20, 2018).

- **Recognize the impact of violations on society writ-large:** Distinguishing victims and survivors from the rest of the population can introduce important social dynamics that may leave some people out. Recognizing that everyone has been impacted by war, conflict, and periods of oppression—whether directly or indirectly—is important for solidarity and paving a path forward for everyone.

Victim status and trauma in Ukraine

According to the latest estimates from the UN Office for the High Commissioner of Human Rights, Russia's full scale invasion of Ukraine has caused over 13,000 Ukrainian civilian deaths and over 35,000 injuries since the war began in February 2022.⁵⁸ The war has had, and continues to have, an immense toll on the civilian population that has been recognized by the International Criminal Court (ICC), which has issued multiple arrest warrants for senior Russian officials including President Vladimir Putin.⁵⁹ Amidst these ongoing atrocities, in late 2023, a Ukrainian polling company, the Rating Group, surveyed 2,000 randomly selected adults via telephone and an additional 2,500 in-person in Kyiv, Lviv, Kharkiv, Dnipro, and Odessa as part of a project funded by the US State Department. The survey instrument was developed by CNS and HHI together with the Rating Group.

Participants in the survey were asked whether they considered themselves victims of the conflict and whether they had experienced or witnessed any physical harm or suffered property loss or damage. The survey revealed that almost half of participants (45%) considered themselves to be victims of violence during the war. Yet a substantially smaller percentage had experienced or were exposed to serious violence or property loss or damage: nationwide, 6% reported being

injured in a physical attack; 15% experienced theft or destruction of personal property; 14% had experienced loss of housing. Among IDPs, the number of participants who considered themselves to be victims was even higher (78%); again, fewer IDPs reported experiencing physical harm, or property loss or damage. In addition, a high proportion of individuals reported symptoms of anxiety or depression. These findings are important because although a large number of individuals have been affected by the war and consider themselves to be victims, many individuals have not experienced harms for which conventional justice mechanisms—such as criminal accountability—are available. This highlights the need to ensure counseling, medical care, and similar services are made available to society writ-large.

See: Patrick Vinck, Liubomyr Mysiv, Anna Cave, Mitt Regan, Sarah McIntosh, and Phuong Pham, "Ukraine Justice & Accountability Survey" (2024) <https://transitionaljusticedata.org/en/publications/2024-04-ukraine-survey/Ukraine-Survey-Report-2024.pdf>.

- **Be mindful of the limitations and challenges of public opinion research:** Public opinion research is not always completely representative, particularly for minority groups who may be underrepresented in national samples. Without appropriate procedural safeguards and checks and balances, such as working with and through trusted community leaders, public consultations can sometimes create an environment for "mob justice" and "witch trials" to take root.⁶⁰
- **Promote cultural sensitivity:** Consultations should reflect the lived realities of the communities they engage. That means respecting local customs, languages, and social dynamics, and working with trusted community members or facilitators. Justice cannot be shaped from the outside in; it must

⁵⁸ U.N. Office for the High Commissioner for Human Rights, *Number of civilians killed and injured in Ukraine reaches three-year monthly high in July 2025, UN human rights monitors say* (Aug. 13, 2025), <https://ukraine.ohchr.org/en/Number-of-civilians-killed-and-injured-in-Ukraine-reaches-three-year-monthly-high-in-July-2025-UN-human-rights-monitors-say>.

⁵⁹ INT'L CRIM. COURT. *Ukraine*, <https://www.icc-cpi.int/situations/ukraine> (Last accessed Aug. 29, 2025).

⁶⁰ Mara Revkin, Ala Alrababah and Rachel Myrick, *Evidence-Based Transitional Justice: Incorporating Public Opinion into the Field, with New Data from Iraq and Ukraine* 133(5) YALE LAW J. 1401, 1618 (2024).

emerge from within the cultures and contexts of those most affected.

- **Ensure due process in eventual justice**

mechanisms: As mentioned above, in any justice processes that are ultimately adopted, it is critical to promote victims' rights to redress while also ensuring accused perpetrators' rights to due process are protected. In the context of potential criminal trials, these rights include the presumption of innocence until proven guilty, having knowledge of charges, having sufficient time to prepare a defense, being tried without undue delay, and being present at their trial, among other rights. Resistance to recognizing the procedural rights of alleged perpetrators may come from affected communities who may naturally focus primarily on the rights of victims. As such, communication with affected communities about due process rights as part of an educational and empowering consultation process (discussed below in Principle 3) is equally important. This may help ensure safety of society as a whole and avoid tensions based on a perceived focus of the justice system on the alleged perpetrator.

(d) Realistic about both the consultation process and eventual justice outcomes

Engaging with victims and survivors about their justice perceptions, priorities, goals, and needs naturally creates expectations that certain decisions, policies, and processes will follow. As noted in **Principle 4**, that is one of the reasons it is so important to ensure that the outcomes of consultations inform and shape policy decisions. It is also important to be upfront with survivors about the potential limitations of future justice processes and the likelihood of consultations informing such decisions, especially in cases where consultations are not being conducted by decision-makers themselves. Moreover, the design of the consultation process itself (e.g., the total number of people that will be consulted, the locations that will be visited or contacted, the availability or unavailability of referral

services, what those conducting consultations can offer to victims and survivors) can build expectations. Information about limitations on both fronts should be part of the informed consent process, as discussed above. There are additional steps that those conducting consultations should take to mitigate the risk of building expectations that cannot be met.

- **Determine available resources for consultation and scale appropriately:**

Consultation work can be expensive and time intensive, and almost always requires a trained and competent team, including a lead researcher, data entry staff, data analysts, field staff, interviewers, interpreters, facilitators, and a specialized trauma therapist or a network available to the team for referral. While there are less expensive and resource-intensive methodologies for conducting consultations, they typically come with tradeoffs and it may not be possible to adhere to the four core principles articulated in this Protocol. It is critical that decision-makers are realistic at the outset about the resources available for conducting consultations so that they can make strategic decisions about key issues such as the number of people that will be consulted, the geographic reach of the consultation, and the time period that the consultation will cover. Being realistic about the available resources at the outset can also help manage the expectations of the affected community, national stakeholders, and donors.

Challenges facing national consultations in the Democratic Republic of the Congo (DRC)

In 2022, the Minister for Human Rights of the DRC (with support from the UN) launched national consultations on a new transitional justice initiative to address grave human rights violations and institute needed reforms.⁶¹ Consultations were planned in all of the country's provinces to help shape the transitional justice policy. However, a lack of funding coupled with dwindling political will has made it difficult to fulfil the promise of nationwide consultations and of consulting with

⁶¹ Hum. Rts. Watch, *An Important Step Toward Justice in DR Congo*, (Mar. 11, 2022), <https://www.hrw.org/news/2022/03/11/important-step-toward-justice-dr-congo-0>.

50,000 individuals in each province as planned.⁶² Moreover, it has proved difficult to access certain provinces, including Ituri and North Kivu, without exposing people conducting the consultations on the ground to serious risk. Impunity Watch conducted qualitative consultations in North Kivu, which provided some data to fill that gap.

- **Be clear about the goal of consultation:** The primary goal of consultation is to inform future program and policy design rather than to respond to the specific individual needs of each victim being consulted. This must be clear in the minds of those conducting the research and communicated to victims and survivors. It can be helpful, and in fact it is generally considered a best practice, to develop research questions in dialogue with members of affected communities including victims and survivors, as discussed below under **Principle 2**. To solicit this input, groups can be organized in the geographic regions or with specific groups with which consultations will be conducted.

- **Craft interview questions thoughtfully in light of what is possible:** Those designing interview questions for victim and survivor consultations about future potential justice mechanisms must be realistic about what measures may be adopted. Questions may carry a risk of building expectations that cannot be met, which can be profoundly damaging and retraumatizing. The following research questions are a starting point—ideally accompanied by public outreach and education about justice options (as discussed in **Principle 3**)—but these questions should be modulated depending on what is possible in a given situation in light of political and financial limitations:

- What does justice mean to you?
- Which specific initiatives should be adopted (e.g., collective or individual reparations, prosecutions, memorialization efforts, commemoration activities, searching for missing persons, truth commissions, guarantees of non-recurrence)?

- Which of these initiatives are most important to you and your community?
- Which measures would promote a comprehensive policy of justice, reconciliation, and security over the long-term?
- What is the level of awareness of and satisfaction with existing programs amongst affected communities?
- What time period(s) should eventual justice processes should cover?
- Which crimes are most emblematic of the violations that have occurred?
- Which geographic regions, ethnic groups, or social sectors have been most affected?
- What is the level of comfort with international involvement in future justice processes?
- Should amnesties be granted to any perpetrators? What conditional contributions should perpetrators be required to make to obtain amnesty?
- How confident are you in domestic justice mechanisms?

“[Multiple] studies detail how governments often fall woefully short of meeting the demands of victims because the actual implementation of reparation programs may not be designed to meet the varied expectations of victims, and thus the programs fall short of the theoretical justice aims they represent.”⁶³

Principle 2: Survivor-centered

Adopting a survivor-centered approach is critical to the effectiveness of any consultation process. Those conducting victim and survivor consultations must strike a balance between involving survivors as active participants in the design of the consultation

⁶² Telephone interview with anonymous practitioner, (Feb. 25, 2025).

⁶³ Lisa J. Laplante, *Just Repair*, 48 CORNELL INT’L LAW J. 513, 517 (2015).

mechanism, while also avoiding overly taxing and retraumatizing affected communities. It is also necessary to ensure that those conducting consultations gather perspectives from a comprehensive cross-section of victims and survivors and that they receive comprehensive information about potential justice options.

(a) Participatory

When victims and survivors are empowered as co-creators of the consultation process, it can be a profoundly transformational tool; indeed **consultation can be a modality for delivering justice itself**. Involving victims and survivors in the design of the consultation process (in addition to then asking them about their priorities, perspectives, wants, and needs), can be a way to recognize the agency of individuals from whom power has been taken through atrocity crimes, conflict, and oppression.⁶⁴ Victims and survivors can and should be active participants in every phase of the consultation process itself, from conceptualization, to design, implementation, and evaluation.

“When everyday citizens are involved in comprehensive and sustained ways to support locally led initiatives, [transitional justice] mechanisms and their impacts are arguably more likely to subsist.”⁶⁵

“The ethos of transitional justice is working with people to define the very concepts you’re trying to measure in order to identify indicators that reflect their reality as it is experienced in a particular context.”⁶⁶

“Justice and recognition must be defined by those who have lived the harm. Listening—on their terms—is already a form of reparation. This process [to consult victims and survivors of the LRA insurgency in northern Uganda through narrative inquiry] gave victims a voice in shaping the response, addressed both direct and generational harm, and helped lay the foundation for reparations that reflect the complexity, courage, and dignity of those most affected.”⁶⁷

• **Ensure affected communities play an active role in designing the consultation process:**

Consultations should not strive to change the community, but to learn from it. Affected communities should play an active role in designing the consultation process, including shaping interview questions, crafting metrics and indicators of success to be measured, and identifying who should be consulted.

Spotlight on the Everyday Peace Indicators (EPI) project

The EPI project has transformed top-down consultation processes by working with communities to generate their own indicators, allowing affected communities themselves to determine the questions and priorities for consultations.⁶⁸ EPI works at the local, village, and neighborhood levels to gather nuanced information, which it translates into indicators that tell a narrative of the issues that a community faces and the barometers of whether or not they

⁶⁴ Selim *supra* note 23 at 1127-28.

⁶⁵ Pamina Firchow & Yvette Selim, *Meaningful Engagement from the Bottom-Up? Taking Stock of Participation in Transitional Justice Processes*, 16(2) INT’L J. TRANS. JUS. 189 (2022).

⁶⁶ Telephone interview with anonymous expert, (Nov. 20, 2023).

⁶⁷ VOICES THAT COUNT, *Reparations Rooted in Experience: Trust Fund for Victims* <https://www.voicesthatcount.net/post/reparations-rooted-in-experience-trust-fund-for-victims>, (last visited Aug. 31, 2025).

⁶⁸ Firchow and Selim, *supra* note 65.

are at peace. Indicators can be quite specific and implementable (e.g., a light needs to be turned on in a particular street) or can be more involved (e.g., victims want restitution of valuables from banks run by perpetrators).⁶⁹ EPI gathers data about complex and potentially divisive topics such as reconciliation, peace, governance, and violent extremism. The foundation of the EPI model is grounded in the belief that affected communities “know best what peace means to them and therefore should be the primary source of information on peacebuilding effectiveness.”⁷⁰

See: <https://www.everydaypeaceindicators.org/>.

- **Be aware of the difficulties of scaling locally-driven processes to the national level:**

Effective victim and survivor participation in designing consultations can only truly occur at the sub-national or local level.⁷¹ However, highly participatory and localized processes can be difficult and expensive to scale nationally. From a substantive perspective, it can be difficult to extrapolate nuanced data from affected communities to the national level, especially when victims’ experiences of violations manifest differently in different regions and communities. (EPI confronts this challenge by creating codebooks for broader categories of data based on the highly localized indicators they have developed through consultation with local communities.) From a practical perspective, locally-driven processes can present a coordination and a resourcing challenge.⁷² Those conducting consultations should budget and plan accordingly. Decentralization of the process across the geographic areas where consultation is conducted may sometimes be necessary for a truly victim-centered approach to work in practice.

- **Be aware of the limitations of national-level consultations:** Larger scale consultations that

are less participatory and conducted at a national level can nevertheless be valuable if local and participatory modalities of consultation are not possible. Large-scale consultations can create a picture of the entire nation’s preferences and priorities at a macro level, which can be useful for guiding high-level policy decisions. However, they lack the nuance and precision of more localized and participatory approaches.

- **Budget enough time for local-level consultation:**

Local-level consultation can be time consuming. It is necessary to build enough time into the schedule to allow researchers (international and national) to understand the social structure of particular regions and communities and build relationships with local leaders and local organizations before asking people to engage in the consultation.

- **Ensure that participation goes beyond and does not end with consultation:**

Participation in justice mechanisms, when it occurs, typically does not go beyond consultation.⁷³ There is a growing body of research that highlights the importance of ensuring a truly participatory approach to the design and implementation of justice mechanisms and processes as well.⁷⁴ Participation needs to occur not only at the consultation stage but also at the implementation stage.

Victim and survivor participation in the implementation of ICC reparations orders

As noted above, the ICC has repeatedly acknowledged the importance of victim participation and consultation in the design and implementation of reparations orders. Following on from the reparations order in the Ongwen case, the Trust Fund for Victims proposed an

⁶⁹ Telephone interview with anonymous expert, (Oct. 17, 2023).

⁷⁰ EVERYDAY PEACE INDICATORS, *How does EPI work?* <https://www.everydaypeaceindicators.org/how-does-epi-work> (last visited Aug. 31, 2025).

⁷¹ Firchow and Selim, *supra* note 65.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*; Selim, *supra* note 23.

implementation plan, which was approved by the Trial Chamber.⁷⁵ The plan included program-wide measures to create a “participatory mechanism” based on local group meetings and locally based committees to disseminate information about the implementation of reparations, conduct ongoing consultation, and provide feedback and validation on reparations measures adopted by the Trust Fund.⁷⁶ The Trust Fund stated that beneficiaries would be “actively involved in the design, selection, implementation and monitoring, as appropriate, of reparations measures.” The Trust Fund stressed the importance of gender-inclusivity and conflict-sensitivity in this participatory process.

- **Recognize, empower, and support locally-led justice initiatives:** Justice measures do not necessarily need to occur at the state or nation level or through official actions. Communities can (and often do) organize their own justice initiatives, such as memorials, efforts to search for missing persons, and truth-telling processes. Provided that these informal justice processes are broadly consistent with international human rights law, elevating them and seeing them as part of the broader comprehensive suite of justice mechanisms is important. These kinds of initiatives also benefit from participatory victim and survivor consultation.
- **Use accessible communication methods:** Some victims and survivors may be illiterate or have dialectical or linguistic differences that make it difficult to communicate about justice concepts. Official languages will not always match local dialects and some survivor communities may speak minority or indigenous languages. Legal jargon and technical language may be difficult to translate and understand, even for literate individuals. Sensory limitations and technological access can also be a problem. In situations where literacy rates are low, those conducting consultations should consider alternative methodologies for gathering data that

do not require reading and writing. Oral surveys and storytelling, focus groups and interviews, PhotoVoice (discussed in Annex I), and use of pictures and images can be useful tools and methodologies.

(b) Coordinated

Those undertaking or funding consultations should ensure they are coordinated with other related interventions so that they do not unnecessarily tax or oversaturate affected communities. Repeated consultation with a wide diversity of victims and survivors—even if it is “trauma-informed”—risks both “consultation fatigue” and challenges in maintaining consistent quality, especially if local coordination is weak. Participant frustration can be high with repeated consultations that lack quick and tangible results or impact. This, coupled with possible mistrust of NGOs⁷⁷ and government actors, further exacerbates the challenge of victim and survivor consultation. When certain segments of the community have been more severely impacted or are more easily identified and accessible, they tend to get polled by numerous organizations and journalists, resulting in fatigue at best, and re-traumatization at worst. Coordination to ensure that the same people are not being asked for input by multiple agencies, as well as not being asked too frequently over time, is important.

- **Map potentially relevant organizations:** Before beginning consultations, identify which other actors may interact with victim and survivor communities. This often involves working with victims and survivors themselves to understand the landscape in which they are operating, the services they are using, and the agencies that contact them. Multiple organizations and sectors (e.g., the humanitarian sector, migration agencies, atrocity prevention bodies) may also decide to conduct consultations with victims and survivors on related but different issues.
- **Conduct a review of existing publications and research:** It is critical to review and map existing research, surveys, and consultations (including

⁷⁵ *Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15, Decision on the Draft Implementation Plan (Feb. 18, 2025).

⁷⁶ “Annex To Trust Fund for Victims’ submission of Draft Implementation Plan,” ICC-02/04-01/15-2099-Anx 04-09-2024, <https://www.icc-cpi.int/sites/default/files/RelatedRecords/0902ebd18096130f.pdf>.

⁷⁷ Note: Victims and survivors may mistrust NGOs for many reasons. For example, they may suspect NGOs are using their stories as a fundraising mechanism without then translating these gains into tangible benefits for victims, survivors, and their communities.

in local languages and on topics related to but distinct from justice and accountability) before embarking on a consultation process. This will help those conducting consultations to determine what questions have already been asked of victims and survivors and what gaps the research will fill. This can help ensure that victims and survivors are not asked the same questions repeatedly. Conducting such a review in local languages has implications for how the research team is structured, who is included—such as members of the affected community—and the resources required.

- **Coordinate and consolidate consultations:**

Those funding or conducting victim and survivor consultations should seek to collaborate and coordinate their approaches. Wherever possible, victim and survivor groups, civil society, NGOs, and academic institutions conducting their own work and research should also be included in the coordination process. In particular, involving victim and survivor groups, coalitions, and advocacy organizations in the coordination process can be helpful (because it can highlight early on situations in which victims and survivors are being overly taxed and retraumatized) and can also be a means of victim and survivor participation and empowerment. The level and nature of this cooperation and coordination amongst organizations conducting consultation can vary. It can range from informal information-sharing through regular telephone conferences to establishing formal data-sharing agreements for the secure transfer of information gathered.

Note: *The ability to establish a **data-sharing agreement** will depend on any ethical rules governing the consultations and the host organization's capacity to clean the data to ensure anonymity. Some legislative frameworks, such as the EU's General Data Protection*

Regulation, may prohibit data-sharing. In any case, if a data-sharing agreement is reached, this needs to be part of the informed consent process upfront. If a data-sharing agreement is reached after consultations have occurred, it will be necessary to notify those who already participated in consultations.

South Sudan's National Dialogue process running in parallel to official transitional justice processes

In December 2016, three years into a civil war that killed almost 400,000 people and displaced millions,⁷⁸ President Salva Kiir announced the launch of a National Dialogue process that would run outside official government channels⁷⁹—in parallel to and outside the scope of ongoing formal negotiations to revitalize a peace agreement that was collapsing.⁸⁰ Armed opposition groups boycotted the National Dialogue process, which undermined its legitimacy and made it difficult for those conducting consultations to reach opposition-controlled areas. In addition, ongoing displacement, a spiralling civil war, and poor or absent transport infrastructure made it difficult to reach many communities.⁸¹

Despite these challenges, the process “held more than 200 grassroots meetings, three regional conferences comprised of 300 to 400 delegates each, and meetings with more than 1,200 refugees and diaspora in neighboring countries” over its four years of operation.⁸² It also surfaced important criticisms from the people of South Sudan, including of government and opposition leaders, of ethnic tensions, and of the prevailing culture of impunity for violent crimes. However, at the conclusion of the process, President Kiir criticized some of the consultation's findings regarding his government's

⁷⁸ Francesco Checchi, et. al., *Estimates of crisis-attributable mortality in South Sudan, December 2013–April 2018: A statistical analysis* (London School of Hygiene and Tropical Medicine, 2018) <https://www.lshtm.ac.uk/south-sudan-full-report>.

⁷⁹ U.N. DEV. PROG., *Guide on the National Dialogue Process in South Sudan*, 12 (n.d.) <https://globalcompactrefugees.org/sites/default/files/2021-11/Guide%20on%20the%20National%20Dialogue%20Process%20in%20South%20Sudan.pdf> (last visited Aug. 31, 2025).

⁸⁰ David Deng, *South Sudan's people have spoken on peace. Is anyone listening?* U.S. INSTITUTE FOR PEACE (Apr. 16, 2021), <https://www.usip.org/publications/2021/04/south-sudans-people-have-spoken-peace-anyone-listening>.

⁸¹ *Id.*

⁸² *Id.*

role in the conflict and the humanitarian crisis.⁸³ Ultimately, President Kiir stated that the conclusions of the National Dialogue process would not override the conclusions of the peace agreement (which was signed in 2018).⁸⁴ This example raises important questions about the legitimacy of parallel or informal consultation processes and their relationship to official transitional justice frameworks.

(c) Representative and inclusive

Atrocities affect communities and individuals differently depending on factors such as the identity of the perpetrator; the victim's personal background, including their religious beliefs, gender, and cultural norms; the existence or absence of ongoing conflict; the nature of the atrocities, including the kind of violations that occurred, and many other factors. Being attuned to these variances—and ensuring that the consultation process reaches a fair and representative cross-section of affected communities—is important when trying to incorporate the diverse perspectives that exist on what would constitute meaningful justice for affected communities.

- **Do not treat survivors as a monolith:** Atrocity settings generate huge numbers of victims and survivors. There is sometimes a temptation to categorize these victims and survivors across ethnic, racial, geographical, age, gender, and other lines. This can be a problematic or incomplete approach. Victims and survivors may simultaneously have multiple intersecting identities that compound and interact with one another. In addition, victims' and survivors' perspectives and priorities may diverge across and within these different groups. Moreover, even if two victims or survivors share identity characteristics, their views may nevertheless differ considerably. For example, survivors of torture in the same detention site may all have different perceptions of justice as informed by their own personal perspectives, experiences, and intersecting identities. Capturing this diversity and complexity is critical.

Note: Careful use of appropriate sampling methodologies can allow those conducting

*consultations to make empirically-based inferences about the perspectives of a broader population based on opinions expressed by a smaller "sample." This is discussed in more detail below in the section under **Principle 3** on the importance of adopting a data-informed and ethical approach to consultations.*

- **Be mindful of overlapping victim identities:** Oftentimes, victim identities overlap with one another. This means that one victim may belong to multiple categories. For example, an individual may be a female sexual violence survivor and also be a member of an ethnic minority that has been targeted for violence. Overlapping and intersectional victim identities should be considered and accounted for in the design and implementation of the consultation process. Where possible, these intersecting identities should inform the analysis of the data gathered.
- **Ensure gender-inclusivity:** Patriarchal systems may exclude or marginalize women and may limit or even prohibit them from speaking to those conducting consultations. Additionally, in such settings women may not feel comfortable or safe speaking to outsiders. If these characteristics apply to the community that is being consulted, those conducting consultations will need to carefully design the consultation methodology in a culturally-sensitive, respectful, and creative way, to ensure that women (and other marginalized populations) are not excluded. Such strategies may involve: including women in the team conducting consultations; working with and through existing women's organizations, groups, and informal spaces for women; securing buy-in and support from community and religious leaders; and offering the option to provide information to those conducting consultations anonymously (e.g., through a suggestion box), among other strategies. Any approach will involve taking special precautions to preserve the safety and security of those who are consulted, including conducting consultations in safe and private spaces, obtaining full and complete informed consent, anonymizing data gathered, and ensuring confidentiality to the greatest extent possible.

⁸³ *Id.*

⁸⁴ *Id.*

- **Take steps to manage diversity and mitigate tension among different victim and survivor communities:** Victims and survivors from different regions and backgrounds, and with different experiences of atrocities may have divergent narratives about atrocities, conflict, and oppression. With significant trauma layered on top, these different narratives can fuel tensions and distrust among and between victims and survivors themselves, causing cascading effects that become the seeds of future conflict, as discussed under **Principle 1**. Prior to, during, and after consultations, it is critical to incorporate trust-building exercises and conflict-management tools that respond to the local history, power dynamics, cultural norms, and specific needs of each group. Such strategies include conducting consultations in safe spaces for people of specific identities (e.g., women’s groups, youth forums); using skilled, neutral, and context-aware facilitators; and acknowledging the existence of competing narratives. Particular attention should be paid to how the results of the consultations are published or shared, as discussed below under **Principle 4**.

Diverse opinions of Rohingya victims and survivors in Myanmar

The International Court of Justice (ICJ) is currently hearing a case brought by The Gambia against the government of Myanmar for failing to uphold its obligations under the Genocide Convention in relation to the Rohingya genocide.⁸⁵ The genocide, which began in 2017, has displaced 700,000 Rohingya into neighboring Bangladesh and has been characterized by horrific violence, including mass murder, rape and other sexual violence, and the “systematic destruction by fire” of villages, often leaving individuals inside to burn alive.⁸⁶

Both the Burmese military—the Tatmadaw—and the country’s civilian government, played a role in committing atrocities against the Rohingya.⁸⁷

Myanmar was originally represented at the ICJ proceedings by the leader of the National League for Democracy (NLD), Aung San Suu Kyi, who was at the time the country’s de facto civilian leader. Suu Kyi denied the genocide allegations brought by the Gambia at the ICJ after hearing testimony from Rohingya survivors in 2019.⁸⁸ While proceedings at the ICJ were unfolding, a military coup erupted in Myanmar in 2021, with the Tatmadaw claiming control of the country and launching a brutal civil war in which over 6,000 civilians have been killed.⁸⁹ These events raised an important question about who should represent the Myanmar government at the ICJ: the military junta responsible for the coup or the National Unity Government (NUG), which had been in charge prior to the coup and was operating in exile and in some opposition-controlled areas.⁹⁰

A limited group of victims from the Rohingya community were mobilized by international NGOs to advocate for the NUG to represent Myanmar at the Court by “signing” a petition with their fingerprints. While the petition reflected the views of some victims and survivors, for others it was considered to be problematic for the NUG to represent Myanmar at the ICJ when it had played a role in committing atrocities. A Rohingya victim advocate interviewed for this Protocol expressed the view that the petition did not reflect a representative sample of the views of the Rohingya community writ-large.⁹¹

⁸⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar: 11 States Intervening)*, INT’L COURT J., <https://www.icj-cij.org/case/178/> (last visited Aug. 31, 2025).

⁸⁶ U.N. News, *Aung San Suu Kyi defends Myanmar from accusations of genocide, at top UN court* (Dec. 11, 2019), <https://news.un.org/en/story/2019/12/1053221>.

⁸⁷ Telephone interview with anonymous survivor, (Nov. 7, 2023).

⁸⁸ Marlise Simons and Hannah Beech, *Aung San Suu Kyi Defends Myanmar Against Rohingya Genocide Accusations*, N.Y. TIMES, Dec. 11, 2019, <https://www.nytimes.com/2019/12/11/world/asia/aung-san-suu-kyi-rohingya-myanmar-genocide-hague.html>.

⁸⁹ Amnesty Int’l, *Myanmar: Four years after coup, world must demand accountability for atrocity crimes* (Jan. 31, 2025), <https://www.amnesty.org/en/latest/news/2025/01/myanmar-four-years-after-coup-world-must-demand-accountability-for-atrocity-crimes/>.

⁹⁰ Hum. Rts. Watch, *Developments in Gambia’s Case Against Myanmar at the International Court of Justice* (Feb. 14, 2022), <https://www.hrw.org/news/2022/02/14/developments-gambias-case-against-myanmar-international-court-justice>.

⁹¹ Telephone interview with anonymous survivor, (Nov. 7, 2023).

- **Engage with victim and survivor groups and organizations:** Victim and survivor groups, organizations, coalitions, and associations have worked to advance justice and ensure that victim and survivor communities writ large are represented and included in justice mechanisms in countless conflict and atrocity situations around the world. Groups and coalitions of victims and survivors can coordinate on shared goals, develop creative solutions to complex problems, draw on each other's skillsets and expertise, provide mutual support and solidarity, and gain visibility, leverage, and access. Involving survivor-led groups and coalitions that are in close communication with and trusted by broader affected communities in the design and implementation of consultation and future eventual justice processes is critical.

Note: "Pursuing Justice for Mass Atrocities: A handbook for victim groups," authored by Sarah McIntosh and conceptualized by Anna Cave, discusses the strategies and techniques that victim groups can use to advance justice for mass atrocities over the long-term. The Handbook includes a recommendation that victim groups themselves regularly conduct consultations with broader affected communities, as well as conducting consultations internally.

Sarah McIntosh, *Pursuing Justice for Mass Atrocities: A Handbook for Victim Groups* (U.S. Holocaust Memorial Museum 2021), <https://www.ushmm.org/genocide-prevention/reports-and-resources/pursuing-justice-for-mass-atrocities>.

- **Make consultations accessible:** To ensure true equity, consultation processes must be accessible to everyone, especially those who are often left out or on the margins. This includes people with disabilities, older adults, children (when appropriate), ethnic minorities, displaced individuals, and those living in rural or remote areas. Too often, consultations are held in capital cities or urban centers, far from the communities most affected. Greater efforts must be made to meet people where they are, including geographically, linguistically, and socially.
- **Determine how victim communities will be reached:** Consultation methodologies often require participants to have a telephone, email

address or internet, and/or a fixed address and victims and survivors may be reluctant to share this information if it exposes them to risks. It may be necessary to identify alternative ways of reaching victims and survivors, for example by identifying venues where they frequently congregate (e.g., food distribution sites, community centers, and sites of faith). It may also be possible to work with trusted local civil society organizations who can recruit participants and provide context and interpretation. In some cases, snowball sampling can be used, where participants share the names and contact information of other individuals who should be contacted as part of the consultation process. This approach has shortcomings: it may introduce significant bias by confining the consultation process to individuals with similar backgrounds, and may expose victims and survivors to risks if they do not want their contact information to be shared. To mitigate against the latter problem, those conducting consultations should ask the referring individual to first check with the victim or survivor that they are comfortable sharing their contact information.

- **Avoid limiting consultations to community leaders:** Leaders from affected communities and victim and survivor groups or coalitions do not always reflect the perspectives and priorities of the groups they represent. Community leaders can be part of challenging power dynamics that may involve silencing disenfranchised group members. Those conducting consultations should not necessarily treat community leaders or representatives as stand-ins or substitutes for gathering information from victims and survivors writ-large. Moreover, the views of leaders and affected communities should not be treated hierarchically (i.e., undue weight should not be placed on the perspectives of community leaders).
- **Pay attention to marginalized groups:** In many cases, perpetrators of atrocities target, generate, and further marginalize vulnerable groups that are disempowered and disenfranchised. Atrocities can take place because of these underlying systems of structural inequality and marginalization. It is critical that the voices of marginalized groups—including indigenous persons, the LGBTQ+

community, and persons with disabilities among others—be incorporated into and actively included in the consultation process. This will require decision-makers to intentionally find ways to seek out and consult these communities. Moreover, comprehensive justice processes should consider what happened before the atrocities that might have created structural inequalities or the conditions in which the atrocities occurred.

- **Consider how to reach, include, and ensure respect for victims and survivors of mass atrocities who have disabilities:** Disabilities may make it difficult for people to see, read, write, hear, and/or speak, and/or can impair mobility. Those conducting consultations should use a combination of audio and visual modalities for conducting consultations and tailor the methodology depending on individual needs.
- **Be mindful of intra-group dynamics, particularly in focus groups:** Intra-group dynamics often play out in focus group work where some individuals may dominate the discussion and stifle contributions from others. (Focus groups involve bringing together a small number of people (ideally between 6 and 15 people) from the target population to discuss issues in-depth and are a way of gathering qualitative data about people's perceptions and priorities.) Intra-group power dynamics may range from prison hierarchies for people who were detained together to gender and age factors across cultures. In other contexts, victims may come from opposing communities, necessitating consideration of how to ensure participants feel safe within the group and can be transparent and open about their views. When forming focus groups, it may be important in some contexts to divide by age, gender, or other relevant factors. Those conducting consultations should first confidentially confirm with each participant that they feel safe to share openly in the formed group.

Judicial order paving the way for inclusion in Mali consultation process

In June and July 2012, al-Qaeda affiliates in Mali deliberately targeted culturally significant mausoleums and mosques in Timbuktu because of their religious and historical character. These sites of cultural heritage were either completely destroyed or severely damaged causing immense harm to the local population. In 2016, the ICC found Al-Mahdi guilty as a co-perpetrator of the war crime of intentionally directing attacks against religious and historic buildings.⁹² The Court mandated 2.7M euros of individual and collective reparations measures in the case, including the creation of a memorial, the reconstruction of a mausoleum, an extension to the municipal museum, and various heritage protection initiatives.⁹³

As part of its work to implement the reparations order, the ICC's Trust Fund for Victims (through its implementing partner Centre de Formation, de Gouvernance et de Recherche Action pour le Développement (CFOGRAD)) carried out extensive consultations with all eight neighborhoods of the city and members of the diaspora in Bamako.⁹⁴ Different communities had vested the mausoleums with different meanings and significance: local community members' economic activity relied on the mausoleums, while more prominent and powerful community members' families were buried in the mausoleums. There was significant disagreement between these groups about how to memorialize this site.⁹⁵ To navigate this when administering the reparations order, the Trust Fund for Victims was required by the court to take into account the views of those identified as victims, which included both groups. The ICC's reparations order recognized the material damage to historic and religious buildings, economic loss (suffered by those whose livelihoods depended on the destroyed sites), and moral harm (suffered by

⁹² The Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15-171, Judgement and Sentence (Sept. 27, 2016).

⁹³ The Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15, Reparations Order, ¶ 135 (Aug. 17, 2017).

⁹⁴ *Al Mahdi case: ICC Trust Fund for Victims delivers collective reparations for the Timbuktu community* (Mar. 25, 2024), TRUST FUND FOR VICTIMS, <https://www.trustfundforvictims.org/en/news/al-mahdi-case-icc-trust-fund-victims-delivers-collective-reparations-timbuktu-community>.

⁹⁵ Telephone interview with anonymous expert, (Oct. 18, 2023).

descendants of those buried in the mausoleums and the broader community) and ordered individual and collective reparations.⁹⁶ However, victims and affected communities have expressed “mixed feelings” about the implementation of the reparations order, given that almost 400 applicants have been denied access to reparations.⁹⁷

- **Be careful when prioritizing certain classes of vulnerable victims:** While it can be important to prioritize victims and survivors who are most vulnerable and have the most significant need, it is also important to avoid creating externally-imposed hierarchies of victims and survivors by suggesting that certain groups or categories of victims are more important than others. This can sow considerable division and resentment within victim and survivor communities. In some situations, victims and survivors may identify the most vulnerable individuals and groups themselves in need of the most urgent assistance.

Inclusion and exclusion of victims in Colombia’s peace and justice process

Since Colombia’s brutal armed conflict began in the 1960s, over 10 million people have registered as victims of human rights violations in the

country⁹⁸, and 100,000 people have been reported as disappeared.⁹⁹ As part of a peace agreement signed in 2016 between armed groups and the government,¹⁰⁰ Colombia embarked upon what is often regarded as a comprehensive and impressive transitional justice process that actively adopted mechanisms to incorporate and include victims and survivors.¹⁰¹

The process of negotiating the Peace Agreement involved several prominent political actors and involved 60 victims directly at the negotiation table in Havana, where they shared their experiences and expectations for an eventual agreement.¹⁰² The direct presence and intervention of victims and survivors (albeit representing a minuscule portion of overall victims) allowed a de-escalation in discourse and a transformation in the attitudes of former FARC members towards victims.¹⁰³ Moreover, this was a space in which specific victim collectives were able to express specific grievances, as was the case with the incorporation of a transversal gender approach due to the participation of women in the negotiation process.¹⁰⁴

While some collectives (like indigenous groups and Afro Colombians) were only given a seat at the table at the end of the negotiation process,¹⁰⁵ they nevertheless influenced the drafting of Point 5 of

⁹⁶ Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15-236, Reparations Order (Aug. 17, 2017).

⁹⁷ Boubacar Sidiki Haidara, *In Timbuktu, ICC reparations bring mixed feelings*, JusticeInfo.Net (Dec. 8, 2022), <https://www.justiceinfo.net/en/109963-timbuktu-icc-reparations-mixed-feelings.html>.

⁹⁸ *Víctimas del Conflicto Armado*, UNIDAD DE VÍCTIMAS (n.d.), <https://cifras.unidadvictimas.gov.co/Cifras/#!/infografia> (last visited Aug. 31, 2025).

⁹⁹ *Acerca de la Unidad de Búsqueda*, UNIDAD DE BÚSQUEDA DE PERSONAS DESAPARECIDAS (n.d.), <https://unidadbusqueda.gov.co/acerca-ubpd> (last visited Aug. 31, 2025).

¹⁰⁰ *Final Agreement to End the Armed Conflict and Build a Sustainable and Lasting Peace* (Nov. 24, 2016), <https://peaceaccords.nd.edu/wp-content/uploads/2020/02/Colombian-Peace-Agreement-English-Translation.pdf> (last visited Aug. 25, 2025) [hereinafter *Colombian Peace Agreement*].

¹⁰¹ See generally, Mijke de Waardt and Sanne Weber, *Beyond Victims’ Mere Presence: An Empirical Analysis of Victim Participation in Transitional Justice in Colombia*, 11(1) J. HUM. RTS. PRACTICE 209, (2019) (Note however: The authors also acknowledge that “[...] victim participation in the process has proved challenging because of logistical and financial challenges [...]” (footnotes omitted)).

¹⁰² *Los Debates de La Habana: Una Mirada desde Adentro* (A. Bermúdez ed., Institute for Integrated Transitions, 2018), <https://ifit-transitions.org/publications/los-debates-de-la-habana-una-mirada-desde-adentro/>.

¹⁰³ Gabriel Ignacio Gómez, *Political Conflicts Over the JEP: A Sociolegal Perspective*, in TRANSITIONAL JUSTICE IN COLOMBIA: THE SPECIAL JURISDICTION FOR PEACE (Kai Ambos and Stefan Peters eds., 2022) <https://www.nomos-elibrary.de/10.5771/9783748923534.pdf>; Gabriel Ignacio Gómez, *Entre el Castigo y la reconciliación. Análisis Sociojurídico del Proceso de Paz y La Negociación del Acuerdo sobre las víctimas Del Conflicto*, 50 ESTUDIOS POLÍTICOS 236, 246 (2017).

¹⁰⁴ Pérez Salamanca, *supra* note 41.

¹⁰⁵ Carlos Arturo Gutiérrez-Rodríguez, *Beyond liberal justice? Decolonising Colombian transitional justice through victims’ participation and indigenous rights*, 28 INT’L J. HUM. RTS. 1 (2024).

the Accord. This provision aims to put victims in the center of all peacebuilding efforts and establishes an integral system of truth, justice and reparations with a Special Peace Jurisdiction (JEP), a Unit for the Search of the Disappeared and a Truth Commission, while trying to target all possible forms of redress for survivors.¹⁰⁶

- **Be mindful of historical and recent violations:**

In many settings, current-day atrocities reflect and overlay historical atrocities. There may be “older” and “newer” categories of victims and survivors and there may also be victims and survivors who have been victimized multiple times. Additionally, in countries with long and complex dynamics of violence, the roles of perpetrators and victims are often not set in time, but may be reproduced and repeated. Moreover, shifting identities of victims and perpetrators may involve cyclical and reciprocal revenge actions, including across generations. Those conducting consultations should have a deep contextual understanding of the layers and histories of violence in the communities they are consulting and inflect their analysis of the data with this understanding. Consultations can help policymakers understand how best to prioritize and navigate complex cycles of violence.

- **Include diaspora and internally displaced people where possible and appropriate:**

Diaspora communities (including refugees and those in exile) should not be overlooked in the consultation process.¹⁰⁷ This may require conducting research outside the focus country. Internally displaced populations should also be included where possible. Displaced communities may not have fixed addresses, which can present access issues that need to be overcome. Alternatively, it may be safer to consult with diaspora or refugee communities in cases where there is ongoing

conflict; in such cases, additional steps outlined in this Protocol—such as desk research and qualitative interviews with trusted intermediaries—can be taken to mitigate potential biases.

- **Compensate victims and survivors for their time and expenses where possible:**

When victims and survivors are expected to spend large amounts of time as part of consultations, it is appropriate to compensate them for their time. For example, if individuals participate in a two day focus group, they will miss two days of wages, incur transportation costs, and potentially face difficulties with child care, among other consequences. Shorter surveys (e.g., over the phone) may still have an impact, and small amounts of phone credit should be offered at a minimum. Where possible, those who qualify as victims and survivors should receive reimbursement for expenses and/or compensation for their time. Where it is not, depending on funding availability and the scale and scope of the consultation, this should be explained to victims and survivors as part of the informed consent process.

Remuneration of victims in Colombia’s Mesas de Participación de Víctimas

Colombia’s Mesas de Participación de Víctimas (Forums for Victims’ Participation) are spaces for victims and affected communities to influence the development, implementation, and ongoing monitoring of policies that affect them through meaningful dialogue with the State.¹⁰⁸ The Mesas afford 24-26 seats for elected victim representatives who have experienced diverse harms and who have different identities, such as gender and sexual identity, age, disability, ethnicity, and victim group representatives.¹⁰⁹ Victims and survivors who participate in the Mesas must attend multiple meetings per month and receive a modest

¹⁰⁶ Colombian Peace Agreement.

¹⁰⁷ Huma Haider, *Transnational Transitional Justice and Reconciliation: The participation of conflict-generated diasporas in addressing the legacies of mass violence*, 27 J. REFUGEE STUD. 207 (2014).

¹⁰⁸ Mesas de Participación, UNIDAD DE LAS VÍCTIMAS (n.d.), <https://www.unidadvictimas.gov.co/mesas-de-participacion/> (last visited Aug. 25, 2025); Arts. 192– 94, L. 1448 (junio 10, 2011) (Colom.) <http://funcionpublica.gov.co/eva/gestornormativo/norma.php?i=43043>.

¹⁰⁹ Roxani Krystalli, *GOOD VICTIMS: THE POLITICAL AS A FEMINIST QUESTION* 87 (Oxford U.P., 2024).

“incentive payment,” which includes travel and other similar expenses.¹¹⁰ At the municipal, district, and departmental levels, at least eight representatives must be victims of forced displacement and half must be women while at the national level, ten seats are reserved for victims of forced displacement of which half must be women.¹¹¹

• **Choose an appropriate language or languages:**

Consultations and associated educational processes should be conducted in a language or languages that the victim or survivor speaks comfortably. Translations of findings should respect local languages and meanings.

Note: *In some cases, language used has an implication of power or bias. For example, although all of Ethiopia is educated in Amharic and the majority of the population can speak the language comfortably, conducting interviews in Amharic may imply an implicit bias, particularly in situations like the Northern Ethiopian conflict, where it would be extremely problematic to conduct interviews with survivors in Tigray using Amharic.*¹¹²

• **Consider hard-to-reach communities:** Some communities may be difficult to reach due to security concerns, environmental challenges, transportation issues, linguistic differences, and other barriers. Those conducting consultations should consider creative ways to reach these communities to help ensure as full participation in consultation processes as possible, such as using remote data collection methodologies (e.g., mobile phones, secure messaging apps, and radios), partnering with trusted local organizations who can help navigate risks, and planning around seasonal weather events. In cases where communities are truly unreachable, consider consulting closely linked NGOs or advocates who can fairly represent their views.

Limitations to consultation process due to security concerns in South Sudan

South Sudan’s peace agreement mandated that consultations be conducted prior to the establishment of the truth commission.¹¹³ This is a welcome development. Nevertheless, security concerns prevented the consultation committee from going beyond government-controlled areas and protection of civilian/internally displaced person sites (which were formerly protected by the UN and which are now being transitioned to government control). This meant some victims and survivors were ultimately excluded from the consultation process. This could bias the findings as survivors in nongovernment controlled areas would more likely belong to groups who were in opposition to the government and more likely suffered human rights abuses at the hands of government forces.¹¹⁴ This example raises important questions regarding situations in which full consultations are not possible due to security and other potential concerns. In such situations, it may be better to conduct some consultation rather than none while taking steps to mitigate against resulting bias, such as consulting with NGOs and intermediary advocates who are closely linked to and trusted by unreachable communities.

Principle 3: Rigorous and ethical

Victim and survivor consultations should produce data and information that is complete, accurate, and current. To do so, delivery and implementation should be rigorous and maintain ethical best practices, both methodologically (with respect to when and how often survivors are consulted as well as the research approach adopted) and substantively (in terms of the comprehensiveness of the range of justice mechanisms that are discussed).

¹¹⁰ *Id.*, at 146.

¹¹¹ UNIDAD DE LAS VÍCTIMAS, *supra* note 108.

¹¹² Telephone interview with anonymous practitioner, (Oct. 23, 2023).

¹¹³ Ch. V, art. 5.2.1.3, *Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan* (Sept. 12, 2018), <https://docs.pcacpa.org/2016/02/South-Sudan-Peace-Agreement-September-2018.pdf> (last visited Apr. 28, 2025) [hereinafter R-ARCSS].

¹¹⁴ Telephone interview with anonymous civil society activist, (Nov. 8, 2023).

(a) Timely and periodic

To the fullest extent possible, consultations should occur both before decisions are made and on a periodic and ongoing basis as justice interventions are adopted. Victims' and survivors' perspectives may evolve during and after atrocities and as justice measures are implemented, reflecting shifting perspectives over time. International and national leaders often make policy and funding decisions about justice quickly during a crisis, resulting in long lasting effects on what programs are established, how funding is spent, where political energy is focused, and what justice measures are ultimately established and resourced. In light of this, consultations should be conducted as early as possible to ensure victims and survivors have a voice and input in these decisions. In some contexts, it may be possible to safely consult with victims and survivors even as conflict or atrocities are ongoing, but this will be situation specific and contingent on adhering to the security and ethical principles described in this Protocol. Likewise, victims' and survivors' perspectives may evolve during and after atrocities and as justice measures are implemented, and periodic consultations will help reflect shifting perspectives over time.

Timely and upfront: Consultations should occur as soon as it is safe and ethical to do so.

- **Establish the necessary capacity and systems for consultations:** Consultations can take considerable time and require technical expertise, contextual knowledge, logistical infrastructure to operate in atrocity and post-atrocity settings, relationships with local groups and organizations, and ideally flexible contracts already in place to expedite the administration of consultations. This makes it critical to have these systems, organizations, and processes ready and available in advance to conduct consultations when crises break out so that the perspectives and opinions of affected communities can be infused into

decision-making up front rather than years after the fact. **Donors should consider establishing rapid response units or standing capacity that can quickly mobilize and conduct consultations as crises are unfolding to inform policy decisions.**

“Capacity-building and the institutionalization of [consultation] practices prior to the rapid escalation of new crises is key. That way, policy-makers have the knowledge readily-available and understand the core concepts before the crisis arises and the concepts must be utilized. [...] Not only is capacity-building in the short-term key, but building a standing capacity in the long term is a crucial question. Policy-makers need to be able to interact with local voices in an authentic, unsanitized way that is grounded in reality.”¹¹⁵

Institutionalizing consultation in Colombia's Special Jurisdiction for Peace (JEP)

As noted above, Colombia's JEP is an investigative mechanism established to prosecute and punish perpetrators of the most serious, systematic, and representative crimes, as well as high-level perpetrators, as part of Colombia's transitional justice process.¹¹⁶ The JEP can order different types of sanctions depending on if and at what stage in the process the accused person admits responsibility. In cases where accused persons admit responsibility before going to a full trial, the JEP can order “special sanctions” against perpetrators, which are non-punitive in nature and intended to provide a measure of repair and

¹¹⁵ Telephone interview with anonymous expert, (Nov. 20, 2023).

¹¹⁶ *Colombia: the Special Jurisdiction for Peace one year after – ICJ analysis*, INT. COMM. JURISTS (2019), <https://www.icj.org/resource/colombia-the-special-jurisdiction-for-peace-one-year-after-icj-analysis/>; Laura Ord'óñez-Vargas, L. C. Peralta Gonzalez, and Enrique Prieto-Rios, *An Econcentric Turn in the Transitional: Restorative Justice Process in Colombia*, 17 INT'L J. TRANS. JUSTICE 107, 114 (2023).

redress to victims.¹¹⁷ The JEP can order these “special sanctions” through TOARs (Trabajos, Obras y Actividades con contenido Reparador-Restaurador¹¹⁸), which aim to offer victims tangible, community-focused justice through activities that contribute to social healing, as well as restrictions on certain freedoms.¹¹⁹ Such activities, which can be performed voluntarily before sentencing (and then deducted from the sentence ultimately imposed by the JEP) or as part of the sentencing process,¹²⁰ can include: demining; rebuilding physical infrastructure; cleaning and maintaining public spaces; participation in training and education processes; and other efforts to restore the social fabric.

According to its principles of procedural and restorative justice, involving affected communities in the process of designing reparations makes them more impactful. There is therefore a provision that allows victims and survivor communities to provide input and feedback on these reparative measures.¹²¹ Article 141 of Law 1957/2019 provides victims and survivors the opportunity to comment on the offenders’ proposals for special sanctions and mandates a process of consulting the communities in which the sanctions will be performed.¹²² In addition, one expert interviewed for this Protocol, noted that as part of its commitment to restorative and procedural justice, the JEP is seeking to evaluate whether its potential reparations process would make a meaningful difference in the lives of victims and survivors.¹²³ It is working with EPI to pilot a consultation process—and to institutionalize such a consultation process as a best practice—through

community work at the local level. These initiatives illustrate that policy-makers can develop their own capacity and institutionalize consultation so that it can occur quickly as crises unfold and needs emerge over time as justice mechanisms are adopted.¹²⁴

• **Be mindful of historical and recent violations:**

In many settings, current-day atrocities reflect and overlay historical atrocities. There may be “older” and “newer” categories of victims and survivors and there may also be victims and survivors who have been victimized multiple times. Additionally, in countries with long and complex dynamics of violence, the roles of perpetrators and victims are often not set in time, but may be reproduced and repeated. Moreover, shifting identities of victims and perpetrators may involve cyclical and reciprocal revenge actions, including across generations. Those conducting consultations should have a deep contextual understanding of the layers and histories of violence in the communities they are consulting and inflect their analysis of the data with this understanding. Consultations can help policymakers understand how best to prioritize and navigate complex cycles of violence.

• **Sensitively and carefully seize moments of crisis:**

Political will and international attention are typically strongest at the outset of conflicts and at moments of extreme crisis. It is important to sensitively seize these opportunities when relevant decision-makers are galvanized to gather the perspectives of those most affected to inform policy-making.

¹¹⁷ Note: Special sanctions can also confine perpetrators to a limited geographic area. Beatriz E Mayans-Hermida, Barbora Holá, and Catrien Bijleveld, *Between Impunity and Justice? Exploring Stakeholders’ Perceptions of Colombia’s Special Sanctions (Sanciones Propias) for International Crimes*, 17(2) INT’L J. TRANS. JUSTICE 192 (2023).

¹¹⁸ “Works, Projects, and Activities with Reparative-Restorative Content” (in English).

¹¹⁹ Daniela Suárez Vargas and Luke Moffett, *Reparations in Colombia: Redressing Civilian Harm in the Midst of Armed Conflict*, ARTICLES OF WAR (Sep 5, 2024), <https://lieber.westpoint.edu/reparations-colombia-redressing-civilian-harm-midst-armed-conflict/>.

¹²⁰ Jespersgaard Jakobsen, *Colombia as the ‘Laboratory’ for Transitional Justice: Consolidation and Innovation of Global Formulas*, 18 INT’L J. TRANS. JUSTICE 422, 429 (2024).

¹²¹ Clara Sandoval, Hobeth Martínez-Carrillo, and Michael Cruz-Rodríguez, *The Challenges of Implementing Special Sanctions (Sanciones Propias) in Colombia and Providing Retribution, Reparation, Participation and Reincorporation*, 14(2) J. HUM. RTS. PRAC. 478 (July 2022); Art. 65, L. 1922 (julio 18, 2018) DIARIO OFICIAL [D.O.] No. 50658 (Colom.).

¹²² Art. 141., L. 1957 (2019) (Colom.) <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=94590>.

¹²³ Telephone interview with anonymous expert, (Nov. 20, 2023).

¹²⁴ Telephone interview with anonymous expert, (Nov. 20, 2023).

- **Be sensitive to proximity to violence:** The consultation approach will need to differ based on temporal and geographic proximity to violence; those conducting consultations should be sensitive to the different needs of communities based on these factors. For example, some communities may not be ready to discuss justice options if they are in the midst of ongoing atrocities. For more historical violations, it may be necessary to excavate significant amounts of history in order to reach substantive discussions about justice, peace, and healing. It is also important to be sensitive to the fact that in such situations, victims and survivors may have been interviewed many times, which raises the risk of retraumatization.

Challenges conducting rapid victim consultation in Ukraine despite political will

Even in contexts where political will to deliver justice in a victim-centered manner is high, it can be difficult to marshal the resources and time needed to conduct meaningful and effective victim consultation, especially at the outset of a crisis. For example, Russia's full scale invasion of Ukraine that began in 2022 galvanized the attention of Western states, attracting significant resources and serious commitments by world leaders to take action to advance justice. Relevant national and international actors, such as the Office of the Prosecutor General, the Office of the Parliamentary Commissioner on Human Rights, and the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine, commendably committed to adopting a victim-centered approach.¹²⁵ It turned out to be difficult, however, to put this in place because there was no coordinated process, dedicated funding, or standing capacity to undertake up-front and timely victim consultations in order to identify priorities or design justice measures in response to victims' needs. Some important developments have nevertheless occurred several years after the

start of the full-scale invasion, such as the creation of a civil society coordination platform by the Register of Damages that can interact with victims and survivors of atrocities and ensure the Register is receiving feedback from these communities.

Periodic: Consultation processes should be repeated—in a way that does not overly tax victims and survivors—as justice measures are established and implemented and as victims' and survivors' views evolve.

“Perception surveys are difficult because they represent a moment in time [...] If the money is there, a survey should be conducted with the same survivor pool every five or ten years to see how victim priorities change. In the alternative, it might be even better if we can develop a mechanism that is able to consistently tap into the views and perspectives of survivors.”¹²⁶

- **Make consultation and participatory evaluation part of the justice process itself:** As decision-makers implement justice processes, victims and survivors should be consulted about how those processes are working, what changes they are causing, and how they can be improved. Periodic consultation can also foster a more participatory approach to advancing justice and accountability. Certain research methodologies (like outcome harvesting, which is discussed in **Annex I**) can be used to identify and evaluate changes that may have been brought about (in whole or in part) by a particular justice intervention or policy.
- **Budget for ongoing consultation:** As international attention on the situation wanes and the crisis becomes protracted, it can be difficult to sustain the

¹²⁵ *Victim-centred approach*, COUNCIL OF EUR. (n.d.), <https://rd4u.coe.int/en/victim-centred-approach> (last visited Apr. 25, 2025); Olga Golovina, *Interview: A Victim-Centred Approach to Prosecuting Sexual Violence* IWPR, <https://iwpr.net/global-voices/victim-centred-approach-prosecuting-sexual-violence> (last visited Apr. 25, 2025); Norbert Wuhler, *Advisory Notes on Reparations and the Register of Damage for Ukraine 18* (2023) (unpublished manuscript) (on file with author).

¹²⁶ Telephone interview with anonymous practitioner, (Nov. 20, 2023).

funding and interest needed to conduct ongoing consultations with affected communities. Budgets for justice processes should include ongoing consultations and incorporate consultation into the monitoring and evaluation processes. As noted above, this budget should include items such as compensation for victims and survivors who participate in the consultation process; digital security protection mechanisms; and referral services.

- **Establish a feedback loop:** There should be an active feedback loop whereby the opinions of victims and survivors gathered throughout a justice process inform and influence decisions to adapt and modify programming and policies. This means that decision-makers and policy-makers should be open to shifting their approaches and strategies as victims' and survivors' perspectives change over time.
- **Be transparent about the consultation process:** Explain to victims and survivors during the first consultation that it is the intention of those conducting consultations to ask their opinion again in the future. (Note: This can also raise expectations, making the need to budget and plan appropriately all the more important.)

“Nothing ever happens with those damned questions; except the surveyor gets \$3 an hour, and my washing doesn't get done that day.”¹²⁷ This quote first appeared in Sherry Arnstein's seminal work on hierarchies

of citizen participation. It was shared by a woman living in poverty in the United States in a community that had repeatedly been surveyed.

Need for ongoing consultation in northern Iraq

In response to atrocity crimes committed by ISIS in northern Iraq, the UN Security Council created an investigative body to gather evidence to a standard admissible in a court of law of ISIS crimes called the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ ISIL (UNITAD). UNITAD made significant contributions to the justice landscape, including gathering and digitizing evidence of ISIS crimes, supporting judicial proceedings in various jurisdictions that led to fifteen convictions, and excavating mass graves.¹²⁸ In 2023, the Iraqi government requested that the investigative body's mandate end.¹²⁹ The Security Council agreed in September of that year.¹³⁰

CSOs and victim groups immediately expressed serious concern about this unexpected decision—a decision that was made without the Iraqi government conducting consultations with affected communities.¹³¹ Among the many concerns that survivors and CSOs expressed about the decision, was Iraq's request that UNITAD hand over its evidence to the Iraqi government.¹³² UNITAD's internal evidence-sharing prohibited this, in part due to the availability of the death penalty in Iraq and the fact that Iraq has no domestic

¹²⁷ Arnstein, *supra* note 22 at 219.

¹²⁸ Statement by Ambassador James Kariuki at the UN Security Council meeting on UNITAD, *It is essential that UNITAD evidence retained by the United Nations remains fully accessible: UK statement at the UN Security Council*, U.K. FOREIGN & COMM'L OFFICE (Jun. 5, 2024), <https://www.gov.uk/government/speeches/it-is-essential-that-unitad-evidence-retained-by-the-united-nations-remains-fully-accessible-uk-statement-at-the-un-security-council>.

¹²⁹ Michelle Nichols, *U.N. Mission Probing Islamic State Crimes Forced to Shut in Iraq*, REUTERS (Mar. 20, 2024), <https://www.reuters.com/world/middle-east/un-mission-probing-islamic-state-crimes-forced-shut-iraq-2024-03-20/>.

¹³⁰ U.N. SCOR, S/RES/2697 (Sept. 15, 2023).

¹³¹ *Concerns about the non-renewal of UNITAD's mandate in Iraq*, YAZDA (Sep. 12, 2023), <https://www.yazda.org/concerns-about-the-non-renewal-of-unitads-mandate-in-iraq>; Coalition for Just Reparations, C4JR online event on the ending of UNITAD's mandate, with Yazda, IBAHRI, HRW & Amnesty International, (YouTube, May 24, 2024) <https://www.youtube.com/watch?v=xnPqYBjT4w>.

¹³² Alannah Travers, *As UNITAD's Mandate Ends, ISIL Survivors Still Lack Justice*, FIKRA FORUM (Sept. 11, 2024), <https://www.washingtoninstitute.org/policy-analysis/unitads-mandate-ends-isil-survivors-still-lack-justice>.

legislation covering core international crimes.¹³³ UNITAD's support to the Iraqi government primarily involved training Iraqi judges and digitizing Iraq's existing court records, which it then transferred back to the Iraqi judiciary. Yazidi survivors were nevertheless naturally cautious about the prospect of information-sharing with the Iraqi government due to distrust in local institutions over centuries of oppression and marginalization.¹³⁴ More broadly, victim and survivor communities have expressed concern that the closure of UNITAD makes the chances that perpetrators will ever be brought to justice even more remote.¹³⁵

(b) Data-informed and ethical

An evidence-based, methodologically rigorous approach that complies with relevant ethical standards should be taken when designing the consultation and analyzing the data and information. This helps ensure the trustworthiness, quality, reliability, and validity of the consultation findings. However, some of the techniques highlighted in this section require expert knowledge of statistical methodologies. This Protocol does not provide guidance on such specialized methodologies; rather it highlights foundational principles for methodologically rigorous and ethical victim and survivor consultation, and identifies areas for consideration by those formulating, funding, and overseeing consultations.

- **Clarify purpose, scope, scale, and reach:** Those conducting the consultation need to have a clear sense of their purpose, scope, scale, and intended reach from the outset. What will the sample size be? What is the ultimate goal of the research? What issues will the consultation cover? Are there issues that can or should be highlighted or omitted? How will those conducting the consultation know when they have “concluded” the consultation process? Developing clear research questions will enable those conducting consultations to carefully design

both the methodological approach and the data-gathering instrument.

- **Conduct a field visit prior to developing the consultation protocol:** Those conducting consultations should travel to the affected country or community to conduct one-on-one scoping interviews with a wide range of stakeholders, including but not limited to victim groups, experts, UN agencies, local and international NGOs, civil society, and women's groups. These discussions should inform the design and development of the data collection methodology and tools.
- **Work thoughtfully with local researchers:** It is often beneficial to work with local researchers to implement consultations on the ground. There is tremendous value in the different perspectives and skill-sets that these different groups bring to the table. Indeed, much of the consultation work that will be conducted pursuant to this Protocol requires the input and participation of local researchers in some way. This collaboration can be a valuable opportunity for the mutual exchange of best practices. It can also allow consultations to be conducted in local languages and in a manner that is sensitive to local cultural practices, taboos, social norms, and community dynamics, among many other benefits. In some cases, victims and survivors may trust local researchers more than outsiders (although, as noted above, interviewers who are survivors themselves or who come from affected communities are at greater risk of retraumatization and survivors may be mistrustful of and retraumatized by interviewers who come from communities that are associated with perpetrators). In addition, different research teams may approach and organize their research differently, so collaborating may require the teams to shift some of their standards and expectations. Those conducting the consultation—whether they are local, national, or international—must be able to ensure confidentiality of responses and be trained to work in a trauma-informed, gender-sensitive, and culturally-appropriate manner.

¹³³ *Id.*; *Ensuring Accountability for ISIL's Crimes: The Vital Role of UNITAD and Future Perspectives*, FREE YEZIDI FOUNDATION (July 2024), <https://freeyezidi.org/news-updates/the-vital-role-of-unitad-and-future-perspectives/>

¹³⁴ Akhavan et al., *supra* note 28.

¹³⁵ Travers, *supra* note 132.

- **Conduct initial scoping interviews:** Baseline pre-consultation interviews (sometimes known as “key informant interviews” in the empirical research community) should occur before large scale consultations take place to help those conducting victim consultations to refine research questions; identify sensitive issues that may arise in the course of the consultation; brainstorm solutions to potential problems; and gain an understanding of the landscape of potential justice options, important violations that have occurred, and other nuanced information about affected communities. Those funding and overseeing consultations should consider budgeting for pre-consultation interviews as part of the overall process. Pre-consultation interviews (or key informant interviews) are in-depth qualitative interviews, typically focused on a loosely structured set of questions, with individuals who have detailed, firsthand knowledge of affected communities and are typically well-connected community members. They may themselves be survivors of violations and therefore the same principles of trauma-responsive interviewing and gender-inclusivity are critical. Those conducting such interviews should ensure to obtain a representative and diverse array of opinions when selecting who to interview. Relevant ethical guidelines should be followed and approval from an institutional review board is often necessary.

- **Conduct a desk review prior to starting consultations:** As discussed above under Principle 2, it is crucial to explore the existing research that has been conducted with the affected community on related topics such as justice, peace, and reconciliation, the dynamics of violence, and perceptions of humanitarian and community needs. Such a review, which may need to be conducted in multiple languages, can illuminate whether there is a gap in existing research that needs to be filled, which can help those conducting consultations to craft strong research questions on issues that haven’t been addressed to date. It can help with coordination amongst researchers to ensure that affected communities are not being overly taxed

by researchers, as mentioned above. A desk review can also help researchers refine the key variables to measure for validation and discussion.

Note: *There are several meta-reviews of previous empirical studies of transitional justice online that may be a useful starting point or model for those conducting consultations.¹³⁶ Increasingly sophisticated AI tools can also allow researchers to review large data sets and a wider range of sources, which can then be reviewed in detail.*

- **Perform a pre-test or pilot:** Pre-testing refers to a process whereby a complete draft of the questionnaire or survey instrument is used with a small group of people within the target community. The purpose of pre-testing is to ensure that the questions are being interpreted correctly, identify issues within the survey that need to be rectified, and review the order of questions to ensure they are not influencing respondents. In the context of victim and survivor consultations, the pre-test is also an important opportunity to check whether the survey is likely to be retraumatizing or triggering. After the pre-test, the survey instrument or questionnaire should be reviewed and revised accordingly.

- **Use a variety of research modalities:** A variety of research modalities may be useful including focus groups, key informant interviews, observations, surveys, and social network analysis among other methodologies. Modalities used and selected will depend heavily on context (e.g., telephone surveys will not work well in areas without cell coverage or limited cell phone use). More informal or participatory methods of data collection (e.g., listening circles, PhotoVoice), may also be appropriate and incredibly valuable. More information about specific methodologies and modalities for conducting both qualitative and quantitative consultations can be found in **Annex I**.

¹³⁶ See generally, Transitional Justice Evaluation Tools (n.d.) <https://transitionaljusticedata.org/en/> (last visited Aug. 31, 2025); Mara Revkin, Ala Alrababah and Rachel Myrick, *Evidence-Based Transitional Justice: Incorporating Public Opinion into the Field, with New Data from Iraq and Ukraine* 133(5) YALE LAW J. 1401.

“Surveys work well in certain contexts, but cannot be relied upon as a primary source. Doing the hard work of consultations (focus groups, interviews, etc.) will produce better results.”¹³⁷

Note: Consultations can be conducted via qualitative, quantitative, and mixed-methods research. **Qualitative** research typically involves interviews and focused groups and produces nuanced, detailed, and in-depth personal insights. **Quantitative** research typically involves surveys and generates statistics and percentages about a large number of people using a standardized set of predetermined questions with fairly simple answers that are then coded and analyzed. There are benefits and drawbacks to each approach, so a **mixed methods** approach that combines qualitative and quantitative elements is considered best practice if sufficient resources are available.

- **Secure appropriate ethical approvals:** Some countries and research institutions require any research involving human subjects to be approved by an ethical or institutional review board. The goal of this oversight is to protect the rights and welfare of all human subjects who participate in research studies. As part of this review and approval process, those conducting consultations should comply with relevant and applicable ethical guidelines for research involving human subjects. This may include the Belmont Report and other guidelines.¹³⁸ It may also be necessary to receive prior approval from relevant domestic authorities.
- **Identify the sampling methodology:** For large-scale consultations, it is generally necessary to take a “sample” from a broader population rather than surveying every individual within the target group. Those conducting victim and survivor consultations should ensure representative sampling considering age, gender, social-economic status, religion, ethnicity, and other distinct communities. This also needs to be considered when determining the

format of survey or consultation methodology to use; less privileged households or vulnerable groups (such as women and elderly persons) may not have access to a phone or internet. Sampling in particular parts of a city or community may privilege certain subpopulations, such as who is allowed to open the door and respond to guests.

Note: Sampling refers to the process of identifying a subset of participants from a larger population on which the research will be conducted. There are many ways to identify the individuals within the target sample but they broadly fall into two categories: probability and nonprobability sampling. **Probability sampling** uses random selection (e.g., random digit dialing in telephone surveys) to generate a sample in which each member of the overall population has an equal mathematical chance of being selected. **Nonprobability sampling** or **purposeful sampling** occurs when the members of the sample are selected for a specific purpose (e.g., victims of conflict-related sexual violence rather than victims of mass atrocities more generally). The drawback of nonprobability sampling is that conclusions cannot be drawn for the victim population writ-large.

- **Be aware of and mitigate against (unintended) bias:** It is important for those conducting consultations to examine their potential biases, no matter where they come from.
 - There may be an unintended bias towards people who speak English or are literate because international donors and CSOs often find it easier to engage with them. Including translation and interpretation for those who speak local language and dialects and using data gathering methodologies that do not require participants to read is important.
 - Another unintended bias that may emerge relates to the pre-existing notions of what those conducting consultations think victims and survivors should want. For example, some female victims and survivors may say they want to return to their homes and resume their domestic duties. It is not up to those conducting consultations to

¹³⁷ Telephone interview with anonymous survivor, (Oct. 10, 2023).

¹³⁸ *The Belmont Report*, U.S. DEPT HEALTH & HUM. SERVICES, (Apr. 18, 1979), <https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/read-the-belmont-report/index.html>.

decide whether this outcome is “meaningful” or to say whether they should want “more.” Those conducting consultations must remain faithful to the results of the consultation process even if it does not align with their expectations.

- Survey respondents may answer questions in a way that they believe will be seen in a favorable light by the researcher and others even when it does not accord with their genuinely held belief. This is widely known as “social desirability bias.” Research suggests that this is common in authoritarian and post-conflict settings where those responding to surveys may fear retaliation if they express their true beliefs. Researchers have suggested that research methodologies like **list experiments**, **endorsement experiments**, and **randomized-response techniques** (defined below) “can mitigate social-desirability bias in survey research by asking indirect questions, increasing the likelihood that respondents will answer honestly.”¹³⁹
- There may be a tendency to exclude victims and survivors who express divergent perspectives or ideas that are difficult to implement. This is deeply problematic and must be avoided. As noted above, it is also important to take steps to ensure that the consultation process does not raise unrealistic expectations about future potential justice mechanisms.

The following techniques are defined here to help those conducting consultations to evaluate when they may be appropriate or necessary; it is not intended to be an exhaustive or comprehensive guide. Additionally, as noted above under Principle 2 regarding the importance of adopting a participatory approach, victims and survivors should ideally identify the justice options that will be discussed and other relevant issues when using these methodologies; at the very least, they should be consulted.

A “**list experiment**” refers to a survey in which respondents are presented with a list of statements. A randomly assigned subset of respondents (the treatment group) receives one additional statement that reflects the primary research question. Respondents record the number of statements that they agree with. Researchers compare the average number of agreed statements across both groups to determine the proportion that agrees with the statement reflecting the primary research question.¹⁴⁰

“**Endorsement experiments**” aim to reveal respondents’ support for an actor of interest. They work by asking respondents about their support for a particular policy or policies. For some randomly selected respondents, the policy is endorsed by the actor of interest (e.g., The government proposes a new justice initiative, which is supported by the United Nations) while the other respondents simply see the policy without the endorsement (e.g., The government proposed a new justice initiative). Researchers then compare the outcomes across these two groups. It can be useful in authoritarian or transitional democracies, where open opinions may be risky or filtered.¹⁴¹

The “**randomized-response technique**” aims to encourage honest answers to sensitive questions, where there may be a tendency to mask genuine views. The respondent uses a randomization device (e.g., a dice or coin flip) and conceals the outcome from the researcher. The outcome determines whether the respondent must answer the question truthfully or if they can choose how they wish to respond. The researcher will not know whether the respondent answered the question truthfully in individual cases but over a large sample, researchers can use probability to estimate the true prevalence of each response.¹⁴²

- **Follow a consistent and systematic approach for data collection and analysis:** It is important to clarify the methodology that will be used to both

¹³⁹ Revkin et al., *supra* note 136 at 1618-19 (footnotes omitted).

¹⁴⁰ Graeme Blair, Alexander Coppock and Margaret Moor, *When to Worry About Sensitivity Bias: A Social Reference Theory and Evidence from 30 Years of List Experiments*, 114 AM. POL. SCI. REV. 1297, 1302 (2020), cited in Revkin et al., *supra* note 136 at 165.

¹⁴¹ Will Bullock, Kosuke Imai and Jacob N. Shapiro, *Statistical Analysis of Endorsement Experiments: Measuring Support for Militant Groups in Pakistan*, 19 POL. ANALYSIS 363, 363-64 (2011) Revkin et al., *supra* note 136 at 166.

¹⁴² Stanley L. Warner, *Randomized Response: A Survey Technique for Eliminating Evasive Answer Bias*, 60 J. AM. STAT. ASS’N 63, 63-64 (1965); and Graeme Blair, Kosuke Imai and Yang Yang Zhou, *Design and Analysis of the Randomized Response Technique*, 110J. AM. STAT. ASS’N 1304, 1304-05 (2015) cited in Revkin et al., *supra* note 136 at 167.

collect and analyse data. To take one example, data collection processes for focus group discussions may require note-takers to record “votes” on issues (e.g., by show of hands) rather than confining their notes to what participants articulate verbally. Moreover, participants’ intentions cannot be inferred if they decide to stay silent during focus group discussions.

Sequential mixed-methods consultations in Ethiopia

In 2023, HHI conducted a nationwide justice and peace perceptions survey in Ethiopia.¹⁴³ The research was undertaken with support from the Global Initiative for Justice, Truth and Reconciliation (GIJTR), the Transitional Justice Evaluation Team at Harvard, and other partners. The researchers adopted a sequential mixed methods (qualitative and quantitative) approach consisting of 20 key informant interviews, a population-based quantitative survey of approximately 6,600 adults, and four focus groups.¹⁴⁴ In order to ensure randomization and representativeness, the researchers used a stratified multistage cluster sampling process, meaning that they divided the population into distinct subgroups and then randomly sampled from each subgroup.¹⁴⁵ To conduct the survey, the researchers consulted with NGOs, government, and academic institutions before designing and developing a standardized, semi-structured questionnaire and consent form in multiple languages. The researchers used KoboToolbox (<https://www.kobotoolbox.org/>), a free and open-source digital data collection platform, to code and store the data.

Phenomenological approach in northern Uganda

A team of researchers from the University of Nottingham, Gulu Women Economic Development and Globalisation, and Tallawah Justice for Women conducted a mixed methods consultation with female survivors who were leaders in transitional justice in northern Uganda. The researchers used a phenomenological and feminist approach, which emphasized the survivors’ lived experiences and their thoughts about what happened, at the time the events occurred.¹⁴⁶ Complementing the phenomenological approach was a descriptive qualitative design and correlational research, which looked at other factors that impacted or limited the survivors. This approach challenged the assumptions of the researchers with the survivors’ actual experiences.¹⁴⁷ It was also useful in tracing how the women transitioned from identifying as victims to identifying as survivors, and how this process reflects changing circumstances.¹⁴⁸

- **Use appropriate software:** Digital data collection is an efficient way to collect viewpoints and experiences, and to scale these grounded experiences to the policy level. This allows researchers to put together a survey and implement it quickly in a way that could not be done so easily on paper. Those conducting consultations should research (and budget for) software for gathering, coding, securely storing, and analyzing data. Software like KoboToolbox, NVivo, and Qualtrics can help researchers to extract insights from large volumes of data tested by researchers, as mentioned above. A desk review can also help researchers refine the key variables to measure for validation and discussion.

Resources: Kobo Toolbox (<https://www.kobotoolbox.org/>) is a resource for data collection in challenging settings and is available free of charge to nonprofit

¹⁴³ Phuong N. Pham et al., *Ethiopia Peace and Justice Survey*, HARVARD HUMANITARIAN INITIATIVE. 2023.

¹⁴⁴ *Id.* at 13.

¹⁴⁵ *Id.*

¹⁴⁶ Telephone interview with anonymous practitioner, (Jul. 20, 2023).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

organizations. It allows researchers to collect data both offline and online on any device. It is a data collection, management, and visualization platform used globally to support open source data systems and technology for humanitarian action, development, environmental protection, peacebuilding, and human rights. It has options for enhanced security settings for data protection, which is an important consideration to protect survivors.

• Capitalize on social media and open source

data: Social media and open source data contain volumes of potentially relevant information for those interested in learning about the perspectives, needs, priorities, and expectations of affected communities. Where it is not possible to conduct surveys, interviews, focus groups, or other direct empirical research approaches, social media and open source data analysis may be an option. However, specialized data analysis methods may be necessary here, since perspectives can be artificially elevated or demoted. Verifying authenticity is also critical. Social media posts ought to be treated as distinct data sources from other sources like survey responses.

Note: *The Berkeley Protocol on Digital Open Source Investigations provides helpful guidance on gathering, analysing, and preserving digital information in a professional, legal, and ethical manner. Hum. Rts. Ctr., U.C. Berkeley Sch. of L. & OHCHR, Berkeley Protocol on Digital Open Source Investigations: A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law (2022), <https://www.ohchr.org/en/publications/policy-and-methodological-publications/berkeley-protocol-digital-open-source>. (last visited Apr. 24, 2025).*

• **Conduct analysis and reporting bias:** Those conducting surveys should use statistical analysis

and inference testing, and assess possible errors when analyzing and reporting on data gathered. Data limitations should be considered and reported. The primary objective and output will be the most rigorous possible understanding of preferences towards justice mechanisms, given the data collected. As part of the analysis and reporting phase, those conducting consultation should hold validation workshops with partners to discuss the preliminary survey results prior to writing up the final report.

(c) Educational and empowering

The consultation process should provide victims and survivors with the information they need to make informed decisions about their justice expectations and priorities. Victims, survivors, and affected communities may not be familiar with the full spectrum of transformational justice mechanisms that may be available, so it is important to provide this information as part of the consultation process. Moreover, those consulted may assume that if they make a relatively small ask, it is more likely to be implemented.¹⁴⁹ If they receive information about what is possible, they may be more forthcoming with their perspectives and priorities. Providing this educational benefit also mitigates the risk of consultations feeling extractive or burdensome and provides an important opportunity for empowerment.

Education as part of consultation in Sierra Leone

Sierra Leone's nine-year conflict began in 1991 when the Revolutionary United Front (RUF), a rebel group, took control of the eastern Sierra Leonean province of Kailahun.¹⁵⁰ The conflict was characterized by widespread atrocities committed against the civilian population.¹⁵¹ Conservative estimates of casualties indicate that 70,000 people were killed during the conflict.¹⁵² Roughly 2.6

¹⁴⁹ See: Arnstein, *supra* note 22 at 219.

¹⁵⁰ Simon Charters, Rebecca Horn, and Saleem Vahidy, *Best Practice Recommendations for the Protection & Support of Witnesses*, SPECIAL COURT FOR SIERRA LEONE, (2008), <https://www.rscsl.org/Documents/WVS%20Best%20Practices.pdf>.

¹⁵¹ Hum. Rts. Watch, *The Armed Conflict in Sierra Leone*, (Apr. 11, 2012), <https://www.hrw.org/news/2012/04/11/armed-conflict-sierra-leone>.

¹⁵² Mary Kaldor and James Vincent, *Evaluation of UNDP Assistance to Conflict-Affected Countries: Case Study: Sierra Leone* (UNDP, 2006), <http://web.undp.org/evaluation/documents/thematic/conflict/SierraLeone.pdf>.

million people, more than half of Sierra Leone's population, were displaced.¹⁵³ In 2002, the Sierra Leone government and the United Nations agreed to establish the Special Court for Sierra Leone (SCSL), a hybrid court established to prosecute international crimes in Freetown, where crimes had occurred. A year later, an Outreach Section was created in the Court's Registry, which had the ultimate goal of promoting public awareness about the Court and its mandate, creating dialogue between the people of Sierra Leone and the Court, and promoting human rights and protecting the rule of law.¹⁵⁴ The Outreach Section conducted town hall meetings, regular meetings with stakeholders such as civil society organizations, video screenings of excerpts of trials, radio programs about the Court, and public lectures, among other activities.¹⁵⁵ In the subsequent years, the Court made additional institutional and programmatic changes to Court's outreach work, reaching hundreds of communities, as well as vulnerable groups, including women, children, people with disabilities, and religious leaders.¹⁵⁶

• **Equip victims and survivors with knowledge and skills both as part of the consultation and eventual justice processes:**

Some justice mechanisms and processes require expert knowledge and technical skillsets that most people—including (but not limited to) victims and survivors—typically do not have. Prosecuting cases in a court of law is one clear example, where bar admission and years of legal training are a prerequisite, but the same applies to searching for missing persons, memorialization, and design,

delivery, and implementation of reparations programs, among other initiatives. Those conducting consultations should consider how they might provide victims and survivors with the skills and knowledge needed to participate actively in these future eventual processes. Building local knowledge amongst affected communities can make their engagement more meaningful and equip society to deal with similar situations that may arise in the future.

Victim and survivor participation in search efforts in Colombia

100,000 people have been reported as disappeared in Colombia's decades long armed conflict.¹⁵⁷ The Unit for the Search of the Disappeared has been conducting critical work as part of Colombia's broader transitional justice process to foster contact with victims and survivors. The Unit was initially created to provide relief for those searching for their disappeared relatives.¹⁵⁸ The Unit has affirmed that survivors may participate in search processes through several means, including being present in the creation of legislation, in decision-making institutions, and within individual search processes.¹⁵⁹ Participation in specific search procedures is often essential for survivors, as it reaffirms their agency and can be an intimate and restorative path to healing.¹⁶⁰ However, due to the highly specialized and costly nature of forensic anthropology, some challenges have arisen including knowledge gaps amongst victim and survivor communities, spaces that are not feasible for victims and survivors to participate in due to unforeseen costs, and others. Amidst this dynamic, an informal "community of practice" has emerged

¹⁵³ *Id.*

¹⁵⁴ Stuart Ford, *How Special Is the Special Court's Outreach Section?*, in *THE SIERRA LEONE SPECIAL COURT AND ITS LEGACY*, (Charles Chernor Jalloh ed., 2013), 506.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*, 507.

¹⁵⁷ *Acerca de la Unidad de Búsqueda*, UNIDAD DE BÚSQUEDA DE PERSONAS DESAPARECIDAS (n.d.), <https://unidadbusqueda.gov.co/acerca-ubpd> (last visited Aug. 31, 2025).

¹⁵⁸ Luz Marina Monzón Cifuentes and Simon Pierre Boulanger Martel, *La Búsqueda de los desaparecidos y la Construcción de Paz en Colombia*, *REVUE QUÉBÉCOISE DE DROIT INTERNATIONAL* 41, 47 (2022).

¹⁵⁹ *La participación de las familias de personas desaparecidas para garantizar avances: Recomendaciones para fortalecer los esfuerzos de las instituciones colombianas*, INT'L COMM. MISSING PERSONS 6 (n.d.) <https://www.icmp.int/wp-content/uploads/2021/09/icmp-gr-col-099-1-spa-doc-participation-of-colombian-families-of-the-missing-as-key-to-progress.pdf>.

¹⁶⁰ Briony Jones et al., *Hiding in plain sight: Victim participation in the search for disappeared persons, a contribution to (procedural) justice*, 17 INT'L J. TRANSITIONAL JUSTICE 233, 238 (2023).

among families searching for missing persons, with specific technical knowledge and procedures.¹⁶¹

- **Ask victims and survivors what they need to feel repaired:** Key justice terms such as “justice,” “amnesty,” “reconciliation,” “reparations,” “truth commissions,” “memorialization,” and “prosecution,” among other terms, may be difficult to translate into local languages. Moreover, justice and accountability may be a cultural taboo in some contexts, especially if there is an expectation that the victim forgive the perpetrator. Creating safe spaces for victims and survivors to share in their own words the measures that they would need for healing, repair, and redress through a process of “deliberative politics” and “communicative action” can overcome these challenges.¹⁶²

Note: In local languages the term “**justice**” may have certain connotations, such as the idea of courts deciding on guilt and innocence. Alternative words or phrases may need to be considered such as “**repairing the wrong**” and/or “**revealing the truth**.” Another term that can be difficult to translate is “**healing**,” which may only refer to physical health or emotional health. A term or phrase that encompasses both physical and emotional healing may be preferable. Where difficulties like these arise, it can be helpful to contextualize these concepts in relation to similar initiatives that have taken place in the past—especially when such initiatives were locally grounded and community-led.

Note: “**Deliberative politics**” and “**communicative action**” are socio-political concepts developed by German philosopher, Jurgen Habermas, that focus on collective decision-making processes in democratic societies. They focus on decision-making processes that are based on substantiated arguments, open debate, and reasoned discussion among free and equal citizens, rather than coercion, manipulation, or deception.¹⁶³

- **Provide ideas and information rather than a menu of options:** In keeping with the notion that it is important to allow victims and survivors to express what justice and healing means to them in their own words, providing specific options too soon may predispose certain responses or create the impression that there is a pre-existing “menu” from which victims and survivors must choose. Instead, after listening to victims and survivors define justice in their own terms and providing educational outreach, those conducting consultations may share additional ideas and suggestions of what can feasibly be done to achieve these goals in ways that align with or inform victims’ and survivors’ own evolving perceptions of justice.

- **Use educational guides:** Educational guides (including videos and written materials as appropriate and feasible based on literacy and availability of technology) about what comprehensive justice means and how it can be achieved should be translated and disseminated in local languages.

Note: The first two chapters of “*Pursuing Justice for Mass Atrocities: A Handbook for Victim Groups*”, explain holistic justice and legal tools for pursuing accountability in plain and accessible language for victim groups. The Handbook has been translated into French, Arabic, Russian, and Ukrainian. The U.S. Holocaust Memorial Museum also produced a video in English to accompany the release of the Handbook. The video contains much of the advice covered in the Handbook and offers an overview of transitional justice mechanisms. There are multiple other helpful resources such as a video series published by Asia Justice and Rights on transitional justice in Asia and a short video on transitional justice in Syria published by the Institute for War and Peace Reporting.

Sarah McIntosh, *Pursuing Justice for Mass Atrocities: A Handbook for Victim Groups* (U.S. Holocaust Memorial Museum 2021), <https://www.ushmm.org/>

¹⁶¹ Natalia Bermúdez Qvortrup, *Finding ways of searching for the disappeared: The information practices of the families in Colombia*, 78 JOURNAL OF DOCUMENTATION 1371, 1383 (2022).

¹⁶² Laplante, *supra* note 63 at 557.

¹⁶³ JURGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION, VOLUME 1: REASON AND THE RATIONALIZATION OF SOCIETY (T. McCarthy trans., Beacon Press, 1984); JURGEN HABERMAS, BETWEEN FACTS AND NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY, (W. Rehg trans., MIT Press, 1996).

[genocide-prevention/reports-and-resources/pursuing-justice-for-mass-atrocities.](#)

U.S. Holocaust Memorial Museum, *Instructional Video: Pursuing Justice for Mass Atrocities*, (YouTube, June 8, 2023) <https://www.youtube.com/watch?v=DB5ijOBaPMo>.

Asia Justice and Rights, *Transitional Justice in Asia Video Series - #1 - Overview* (YouTube, Jun. 12, 2018), <http://www.youtube.com/watch?v=5nVX6BumDrA>.

Institute for War & Peace Reporting, *Syria: What is Transitional Justice* (YouTube, Oct. 9, 2013), <http://www.youtube.com/watch?v=4N6tJpsX7z0>.

Educational material on transitional justice for Ethiopia

As part of a UN-led consultation process on establishing transitional justice measures in Ethiopia, the Office for the High Commissioner for Human Rights' (OHCHR) East Africa Regional Office supported a local civil society organization in Ethiopia to produce an educational video called "[A New Beginning](#)."¹⁶⁴ The thirty minute video provides an overview of transitional justice mechanisms and is told from the perspective of victims and survivors of mass atrocities, particularly focusing on the narrative of one survivor called Eskedar who witnessed atrocities at the school where she is a teacher. The video, which does not refer to specific locations or communities and is recorded in Amharic with English subtitles, is a guide for Ethiopians grappling with mass atrocities.

• Partner with appropriate organizations:

Those conducting consultations may consider partnering with local community-based organizations to conduct education and outreach activities to sensitize those consulted to the goals of comprehensive justice and announce opportunities for consultation. Such groups and local civil society organizations may also be able to help define and translate justice concepts into local languages.

• Use social media and radio programming:

Social media platforms like Facebook, WhatsApp, and Signal are important and valuable vehicles for public awareness and educational campaigns. Radio programming can also be an incredibly effective tool for accessing hard-to-reach populations and communities and individuals that have not had access to opportunities to gain literacy.

"Peace radio" in northern Uganda

The decades-long civil war that began in the 1980s primarily between the Ugandan government forces and the Lord's Resistance Army (LRA) (as well as other rebel groups) left Ugandan society deeply divided and traumatized. Ethnic minorities, such as the Acholi people, were targeted; thousands of civilians were killed and displaced; and sexual violence, torture, and mutilation were commonplace.¹⁶⁵ The conflict was characterized by the abduction of children and their subsequent recruitment as child soldiers or use as sex slaves;¹⁶⁶ some reports state that the LRA abducted tens of thousands of children.¹⁶⁷ As efforts began to promote social cohesion, healing, and repair, and to encourage child soldiers to return to their communities, local and community-based organizations started conducting "peace radio" programs, sometimes with the support of

¹⁶⁴ Telephone interview with anonymous practitioner, (Apr. 2, 2025). See: U.N. OFFICE FOR THE HIGH COMMISSIONER FOR HUMAN RIGHTS: EAST AFRICA REGIONAL OFFICE, *Transitional Justice Educational Video "A New Beginning"*, (YouTube, Sept. 8, 2023) <https://youtu.be/Hqs3U4Ri3Mg>.

¹⁶⁵ Hum. Rts. Watch, *Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda* (Sept. 20, 2005), <https://www.hrw.org/report/2005/09/20/uprooted-and-forgotten/impunity-and-human-rights-abuses-northern-uganda>.

¹⁶⁶ Becker, Jo and Tony Tate, *Stolen Children: Abduction and Recruitment in Northern Uganda*, HUM. RTS. WATCH (Mar. 28, 2003), <http://www.hrw.org/en/reports/2003/03/28/stolen-children-0>.

¹⁶⁷ *The Challenge*, INVISIBLE CHILDREN, <https://invisiblechildren.com/challenge/> (last visited Aug. 27, 2025).

international NGOs.¹⁶⁸ For example, radio presenter John Oryema Lacambel hosted a weekly segment called *Dwog Cen Paco*—which means “come back home” in the Acholi language.¹⁶⁹ The segment featured stories of child soldiers and their families, from captivity to their return home¹⁷⁰ as well as rebels who had demobilized.¹⁷¹ Child soldiers and LRA fighters could listen to the programming from the bush because the airwaves were strong enough to reach them.¹⁷² The program provided information about amnesties and post-conflict development in an effort to encourage their return home.¹⁷³

Use of cartoons in Liberia

Liberia’s two civil wars (which occurred from 1989 to 1997, and from 1999 to 2003) generated hundreds of thousands of victims and survivors. Civilians were massacred, ethnic minorities were persecuted, millions of people were displaced, parties to the conflict recruited and used child soldiers, and sexual violence was rife.¹⁷⁴ As the country slowly emerged from these periods of acute conflict, impunity has continued with few perpetrators ever being brought to justice. Nevertheless, local and international civil society organizations, like the Global Justice and Research Project (GJRP), a victim-centered justice organization, and Civitas Maxima, an international law firm, have continued to press for justice, including through numerous cases brought in third countries under the principle of universal jurisdiction.¹⁷⁵ As part of an effort to

communicate about ongoing justice initiatives happening outside of Liberia, GJPR and Civitas Maxima, together with Swiss-Congolese artist JP Kalonji, published an online cartoon series called *Musu’s Diary*. The cartoon tells a firsthand account of a young girl’s quest for justice abroad and aims to encourage Liberians to voice their own desire to receive justice.¹⁷⁶

• Continue outreach, engagement, and consultations after justice mechanisms are adopted:

Education, outreach, and consultation should continue after justice mechanisms are adopted. At a basic level, this can help ensure that victims and survivors have the information they need about the scope and mandate of the mechanisms that are adopted. On a deeper level, it can create a much more inclusive and collaborative space to allow systems and processes to evolve as victims’ and survivors’ perspectives and priorities change over time.

Lack of ongoing education resulting in frustration in Nepal

Nepal’s internal armed conflict lasted for a decade until 2006, resulting in over 13,000 deaths and numerous human rights violations, including torture, enforced disappearances, property confiscation, and sexual assault.¹⁷⁷ As part of a long-term effort to address past violations, the

¹⁶⁸ See generally: *Uganda: Facing Justice*, IWPR, <https://iwpr.net/projects/focus/uganda-facing-justice#:~:text=Facing%20Justice%20%2D%20Uganda%20is%20a,Richard%20Ekotu%20and%20James%20Tweny> (last visited Aug. 27, 2025).

¹⁶⁹ See: *Dwog Cen Paco (Come Back Home): The Radio Program That Could Have Influenced Dominic Ongwen’s Surrender*, INT’L JUSTICE MONITOR, (modified Apr. 20, 2018), <https://www.ijmonitor.org/2018/04/dwog-cen-paco-come-back-home-the-radio-program-that-could-have-influenced-dominic-ongwens-surrender/>

¹⁷⁰ Patrick William Otim, *An Interactive Media: Reflections on Mega FM and Its Peacebuilding Role in Uganda*, BEYOND INTRACTABILITY, (Mar. 2009), <https://www.beyondintractability.org/casestudy/otim-interactive>.

¹⁷¹ Scott Ross, *Encouraging Rebel Demobilization by Radio in Uganda and the D.R. Congo: The Case of “Come Home” Messaging*, 59(1) AFRICAN STUDIES REVIEW 33, (2016).

¹⁷² *Id.*

¹⁷³ International Justice Monitor, *supra* note 169; Ross, *supra* note 171.

¹⁷⁴ *Liberia*, CENTER FOR JUSTICE AND ACCOUNTABILITY, <https://cja.org/where-we-work/liberia/> (Last accessed Aug. 27, 2025).

¹⁷⁵ *Who We Are*, GLOBAL JUSTICE AND RESEARCH PROJECT, <https://www.globaljustice-research.org/> (last visited Aug. 31, 2025); *Our Work*, CIVITAS MAXIMA, <https://civitas-maxima.org/> (last visited Aug. 31, 2025).

¹⁷⁶ *Musu’s Diary*, CIVITAS MAXIMA, <https://civitas-maxima.org/musus-diary/> (last visited Aug. 31, 2025).

¹⁷⁷ Selim, *supra* note 23 at 1131; *From Relief to Reparations: Listening to the Voices of Victims*, INT’L CENTER FOR TRANSITIONAL JUSTICE 4 (2011), <https://www.ictj.org/publication/relief-reparations-listening-voices-victims>.

government adopted an Interim Relief Program (IRP) for family members of people who were killed or disappeared but not victims of rape and other crimes of sexual violence. It adopted this program without conducting consultations during its inception and rollout.¹⁷⁸ In an attempt to ascertain victim experiences with the IRP, the International Center for Transitional Justice (ICTJ) filled an important gap by conducting interviews, focus group discussions, and workshops with victims and various state and non-state entities from September 2010 to February 2011.¹⁷⁹ The ICTJ found that victims generally welcomed monetary relief under the IRP; however, “fundamental issues of restitution [and] rehabilitation” seemed to be missing from the government’s approach to the program. Consequently, victims’ expectations of the scope of the IRP resulted in frustration when other types of desired relief remained elusive.¹⁸⁰ The ICTJ’s consultations revealed the impact of the socio-political legacy of the civil war in TJ efforts, the lack of education concerning what the IRP is and how it can be accessed, and the nuanced differences between the relief that the government was willing to give and the relief that victims actually required.¹⁸¹

discussed above); and in some case to withdraw or restrict how the information they have shared may be used. Those conducting consultations should communicate these rights to victims and survivors and also respect these rights in relation to the information shared in the consultation itself.

(d) Comprehensive and transformational

Consultation processes should strive to unearth comprehensive and transformational forms and modalities of justice for affected communities and society writ-large. Since Nuremberg, criminal accountability has been seen as the primary tool for achieving justice for mass atrocities. However, this is overly narrow and prescriptive and does not allow space for the full extent of what victims may need or want in the aftermath of widespread violations. Nor does it adequately account for the full spectrum of societal change that must occur to create the conditions for meaningful transformation from violence, oppression, marginalization, and inequality, to peace, reconciliation, healing, and equality. Instead, consultations should recognize victims and survivors’ more expansive needs and priorities for justice processes.

- **Respect victims’ and survivors’ rights to access and the use of information:** Victims have rights to the information they share as part of justice processes. Historically, criminal accountability processes have often prevented affected communities from publicly sharing the testimonies they have provided to prosecutors while lengthy trials unfold. Victims and survivors have the right to access the information they have shared (such as through written statements and interview transcripts); to know how the information they have provided is being used and shared with third parties; to data protection and informed consent (as

“[...] [I]t depends on which harm you’re asking about—if you ask ‘what do you need?’ as an open-ended question, victims might think immediately of resources. If consultants ask something more specific, like ‘what do you need to heal?’ the answers might be different.”¹⁸²

¹⁷⁸ See generally: International Organization for Migration and U.N. Office for the High Commission for Hum. Rts., *Report on Mapping Exercise and Preliminary Gap Analysis of the Interim Relief and Rehabilitation Programme: Interim Relief and Rehabilitation to the Victims of Nepal’s Armed Conflict* (Dec. 2010), https://www.iom.int/sites/g/files/tmzbd1486/files/migrated_files/What-We-Do/docs/Mapping-Exercise-of-Interim-Relief-and-Rehabilitation-to-the-Victims-of-Nepals-Armed-Conflict.pdf (last visited Apr. 25, 2025).

¹⁷⁹ International Center for Transitional Justice, *supra* note 177 at 4.

¹⁸⁰ *Id.*, at 18.

¹⁸¹ *Id.*, at 23.

¹⁸² Telephone interview with anonymous practitioner, (Nov. 20, 2023).

- **Include a holistic, multifaceted, and comprehensive range of formal and informal transformational justice options:** This can include memorialization, searching for missing persons, reconciliation initiatives, institutional reform, vetting and lustration, security sector reform, truth-telling mechanisms, trauma care and healing, housing and property rights, and healthcare. A more comprehensive range of options will help address historical and structural injustices against victims and survivors, which in turn is an important way to prevent cycles of violence from recurring.

Desire for citizenship and other rights as a justice modality among Rohingya victims

In 2022, a team of international researchers and justice advocates conducted an empirical study of 444 Rohingya refugees into their justice perceptions and priorities. Several dozen “Rohingya community-based researchers”¹⁸³ conducted the interviews and data-collection together with the international researchers. The survey results revealed that punishment of perpetrators at the ICC and state responsibility mechanisms at the International Court of Justice, which are lengthy and far away processes that are unlikely to respond to victims’ and survivors’ immediate needs (even through a reparations order), were not as important to Rohingya refugees as was securing citizenship and other rights and protections.¹⁸⁴ The researchers noted that it is critical that decision-makers and policy-makers listen to victims’ and survivors’ voices when determining the elements of a future justice and accountability process before narrowly defining justice as criminal punishment.¹⁸⁵

- **Avoid ready-made approaches and create a safe space for victims and survivors to articulate their own goals:** One of the values of victim and survivor consultation is that it can help decision-makers avoid approaches that conform to pre-existing models of transitional justice and accountability. A consultation process can help avoid the pitfalls of only pursuing justice outcomes and processes that “should be” followed or which have been traditionally prioritized such as criminal accountability. When conducting consultations, specific outcomes discussed must be tailored to the context and be informed by victims’ and survivors’ stated justice interests.

Holistic justice for affected communities in Australia

In Australia, in response to serious historical violations committed against indigenous children at the Parramatta Girls Home, several justice initiatives were established through what Anna Reading describes as a “restitutional assemblage.”¹⁸⁶ This comprised “activities in six categories: economic (**return of property, artifact repatriation**), judicial (**coroner’s inquests, survivor testimonials**), political (**official government and church apologies**), symbolic (**monuments, restoration of indigenous languages, public dramatizations of victim experiences**), spiritual (**ceremonies of commemoration**) and affective (**individual and group therapy, money compensation and everyday support to victims**).”¹⁸⁷

¹⁸³ Payam Akhavan, Rebecca J. Hamilton and Antonia Mulvey, “What Kind of Court Is This?” *Perceptions of International Justice Among Rohingya Refugees* 46(2) HUM. RTS. QUARTERLY 173, 188 (2024).

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ Anna Reading, *The Restitutional Assemblage: The Art of Transformative Justice at Parramatta Girls Home, Australia*, in Gready and Robins, *supra* note 10 (emphasis added).

¹⁸⁷ *Id.*

Yazidi Genocide Memorial

In October 2023, Nadia's Initiative—a survivor-led civil society organization dedicated to rebuilding communities in crisis and advocating for survivors of sexual violence founded by Nobel Peace Prize Laureate Nadia Murad—inaugurated the Yazidi Genocide Memorial outside Sinjar City in northern Iraq.¹⁸⁸ Nadia's Initiative established the memorial in collaboration with the International Organization for Migration (IOM) and with funding from the US Agency for International Development (USAID). The memorial commemorates the lives of those who died during the Yazidi genocide and honors the strength of those who survived. According to Nadia's Initiative, it is a “place of remembrance and healing for those families who were never reunited with their loved ones.”¹⁸⁹ To develop the memorial, survivors and families of victims were consulted, with Nadia's Initiative hosting over a dozen focus groups and community consultations with groups ranging from five to 30.

issues related to poverty and conflict may also be deeply important to victims and survivors. Indeed, these pressing survival needs may mean that victims and survivors deprioritize longer-term justice in consultation processes and may render their participation ineffective and retraumatizing. States have an obligation to provide effective remedies, including reparation¹⁹⁰ (which aim at addressing the ongoing consequences of violations and violence), in addition to a distinct human rights obligation to provide basic services for the population, including those living in marginalized and destroyed communities.¹⁹¹ Consultations should cover these issues and policy-makers should plan to address these concerns in policies that are adopted.

- **Include traditional, customary, indigenous, and local justice practices, where appropriate:** Those conducting consultations should not limit their inquiries to formal, state-based justice mechanisms but should also consider other justice mechanisms that victim communities use. These may include practices to commemorate, mourn, and bury the dead, address misconduct and violations, and resolve conflict, among many other goals. However, those conducting consultations should be aware that these processes can be highly patriarchal and dominated by elder males, often excluding women and other underrepresented minorities. Due process concerns and other human rights violations may also arise.¹⁹²
- **Consider and incorporate harm to the (non-human) environment:** There is increasing recognition that armed conflict and atrocities have profound negative impacts on the natural environment, including soil and water contamination, loss of ecologies and biodiversity, exploitation of natural resources, destruction of agricultural and agrarian land, and release of pollutants into the atmosphere, among many other harms.¹⁹³ In protracted conflicts and atrocities, longer-term environmental harms can flow from the

- **Acknowledge the need for other forms of transformation beyond traditional conceptions of justice:** Victims and survivors of atrocities usually have many needs that extend beyond traditional conceptions of the four pillars of transitional justice. For example, they often have healthcare, humanitarian, and community and social reconnection needs that may overlap with but be distinct from what is typically included in a reparations regime. In addition, historical structures of inequality, violence, and oppression may need to be transformed in ways that prosecutions, truth-telling mechanisms, reparations, and guarantees of non-recurrence may not be able to achieve alone. Health, mental health, and humanitarian needs are often viewed from a Western individual perspective but in many contexts, re-establishing social wellbeing is a foundational need for much other healing and justice work to be done. Socio-economic

¹⁸⁸ Nadia's Initiative, *Yazidi Genocide Memorial* (n.d.), <https://www.nadiasinitiative.org/memorial> (last visited Apr. 28, 2025)

¹⁸⁹ *Id.*

¹⁹⁰ G.A. Res. 60/147 (Mar. 21, 2006).

¹⁹¹ Art. 25, G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

¹⁹² Revkin et. al., *supra* note 136 1607-08.

¹⁹³ ELIANA CUSATO, *THE ECOLOGY OF WAR AND PEACE* (Cambridge U.P., 2019).

collapse of infrastructure and government.¹⁹⁴ From an atrocity prevention perspective, such harms can cause or exacerbate cycles of conflict, especially when there is uneven or scarce access to land and environmental resources; lead to displacement, disease, and famine; and complicate or impede peace-building efforts through poor resource management.¹⁹⁵ Some communities—including (but not limited to) indigenous groups—may also vest special importance in the environment with its own inherent value that transcends a purely extractive or hierarchical perspective that gives preference to humans.¹⁹⁶ This ecocentric perspective recognizes the interdependence of humans and their natural world as well as the cultural and spiritual significance of the natural environment. The fields of transitional justice and international humanitarian law are increasingly recognizing the impact of conflict and atrocities on the environment, with the Office of the Prosecutor at ICC recently releasing a draft policy on the effective investigation and prosecution of crimes against the environment.¹⁹⁷ Those conducting consultations should consider the impact of conflict and atrocities on the natural environment and design policy options—from reparations projects to prosecutions—that respond to such harms.

Recognition of the environment as victim in response to Colombia's armed conflict

The human toll of Colombia's decades-long internal armed conflict has been devastating; so too has been the impact on the environment, with an estimated destruction of over one million hectares of forest, depletion of natural resources, and targeting of animals, among many other harms.¹⁹⁸ In a series of landmark decisions, Colombia's JEP

has afforded victim status to specific territories of significance to indigenous peoples and Afro-descendant communities.¹⁹⁹ This development was a direct response to advocacy on behalf of the natural environment by these communities. As researchers Killean and Newton point out, this highlights the potential for traditional notions of justice and accountability to evolve when historically marginalized communities are consulted.²⁰⁰

Principle 4: Accountable

At its best, a consultation is a form of meaningful dialogue between victims, survivors, and affected communities and policy-makers, decision-makers, and other officials; civil society and NGOs; funders, or other stakeholders. To be a genuine dialogue process, it is critical to promote transparency, openness, and visibility of the consultation process (i.e., how the consultation is designed) and its outcomes as much as possible. Moreover, those conducting consultations should ensure that subsequent decisions, activities, and processes are actually informed and shaped by the outcome of the consultations.

(a) Transparent and visible

All too often, consultations occur behind closed doors and on an ad hoc, informal basis. Findings of consultation processes are often not made public and are only referenced obliquely in official reports. A public outreach campaign should accompany the consultation process so that victims and survivors—and the broader society—know that consultations are taking place. Where possible, those conducting consultations should be open and transparent about their methodology, be clear about the limitations

¹⁹⁴ *Guidelines on the Protection of the Natural Environment in Armed Conflict*, ICRC (n.d.) https://www.icrc.org/sites/default/files/document_new/file_list/guidelines_on_the_protection_of_the_natural_environment_in_armed_conflict_advance-copy.pdf, (last visited Aug. 31, 2025), para. 3.

¹⁹⁵ Cusato, *supra* note 193.

¹⁹⁶ Rachel Killean and Elizabeth Newton, *Transitional justice and other-than-human harm: lessons from Colombia*, INT'L. J. HUM. RTS 1 (2025).

¹⁹⁷ Office of the Prosecutor (International Criminal Court), *Draft policy on environmental crimes under the Rome Statute* (Dec. 18, 2024) <https://www.icc-cpi.int/sites/default/files/2024-12/2024-12-18-OTP-Policy-Environmental-Crime.pdf>.

¹⁹⁸ Killean and Newton, *supra* note 196.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

of what can be achieved through the consultation process, and share the results publicly. The security context may mean that it is not always feasible or beneficial to make consultation processes fully public, although this should be a rare exception.

- **Recognize victims' and survivors' rights to information shared:** As noted above, victims and survivors have the right to access information they have shared as part of the consultation process; to be informed about how the information they provided will be used and with whom it will be shared (prospectively) as well as generally how the information they shared influenced justice outcomes;²⁰¹ the right to protection of the information they have shared in accordance with informed consent; and the right to withdraw their consent to the use of the information they provide. The information that victims and survivors share as part of the consultation process should not be viewed as the exclusive property of those conducting the consultations.

- **Publicize the consultation process itself:** Where safety and security allows, those conducting consultations should ensure that the public knows that a consultation process is occurring. Not only will this ensure transparency and visibility of the consultation process, but it may also increase trust and participation in the consultation process itself. Those conducting consultations may use social media, billboards, radio programs, and other media to highlight that the consultation is occurring.

- **Make methodologies and findings public:** It is critical to make the methodologies and findings of consultations that occur public, insofar as this is possible while maintaining the security of affected communities. This increases the legitimacy and effectiveness of comprehensive justice policies. Failing to publicize or share the results with participants can make the process extractive and retraumatizing. Public reports about consultations should explain what prompted the research and

the focus of the study, highlight what existing literature and research already reveals about the issue or problem set, what methodologies were used, discuss the backgrounds of participants (to the extent possible while protecting their security), share any obstacles or challenges encountered and what was done to respond to them, detail the main findings and minor findings of the research, share any conclusions or recommendations, and identify areas for further research.²⁰²

- **Recognize at the outset that data may be sensitive:** Be clear-eyed at the outset that the findings of the consultation process may be controversial, politically sensitive, and even unfavorable to the body conducting the consultation. This does not mean that decision-makers should shy away from conducting consultations. For the reasons identified in this Protocol, consultations are a critical and valuable part of the decision-making process. Instead, it is important to consider potential sensitivities at the outset and think through questions carefully before implementing the consultation process. It is also important to be clear and transparent with participants and would-be participants about how data will be handled and protected, who will keep it, who will have access to it, and whether it will be de-identified. This is an important component to building victims' and survivors' trust and confidence in the body conducting consultations.

Politically sensitive recommendations in Ethiopia

In 2022 and 2023, the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) conducted 15 consultations on transitional justice in various regions throughout Ethiopia including Afar, Amhara, Harari, Oromia, Somali, and Tigray regions, and in Dire Dawa city administration. 805 victims and affected communities were

²⁰¹ Note: The policy-making process may involve confidential decisions and it may not always be possible to disclose the full details regarding how a decision was reached.

²⁰² DAVID A. YEBOAH, RESEARCH METHODOLOGIES IN CRIMINOLOGY 31 (Nova Sci. Publ'g, Inc. 2009).

consulted.²⁰³ The consultations focused on justice, truthseeking, reparations, and guarantees of nonrecurrence following Ethiopia's legacy of human rights violations and abuses, injustices, and grievances.²⁰⁴ The methodology included focus group discussions, plenary sessions, and interviews, with separate focus groups for women to ensure safe participation—a trauma-informed practice emphasizing “safety and empowerment.”²⁰⁵ Participants stressed the need for independent accountability mechanisms and reparations for looted property.²⁰⁶ Distrust in state institutions led victims in several regions to advocate for internationally-led accountability mechanisms or the establishment of new credible national institutions, the latter option being reflected in the Transitional Justice policy adopted in April 2024.²⁰⁷

• **Publish reports in a format that is accessible to the communities that contributed to them:**

The consultation body should release a video/audio summary report that is accessible on social media or public radio as well as written versions in publicly accessible media. Written reports should be in a language that does not require an education level above that of the majority community and that does not exclude individuals who may not have equitable access to education. It may be also necessary to consider translation to educational settings for children and minors in contexts where children were impacted (e.g., child soldiers, children of targeted communities).

Note: Some donors require research findings to be made public. For example, the US government requires that all federally-funded research be made accessible to the American public.²⁰⁸

Note: Some communities around the world may not put much trust in data and statistics, especially when there is a history of repression and misinformation in that country. Provided that there are no ethical issues (such as confidentiality, data security, and informed consent), one option can be to create a de-identified database of recommendations shared by victims and survivors as a research output for affected communities.²⁰⁹

• **Be transparent about the limitations of what can be achieved:** As noted under Principle 1 above, it is critical that those conducting consultations be clear about the limitations of what can be achieved through the consultation process. While the outcome of consultations with victims and survivors should inform and help shape concrete policy outcomes, significant time may pass before victims and survivors see a change in their communities and there will likely be roadblocks to the changes they desire. Be upfront about these limitations when conducting consultations. This can enable the justice process itself to be healing.

“We are quite blunt. We tell them clearly that your situation will not change overnight—all we can promise is that we will do our best to make your story heard in a way that protects your anonymity.”²¹⁰

²⁰³ U.N. Office for the High Comm. for Hum. Rts. and Ethiopian Hum. Rts. Comm., *Report on Community Consultations regarding Transitional Justice and Accountability in Ethiopia* (Dec. 28, 2023), <https://www.ecoi.net/en/file/local/2114958/OHCHR-EHRC-Report-TJ-28-12-23.pdf>.

²⁰⁴ *Id.*, at 13.

²⁰⁵ *Id.*, at 16.

²⁰⁶ *Id.*, at 31–39.

²⁰⁷ *Id.*, at 34.

²⁰⁸ Off. of Sci. & Tech. Pol’y, *Ensuring Free, Immediate, and Equitable Access to Federally Funded Research* (Aug. 25, 2022), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf>.

²⁰⁹ Telephone interview with anonymous survivor, (Oct. 10, 2023).

²¹⁰ Telephone interview with anonymous survivor, (Nov. 20, 2023).

Journalists building victims' expectations in northern Iraq

A 2018 study of 26 Yazidi female survivors of the ISIS genocide about their experiences speaking with the media revealed that in 85% of cases, the survivors had been exposed to unethical journalistic practices. Among these experiences, journalists made empty promises of various kinds of assistance, such as financial and psychological support, to survivors in exchange for their stories. Moreover, 60% of survivors interviewed reflected that despite significant media attention on the crisis, the global response was inadequate.²¹¹

(b) Effective, meaningful, and incorporated into decision-making

The consultation process should not be a mere “box-ticking exercise” or co-opted to retroactively legitimize decisions, rather it should meaningfully inform decision-making and policy-making. Failing to do so risks causing retraumatization and frustration among victim and survivor communities, which will undermine the effectiveness of the policy decisions made. Policy-makers and decision-makers embarking on a consultation process should see it as an opportunity for reciprocal learning and establish a mechanism for translating the findings of the consultation into decision-making. Programs, processes, policies, and laws ultimately adopted should be infused with the perspectives and opinions of those affected.

- **Treat consultation as a dialogue:** Consultation should be a two-way conversation. **Participants deserve to know how their voices will be or have been used and to have a mechanism to voice concern if the consultation process is not meeting their needs or causing further harm.**

A clear process for victims and survivors to share feedback and raise concerns builds trust, serves to educate those working on justice initiatives, and ensures the process remains accountable and adaptable throughout.

- **Map out the limits of the operative legal framework prior to consultations:** Legislative and constitutional provisions and prior judicial decisions in the relevant context may impact who can make which decisions, the processes that they must follow in order to make those decisions, the avenues that affected communities have to appeal those decisions, and the characteristics of future justice processes that may eventually be adopted. It is critical that those conducting consultations understand the potential limitations and requirements of the operative legal framework.

In some cases, it may even be possible to amend or alter problematic dimensions of this framework, which can be part of a comprehensive victim-centered justice advocacy strategy.

- **Incorporate consultations (and ideally victims' associations) into decisionmaking processes:** Those conducting consultations must consider and plan for how they will ensure that the results of the consultation are incorporated into relevant local, national, regional, or international policy-making processes and not overlooked or ignored. This makes it critical for those conducting consultations to have a robust and comprehensive plan for briefing and influencing relevant stakeholders and key policymakers. Where possible, consultations should be a formal part of any decision-making process affecting victims and survivors as a necessary step. Peace agreements and other documents that mandate the establishment of justice mechanisms should include provisions about conducting consultations as part of the design and implementation process. Ideally, decision-makers should also incorporate an official role for victims' and survivors' groups, associations, and coalitions in formal processes.

Consultations overlooked in Sinjar

In Sinjar in northern Iraq in the aftermath of the ISIS genocide, local authorities began exhumations to uncover mass graves, but consultation of

²¹¹ Johanna E. Foster and Sherizaan Minwalla. *Voices of Yazidi women: Perceptions of journalistic practices in the reporting on ISIS sexual violence* 67 *Women's Studies International Forum* 53 (2018).

affected communities did not occur.²¹² The Iraqi team in charge of exhumation are all Shia Muslims so they follow their own religious holidays, rather than Yazidi holidays. They conducted exhumations over the Yazidi new year and survivors had to choose between going to Lalish and going to the exhumations. There are now concerns that going forward, these communities will always associate the new year with exhumations.²¹³

Consultations without transformation in South Sudan

South Sudan was plunged into a civil war two years into statehood. The conflict resulted in the deaths of over 400,000 people and the displacement of millions. Parties to the conflict eventually signed a peace agreement, which included a chapter devoted to establishing transitional justice mechanisms that was developed without prior consultation of victims and survivors. (The first attempt to ask survivors and victims what they wanted and needed out of future eventual justice processes, was a perception survey carried out by the South Sudan Law Society, supported by UNDP and funded by the Netherlands.²¹⁴) While official, government-led consultations did eventually occur as part of the process to establish a truth commission (as per a requirement in the peace agreement),²¹⁵ numerous questions that victims and survivors had raised in consultations remained unanswered in the final bill presented to parliament for the establishment of the truth commission. Such issues included the time period that would be covered, provisions governing nomination and appointment of commissioners, and whether amnesties would be available.²¹⁶

Despite provisions for transitional justice and

consultation baked into peace accords, their implementation has been hindered by the persistent conflict, lack of good faith among signatories, delays in demobilization, as well as the government's reluctance to cede control. This creates a risk of government co-option of justice and consultation processes whereby political actors seek legitimacy through consultation, without meaningfully incorporating critical or dissenting victim and survivor voices. This landscape makes it critical to support local civil society and international monitoring networks to champion and gradually embed meaningful, trauma-informed, and methodologically rigorous consultation in ongoing reconciliation and peace dialogues.

- **Plan to fully brief actors with authority that are likely to be receptive to victims' perspectives:**

Those conducting consultations should think about which actor or actors in positions of power are most likely to be receptive to the findings of the consultation.²¹⁷ For example, if it is expected that particular actors in the international community are more likely to be receptive to victims' and survivors' perspectives than national authorities, those conducting consultations should develop a strategy for briefing relevant UN agencies and decision-making bodies, and foreign governments bilaterally.

- **Include traditional, customary, indigenous, and local justice practices, where appropriate:**

As noted above under Principle 3, as the justice mechanism is implemented, those with authority to make decisions should take the time to re-engage with victims and survivors through formal consultation processes to ensure that the justice process is meeting expectations and not causing further harm so that adjustments and course corrections can be made.²¹⁸

²¹² Telephone interview with anonymous practitioner, (Nov. 6, 2023).

²¹³ *Id.*

²¹⁴ U.N. Dev. Prog., *Perception Survey on Truth, Justice, Reconciliation and Healing in South Sudan* (Feb. 4, 2016), <https://www.undp.org/south-sudan/publications/perception-survey-truth-justice-reconciliation-and-healing-south-sudan>.

²¹⁵ Ch. V, art. 5.2.1.3, R-ARCSS.

²¹⁶ Hum. Rts. Watch, *South Sudan: Parliament Approves Transitional Justice Laws* (Sept. 9, 2024), <https://www.hrw.org/news/2024/09/09/south-sudan-parliament-approves-transitional-justice-laws>.

²¹⁷ Selim, *supra* note 23.

²¹⁸ Firchow and Selim, *supra* note 65 at 201.

- **Avoid foregone conclusions:** Consultations can sometimes be used in bad faith to retroactively legitimize decisions that policy-makers and decision-makers have already made. Policymakers sometimes develop their own approach to justice before going to the affected community and consulting them for feedback. In these situations, policy-makers typically proceed with their original plans regardless of the outcome of the consultation. Decision-makers should avoid this dynamic, which is highly problematic and has the potential to be retraumatizing to victims and survivors.

Consultations in the Democratic Republic of the Congo

As part of a nationwide government-led consultation initiative in the Democratic Republic of the Congo, the human rights minister said the consultations should lead to the establishment of a truth and reconciliation commission.²¹⁹ This potentially signals favoring one mechanism of transitional justice at the expense of other measures that victims and survivors may want to pursue such as prosecutions, memorialization, and reparations. Indeed, preliminary results of the consultations indicate a strong will and demand for punitive justice, including a wish to see an international tribunal to address impunity for events that have affected the country.²²⁰ In addition, some aspects of the transitional justice process (like reparations) are moving forward alone despite the clear support for all pillars of the transitional justice process. A lack of political will has led to a lack of enforcement of these requests.²²¹

- **Be transparent about the limits of the consultation process:** When consultations are conducted by those lacking authority to implement the recommendations, and particularly where it

appears unlikely that those with such authority will implement victims' and survivors' perspectives, it is critical to be transparent about this with victims and survivors.

Government reluctance to implement results of consultation in Nepal

In recent years, periodic attempts to amend Nepal's Enforced Disappearances Inquiry, Truth and Reconciliation Commission Act have stagnated and have often occurred with little to no victim participation and consultation. Non-governmental entities, such as the International Center for Transitional Justice, have played a critical role in helping to fill the gap by conducting consultations. However, the Nepali government's reluctance to engage in direct consultation with victims or to implement the findings of external consultations has made it difficult for these organizations to fully achieve their goals of achieving victim-centered justice in Nepal.²²²

Seeking public input on survivor legislation in Northern Iraq

Five years after ISIS's brutal genocide and atrocities against the Yazidi community and other ethnic minorities in northern Iraq, the Iraqi government adopted the Yazidi Survivor's Law in March 2021.²²³ The stated goal of this legislation was to support Yazidi survivors and victims. The law recognizes ISIS's crimes against women, girls, and some boys from the Yazidi, Turkmen, Christian, and Shabak communities and establishes a framework for providing compensation, rehabilitation, and reintegration to survivors. However, the legislation excludes men and Sunni Arab victims of ISIS. Despite this shortcoming, both local CSOs and

²¹⁹ Hum. Rts. Watch, Important Step Toward Justice in DR Congo? (Mar. 11, 2022), <https://www.hrw.org/news/2022/03/11/important-step-toward-justice-dr-congo-0>.

²²⁰ Telephone interview with anonymous practitioner, (Feb. 25, 2025).

²²¹ *Id.*

²²² Selim, *supra* note 23 at 1133.

²²³ Law No. 8 of 2021 (Yazidi Female Survivors Law) (Iraq Mar. 1, 2021), <https://c4jr.org/wp-content/uploads/2022/01/Yazidi-Female-Survivors-Law-March-24-2021.pdf> (unofficial Eng. translation provided by Coal. for Just Reparations).

the international community welcomed this development.²²⁴ One of the strengths of the process was that the Iraqi government actively solicited and was open to civil society inputs on the draft legislation. This ensured a transparent Draft and public process for developing the legislation. Implementation has lagged although some payments have been made.

Concluding thoughts

Meaningful victim and survivor participation in the design, implementation, and evaluation of transformational and comprehensive justice mechanisms for atrocities, conflict, and periods of oppression is vital. Not only is it an internationally recognized right, it is also vital to ensure the long-term success of justice mechanisms in preventing recurrence, rebuilding society, and restoring dignity and agency to victims and survivors.

Trauma-informed, methodologically rigorous consultation is one prong of a participatory approach to justice and can be a profoundly transformational justice tool in and of itself.

This Protocol aims to establish and cement a new and emerging norm of conducting victim and survivor consultations in the design and implementation of transformational justice processes. Those conducting consultations should work towards implementing the four principles and attendant best practices set forth in this Protocol including: adopting protective mechanisms and safeguards for both victims and society writ-large; following survivor-centered processes and procedures; ensuring rigorous and ethical delivery and implementation of consultation processes; and remaining accountable and responsive to survivors and society. This Protocol is one contribution to a growing body of literature and research about the importance of turning victim-centered justice from rhetoric into a reality.

²²⁴ *Second Anniversary of the Yazidi Survivors' Law: Achievements and Remaining Challenges*, YAZDA (Mar. 1, 2023), <https://www.yazda.org/second-anniversary-of-the-yazidi-survivors-law-achievements-and-remaining-challenges-en>.

Annex I:

Methodologies for consultation

Partner organizations consult with and assist Ukrainian refugees at the Blue Dot in Varna, Bulgaria. They provide information, legal advice, psychosocial support, and referral to services for children, women, families and other groups with specific needs. Photo: UNHCR/Dobrin Kashavelov.



Annex I

This Annex provides an overview of different research methodologies that can be used for conducting victim and survivor consultations. It is not an extensive how-to guide, as deploying each of these methodologies in a rigorous and ethical manner requires expertise and specialized training, which a short protocol alone cannot provide. Instead, it is intended to serve as a helpful introduction to some of the different methodologies that may be available to those funding or planning victim and survivor consultation. Neither are the examples contained in this Annex exhaustive; instead it discusses some of the most widely used research methodologies (e.g., surveys, semi-structured interviews, and focus groups), as well as examples of participatory methodologies (e.g., PhotoVoice, outcome journaling, and sense-making). It separates these different methodologies into two broad categories—quantitative and qualitative approaches—although it is important to note that ideally consultation processes will adopt a “mixed methods” approach (which combines both qualitative and quantitative elements). A mixed methods approach can produce incredibly valuable data that is both rich in detail and reflective of a broad spectrum of views.

Quantitative approaches

Quantitative methodologies generate numerical estimates and allow those conducting research to use statistical methods to determine patterns and relationships, usually from a random sample of people. As discussed above, a sample can be generated randomly (wherein each member of the target population has an equal chance of being consulted, allowing for inferences to be drawn about a population writ-large) or purposefully (wherein individuals are specifically identified because they possess a specific, relevant characteristic). Quantitative approaches use a standardized set of predetermined questions with fairly simple answers that are then coded and analyzed. For victim and survivor consultations, quantitative research can be a useful way of:

- Gathering information about a research question that can be turned into graphs and visuals

- Comparing the views and perspectives of sub-groups within the sample population, such as sub-groups based on age, education, gender, employment status, type of violation, and geographic location
- Help policy-makers make decisions and choices for an entire country or region, particularly where there are conflicting views from diverse victim groups

Terminology: Coding refers to the process of assigning a code, number, or value to a response. To take a simple example, the response “yes” may be represented by the number 1, “no” may be represented by the number 2, and “not sure” may be represented by the number 3. In reality, coding for victim and survivor consultation may be much more complex. Coding allows researchers to compare and analyze data. Coding can be difficult when participants speak different languages or come from different cultural backgrounds so it is important to use professional translators familiar with the subject-matter and cultural context.

Note: When conducting surveys of victim and survivor communities it may be necessary to include pre-screening questions so that those conducting the survey can determine whether the individual is within the target victim or survivor communities.

Quantitative research is typically conducted via a survey. A survey is a tool for gathering information on a standard set of pre-designed questions from as many people as possible. This means that everyone responding to the survey answers the same questions, which allows for comparisons and conclusions to be drawn. There are multiple possible survey formats including face-to-face surveys, telephone surveys, and online surveys, each with their own advantages and disadvantages for victim and survivor consultation, as discussed below.

Note: There are specialized survey firms that have expertise in conducting surveys. These firms typically use a questionnaire designed by those conducting the consultation and can help with sampling, fieldwork, preparation of the dataset for analysis, and the production of “frequency tables” (i.e., tables that record how frequently responses were given). They

may also produce a final report. As discussed above under Principle 3, working with local survey companies has considerable benefits given the linguistic and cultural challenges that survey work presents. It can also provide an important opportunity for a mutual exchange involving information sharing and capacity strengthening between local organizations and international organizations. It is important to ensure that whoever is conducting the survey is able to ensure confidentiality of responses and is trained to work in a trauma-informed, gender-sensitive, and ethical manner. Indeed, it is a duty of care owed to survivors to ensure that the firm's interviewers have this training. As discussed throughout this Protocol, this may not automatically be the case, so it is important to budget for training.

Quantitative research can sometimes involve qualitative elements. This is called a mixed-methods approach. For example, it is possible to ask both open-ended and closed-ended questions in a survey. Closed-ended questions provide a limited number of options from which participants can choose and produce data that can be more easily and cheaply coded. Open-ended questions, which allow participants to answer in their own words, produce flexible and nuanced data that is more qualitative in nature. The drawback is that these kinds of questions are difficult to code in advance because of the variety of responses they may produce.

Face-to-face surveys

Face-to-face surveys are conducted in-person via an interview based on predetermined questions. This can be a structured, unstructured, or semi-structured interview meaning that the questions may be entirely predetermined or there may be some latitude on behalf of the person conducting the survey to probe or ask additional follow up questions. A face-to-face survey requires the researcher to meet in person with the participant, which in the case of research with victim and survivor communities may have the benefit of helping to establish an interpersonal connection and build trust with the interviewer.

Provided that the researcher is adopting a trauma-responsive and gender-sensitive approach, this may in some situations help the interviewer to elicit more open and honest responses than more impersonal methodologies.

However, there is also the risk that the interviewer influences the victim or survivor consciously or unconsciously, such as through facial expressions, body language, and tone of voice. Moreover, some victims and survivors may feel intimidated and overwhelmed by an in-person conversation with a stranger about sensitive issues such as justice, accountability, and past violations. This makes it critical to ensure that victim and survivor participants know that they have a choice about participating or not participating in the survey. It is also important for those designing the consultation to consider the cultural context and be attuned to nuance that may impact the level of comfort of the participant (e.g., level of eye contact and directness of questions). In addition to considering how a face-to-face survey may impact the validity and reliability of the data, those designing consultations should also be aware that face-to-face surveys tend to be relatively expensive.

Telephone surveys

Telephone surveys are generally cheaper to conduct than face-to-face surveys. They are often highly structured; while it is also possible to conduct semi-structured interviews via the telephone, there is generally less latitude for interviewers to ask follow up or probing questions. The NGO Innovations for Poverty Action has developed guidelines for building rapport over the phone, which have been adapted here.²²⁵ In accordance with those guidelines, those conducting telephone surveys should:

- Help respondents confirm the authenticity of the organization conducting the survey by providing phone numbers, website addresses, and contact information for those conducting the survey

²²⁵ IPA & Nw. Univ. Glob. Poverty Rsch. Lab, *Building Rapport and Trust in Phone Studies: Guidance from the Ghana Panel Survey* (May 2021), <https://poverty-action.org/sites/default/files/2022-11/Case-Study-Ghana-Building-Rapport-and-Trust-Updated-May-2021.pdf>.

- Clarify that those being interviewed will never be asked for money at any point in the survey process
- Keep surveys to a maximum of 30 minutes and provide parameters for the duration of the call at the outset
- Minimize background noise of those conducting the survey
- Ensure that those conducting the survey understand how to handle difficult phone conversations and when to escalate calls to supervisors

Note: *Random sampling can be difficult with telephone surveys conducted with victim and survivor populations. Some victim and survivor populations or sub-groups within victim and survivor populations may lack access to telephones meaning that they would automatically be excluded from the survey. Moreover, those conducting the research may not have access to a complete directory of telephone numbers which would be used to perform “random digit dialing.” If a complete directory of telephone numbers is used, it will be necessary to pre-select and identify victims and survivors at the outset of the call.*

Online surveys

Online surveys involve a predetermined and prescribed list of questions. They are usually distributed via email (with recipients blind copied to preserve their personal information) or text but can also appear on social media sites or social networking platforms like WhatsApp and Signal. As with all surveys, it is critical that the questions are carefully worded to minimize confusion and doubt from participants as well as retraumatization. Even though online surveys do not involve in-person or telephone interviewers (and therefore do not require an interviewer), they are generally not inexpensive because they often require complex IT infrastructure and support services both for those conducting the survey on the back end and for those participating in the survey.

Note: *As noted above under Principle 1, it is important for questions to be reviewed in advance by someone with trauma-informed care training, because if a question is triggering the respondent will not have the*

option of support from the interviewer. Including a sheet with referral options in their area should they experience distress in responding to the survey can also be helpful.

The fact that online surveys are distributed via email or on social media sites carries its own set of challenges. First, it assumes that the victim and survivor community has access to a stable and secure internet connection. Accordingly, it should only be used in contexts with high internet penetration. Second, it presupposes that the target sample is literate and tech-literate which may arbitrarily exclude some respondents and therefore skew results. There are nevertheless creative ways of designing online surveys to minimize the need for high levels of literacy. For example, text-to-voice functions and visualization and imagery can be used. Third, victims and survivors—like anyone—may not trust emails with attachments or hyperlinks from unknown or official senders and may simply delete the survey. A public awareness campaign, like the kind discussed under Principle 3, may help.

Qualitative approaches

Qualitative research methodologies generate nuanced and open-ended results about people’s thoughts on a particular topic. It is typically conducted via semi-structured interviews or focus groups but can also be conducted via citizen juries, citizen panels, and consensus conferences, and other participatory methodologies. For victim and survivor consultations, qualitative research can be a useful way of:

- Understanding victims’ and survivors’ perspectives, priorities, expectations, and concerns in a meaningful, nuanced, contextualized, and rigorous way
- Gathering more detailed information from a smaller number of victims and survivors

Note: *AI and Natural Language Processing technologies are sometimes used by researchers to generate transcripts, translate interviews, and categorize or code responses. This can be helpful when dealing with huge volumes of nuanced and unstructured data but, as with all consultations, must only be conducted*

when the victim or survivor has provided full and complete informed consent, including the potential storage, use, and risks that come with the use of AI. There are nevertheless ethical challenges and other limitations that those conducting consultations should consider. AI tools may be less effective when dealing with underrepresented accents or dialects leading to misrepresentation and the perpetuation of inequality; they may also contain other inaccuracies that should be explained to participants. In addition, those conducting consultations must take steps to safeguard participants' confidentiality and privacy because data could be misused by nefarious actors for surveillance or control. Ultimately, those conducting the consultation are responsible for any errors or harms that flow from the use of AI.

Qualitative research is incredibly valuable but it does have drawbacks, including its costly and time-consuming nature. First, it is harder to infer conclusions from the data produced about a broader population. This is because it is typically only possible to conduct in-depth interviews and focus groups with a small number of people who may not represent the entire community. This is where it can be valuable to adopt a mixed methods approach so that both quantitative and qualitative methodologies are used. Second, qualitative research produces huge volumes of information that can be extremely difficult to code and analyze. Software is available that can help gather, code, store, and analyze this data like Kobo Toolbox, Qualtrics and NVivo.

Focus groups

Focus groups are guided discussions with six to 15 participants focused on six to eight logically sequenced questions or broad topics. It is a model that gives space to the facilitator to probe deeply into participants' responses based on a prepared set of questions. Questions can be relatively open-ended such as "What type of justice would be most meaningful to you and why?" Where possible, focus groups should be an informal forum to allow for relaxed and open exchange between participants. Given that the discussion happens in a group setting, it can produce data that highlights points of difference and commonality across participants.

However, it does not produce standardizable data for external generalization because of the small sample size and because individuals within the group may naturally dominate the discussion, foreclosing the space for less dominant members to share their perspectives.

Note: *Each focus group should have no more than 15 participants and ideally should have 6 to 10 participants. Limiting the number of participants helps ensure that participants have the space and time to share their perspectives. It is generally good practice to try to obtain a cross sectional representation within the focus group. This needs to be taken into consideration with existing power dynamics in the society/community.*

In the context of victim and survivor consultations, focus groups have the added benefit of allowing more space for an educational function. Focus groups can incorporate a subject matter expert who is there to offer additional background information to inform the discussion. The subject matter expert does not participate in the focus group discussion but rather gives a presentation at the beginning. It is good practice for the subject matter expert to sit outside the group to ensure that they are not pulled into the discussion. Another potential benefit of focus groups is that they can be cheaper than survey work, although data coding and analysis can be complex and time consuming for reasons identified above. In addition, focus groups can provide an excellent forum for either preparing the questions for a broader survey or set of interviews or for debriefing from and testing the results of a survey that has already been conducted. In this way, focus groups can be a valuable part of a mixed methods approach.

Focus groups, particularly ones that engage with victims and survivors of mass atrocities, bring with them risks and drawbacks. As discussed above, when working with victims and survivors, the risk of retraumatization and vicarious trauma is a danger. It is critical therefore, that the goals of the consultation be well-defined so that sharing details of past trauma is not a goal and that a list of referral services be provided to focus group participants so that they can seek specialized assistance. Moreover, the facilitator should be specifically trained to be able to sensitively and compassionately redirect conversations and keep

the group within the parameters of the intended discussion. Intra-group dynamics, linguistic and cultural sensitivity, and gender power dynamics are also important to consider. There may be individuals within a community who naturally dominate the discussion and it is critical that the facilitator create space for less vocal participants. Developing, following, and enforcing clear protocols for the meeting such as rules and procedures can help alleviate some of these concerns.

Unstructured and semi-structured interviews

Unstructured or semi-structured interviews are 1-1 in-depth and detailed discussions that take place in-person. As discussed above, structured interviews (or surveys) involve a pre-designed questionnaire that the interviewer is required to follow faithfully and in the predetermined order. When many people are interviewed, this information produces standardizable data from which external generalizations can be drawn. This differs from unstructured and semi-structured interviews, which are much less rigid. Unstructured interviews give the person conducting the consultation free rein to add questions and to probe further into specific responses. Researchers do not necessarily have to follow a specific order and can take the interview in multiple directions based on the research agenda. Semi-structured interviews involve a blend of both structured and unstructured questions.

Outcome harvesting

Outcome harvesting is a participatory monitoring and evaluation research methodology that can be used to identify and analyze the actual impact of measures and policies that have been adopted. It is therefore a consultation methodology that should be used after justice mechanisms have been adopted or at least piloted. The outcomes (or the changes to

which a justice policy or mechanism has contributed) that are measured and evaluated are not pre-determined; instead, data is gathered about what change has occurred and then that data is analyzed and evaluated to determine the contribution of the measure or policy to that change. Such changes can be positive or negative, intended or unintended, direct or indirect, significant or insignificant.²²⁶ Information about changes that have occurred and their relationship with policies and measures that have been adopted can be gathered through workshops, focus groups, interviews, and other reports. According to *Voices That Count*—a network of experts and practitioners—outcome harvesting “is especially useful in situations where cause and effect are not predictable and where multiple actors and factors played a role in the change process.”²²⁷ The complex and dynamic nature of justice processes in post-conflict and atrocity periods make this a valuable research tool.

PhotoVoice

PhotoVoice is a participatory data collection methodology in which individuals document their experiences through photography, capturing ideas that can be difficult to put into words.²²⁸ These images are used to foster discussion and implement changes according to a community's needs and priorities. It can also culminate in a public exhibition as a form of memorialization. PhotoVoice involves gathering individuals, such as victims and survivors, who are co-researchers together with those conducting the consultation. The participants take photos depicting their experience, and then gather to articulate the reasons they selected that image, including the emotions and experiences that informed that choice.²²⁹ While it can be a costly and time-consuming methodology, it has the benefit of empowering participants—especially those who may be marginalized and who may not be literate—to share their stories and perspectives.

²²⁶ *Outcome Harvesting*, VOICES THAT COUNT (n.d.), <https://www.voicesthatcount.net/outcomeharvesting> (last accessed Sept. 1, 2025).

²²⁷ *Id.*

²²⁸ PHOTOVOICE, <https://photovoice.org/> (last visited Apr. 28, 2025).

²²⁹ *PhotoVoice*, VOICES THAT COUNT (n.d.), <https://www.voicesthatcount.net/photovoice> (last visited Sept. 1, 2025).

PhotoVoice used by the Trust Fund for Victims (TFV) of the ICC in Central African Republic (CAR)

In 2023 in a town in CAR, the TFV of the ICC contracted Voices That Count to host a PhotoVoice five-day workshop for over a dozen female survivors of attacks by armed groups that constituted international crimes two decades earlier.²³⁰ This program, which was conducted under the TFV's assistance mandate, was part of a wider process of consultation carried out by the TFV to evaluate the impact of its work. According to Voices that Count "the purpose [of the workshop] was to capture and understand changes that had taken place in their lives" due to the work of the TFV.²³¹ This workshop was a powerful opportunity for survivors to articulate through photography their experiences.

Narrative inquiry

Narrative inquiry is a participatory research process that involves gathering hundreds or thousands of stories or narratives of personal experience, situation, or event related to a specific topic that are then "immediately interpreted by the storytellers themselves" through a series of follow up questions.²³² This process aims to reduce the bias of those conducting the research or consultation and also is a way of shifting the power to the participants rather than the entity conducting the research.²³³ According to Voices That Count, the goal of narrative inquiry is not to share "long and in-depth constructed stories from a small group of people"; rather it aims to be a "listening exercise gathering day-to-day experiences."²³⁴ Voices that Count uses the SenseMaker software to record answers to the follow-up questions and then uses this information

to generate patterns, clusters, trends, and outliers to allow for comparison and analysis.²³⁵

Sense-making in northern Uganda through narrative inquiry

Following the conviction of Dominic Ongwen a the ICC for serious international crimes committed in northern Uganda as part of the LRA insurgency, the TFV contracted Voices That Count "to conduct a large-scale, story-based baseline study in northern Uganda" with the ultimate long-term goal of ensuring that the TFV's work was grounded in victims' and survivors' lived experiences, according to their own definitions of recognition, healing, and justice.²³⁶ Voices That Count trained local actors to collect stories from over 1,000 victims and subsequent generations while adhering to ethical and culturally-sensitive standards. The SenseMaker software was used to collect and analyse these microstories and a "participatory sensemaking workshop" was conducted with diverse stakeholders including community members, cultural leaders, psychosocial workers, NGOs, and institutional partners. The process generated a baseline against which the impact of future reparations could be assessed over the long-term, surfaced how victims and survivors define justice priorities and expectations, highlighted the transgenerational nature of the harm experienced, and according to Voices That Count, "strengthened community voice, ownership, and trust in the [reparations] process."²³⁷

²³⁰ *Picturing reparation: Trust Fund for Victims*, VOICES THAT COUNT (n.d.), <https://www.voicesthatcount.net/post/picturing-reparation-trust-fund-for-victims> (last visited Sept. 1, 2025).

²³¹ *Id.*

²³² *Narrative Inquiry using Sensemaker*, VOICES THAT COUNT (n.d.), <https://www.voicesthatcount.net/sensemaker> (last visited Sept. 1, 2025).

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ Voices that Count, *supra* note 230.

²³⁷ *Id.*

Annex II:

Select Guidelines on Documentation

People attend a funeral ceremony for the remains of 41 victims from the Yazidi minority, who were executed by Islamic State (IS) group militants in 2014, in front of a memorial monument in Sinjar in northwestern Iraq's Nineveh province on January 24, 2024. The victims of the August 2014 massacre, carried out in the Sinjar region by IS group militants, have been recently identified through DNA tests. Photo: Zaid Al-Obeidi.



Annex II

This Annex contains a non-exhaustive list of additional resources for those conducting and funding consultations on:

- Trauma-informed interviewing
- Best practices for documentation of international crimes
- Transitional justice and victim participation

This Protocol is not a how-to guide on these topics, which require specialized training and expertise that cannot be gained simply by reading manuals. Nevertheless, resources are available—and are shared here—on these topics that may be a useful starting point for those conducting consultations.

Trauma-informed interviewing

Trauma awareness, sensitivity, and responsiveness are critical characteristics of anyone engaging with victims and survivors, including interviewers and translators. It is important to take active steps to mitigate the potential impacts of emotional or psychological distress at each and every stage of the consultation process. The following guides outline elements of trauma-informed best practices for interacting with victims and survivors.

- *Global Code of Conduct for Gathering and Using Information About Systematic and Conflict-Related Sexual Violence* (April 13, 2022), www.muradcode.com/murad-code.
- Pilar Hernandez, David Gangsei and David Engstrom, *Vicarious Resilience: A New Concept in Work with Those Who Survive Trauma*, 46(2) FAMILY PROCESS 229 (2007).
- Hum. Rts. Watch, *Guidelines for Interviewing Survivors of Trauma and Conducting Research on Sexual Violence* (2016) [pages 111-16, “Secondary Trauma”].
- Lisa McCann and Laurie Anne Pearlman, *Vicarious Traumatization: A Framework for Understanding the Psychological Effects of Working with Victims*, 3(1) J. OF TRAUMATIC STRESS 131 (1990).
- An Michels et al., *Integration of Mental Health and Psychosocial Support Approaches in Accountability Mechanisms for Atrocity Crimes* (KPSRL May 2024), <https://kpsrl.org/sites/default/files/2024-05/Michels%2C%20A.%20et%20al.%20Integration%20of%20MHPSS%20approaches%20in%20accountability%20mechanisms%20for%20atrocity%20crimes.pdf>.
- Alice Nah, *Wellbeing, Risk, and Human Rights Practice*, 1 HUM. RTS. DEFENDERS HUB (Jan. 2017), <https://www.york.ac.uk/media/cahr/documents/Wellbeing,%20Risk,%20and%20Human%20Rights%20Practice,%20Human%20Rights%20Defender%20Policy%20Brief%201.pdf>.
- Off. for Victims of Crime, *Introduction*, THE VICARIOUS TRAUMA TOOLKIT, <https://ovc.ojp.gov/program/vtt/introduction> (last visited Apr. 28, 2025).
- *Professional Quality of Life*, CENTER FOR VICTIMS OF TORTURE, <https://proqol.org/> (last visited Apr. 28, 2025).
- Stan. Ctr. for Health Educ., *Trauma-Informed Interviewing Techniques*, DIGITAL MEDIC, <https://digitalmedic.stanford.edu/trauma-informedinterviewing-techniques> (last visited Apr. 28, 2025).
- Stan. Hum. Rts. in Trauma Mental Health Lab. & UNITAD, *Trauma-Informed Investigations Field Guide* (2021), https://www.unitad.un.org/sites/www.unitad.un.org/files/general/2104429-trauma-informed_investigations_field_guide_web_0.pdf (last visited Apr. 28, 2025).
- UNITAD, *Trauma-Informed Investigations Reference Manual* (2022), https://www.unitad.un.org/sites/www.unitad.un.org/files/general/trauma-informed_investigations_reference_manual-final2.pdf (last visited Apr. 28, 2025).
- U.N. Office for the High Comm. for Hum. Rts., *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (3rd ed. 2022).
- *Vulnerability, Emotions, and Trauma*, ADVANCING RESEARCH IN CONFLICT (n.d.), <https://advancingconflictresearch.com/vet> (last visited Sept. 1, 2025).
- Yazda, *Get to Know Me First: A Survivor Informed Guide for Interviewing Yazidis from Sinjar* (Sept. 2023), https://irp.cdn-website.com/16670504/files/uploaded/2023.09.29_Yazda_Guide_Final_ENG-ba22cca4.pdf.

Documentation

This Protocol is not a guideline for those conducting documentation and evidence-gathering for case building and litigation purposes. Best practice in victim and survivor interviewing for the purpose of evidence-gathering is a one-on-one exchange with nobody else present except for a psychologist and an interpreter. In the process of conducting consultations as this Protocol defines them, victims and survivors may nevertheless share experiences that would be relevant for documentation and case-building purposes. This Annex provides a handful of select guidelines and best practices of documentation given the potential blurring between documentation and consultation.

- *Global Code of Conduct for Gathering and Using Information About Systematic and Conflict-Related Sexual Violence* (April 13, 2022), www.muradcode.com/murad-code.
- Sara Ferro Ribeiro & Danaé van der Straten Ponthoz, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law*, U.K. FOREIGN & COMM'L OFFICE (2nd ed. 2017).
- THE COMPANION TO PEACE AND CONFLICT FIELDWORK, (Roger Mac Ginty, Roddy Brett, and Birte Vogel eds., Palgrave MacMillan, 2021).
- Maxine Marcus, *Positive (and Practical) Complementarity: Practical Tools for Peer Prosecutors and Investigators Bringing Atrocity Crimes Cases in National Jurisdictions*, in INTERNATIONAL CRIMINAL INVESTIGATIONS: LAW AND PRACTICE, (Adejoke Babington-Ashaye, Aimee Comrie, and Akingbolahan Adeniran eds., Eleven International Publishing, 2017).
- Maxine Marcus, Louise Chappell and Andrea Durbach, 'Nothing About Us, Without Us, Is For Us': *Victims And The International Criminal Justice System*, 21(9) INT'L J. HUM. RTS. 1 (2017).
- Maxine Marcus, *Investigation of Crimes of Sexual Violence Under International Criminal Law*, in PROSECUTING SEXUAL VIOLENCE AS INTERNATIONAL CRIME: INTERDISCIPLINARY

APPROACHES, SERIES ON TRANSITIONAL JUSTICE (Anne-Marie de Brouwer et al. eds., Intersentia 2013).

- U.N. Office for the High Comm. for Hum. Rts., *Manual on Human Rights Monitoring* (Revised edition) (Jan. 1, 2011), <https://www.ohchr.org/en/publications/policy-and-methodological-publications/manual-human-rights-monitoring-revised-edition>.

Transitional justice and victim participation

Recent years have seen an explosion of academic literature on the importance of and modalities for victim and survivor participation in the design, implementation, and evaluation of justice mechanisms. Victim and survivor participation is a crucial component of effective justice mechanisms, as discussed throughout this Protocol. The following resources explore this complex issue in detail.

- Peter Dixon and Pamina Firchow, *Collective justice: Ex-combatants and community reparations in Colombia* 14(2) J. HUM. RTS. PRAC 434 (2022).
- Pamina Firchow, *Reclaiming everyday peace: Local voices in measurement and evaluation after war* (Cambridge University Press, 2018).
- Martina Fische, 'Transitional Justice and Reconciliation: Theory and Practice', in ADVANCING CONFLICT TRANSFORMATION: THE BERGHOF HANDBOOK II, (B. Austin et al. eds., Opladen/Farmington Hills, 2011).
- Priscilla B. Hayner, *UNSPEAKABLE TRUTHS: TRANSITIONAL JUSTICE AND THE CHALLENGE OF TRUTH COMMISSIONS* (Routledge, 2011).
- Alexander Laban Hinton *TRANSITIONAL JUSTICE: GLOBAL MECHANISMS AND LOCAL REALITIES AFTER GENOCIDE AND MASS VIOLENCE* (Rutgers U.P., 2010).
- Roxani C. Krystalli, *Narrating victimhood: dilemmas and (in)dignities* 23(1) INT'L FEMINIST J. POL. 125 (2021).
- Lisa J. Laplante, *On the Indivisibility of Rights: Truth Commissions, Reparations, and the Right to*

Development, 10 YALE HUM. RTS. & DEV. LAW J. 141 (2007).

- Lisa J. Laplante, *Evaluating Truth Commissions and Reparations through the Eyes of Victims*, 28 L'OBSERVATEUR DES NATIONS UNIES 167 (2010)
- Lisa J. Laplante, *Negotiating Reparation Rights: The Participatory and Symbolic Quotients*, 19 BUFF. HUM. RTS. L. REV. 217 (2013).
- SARAH MCINTOSH, PURSUING JUSTICE FOR MASS ATROCITIES: A HANDBOOK FOR VICTIM GROUPS (U.S. Holocaust Memorial Museum 2021), <https://www.ushmm.org/genocide-prevention/reports-and-resources/pursuing-justice-for-mass-atrocities>.
- Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (U.S. Institute of Peace, 2010).
- Naomi Roht-Arriaza and Javier Mariezcurrena. TRANSITIONAL JUSTICE IN THE TWENTY-FIRST CENTURY: BEYOND TRUTH VERSUS JUSTICE (Cambridge U.P., 2006).
- Hugo Van Der Merwe, Victoria Baxter, and Audrey R. Chapman. ASSESSING THE IMPACT OF TRANSITIONAL JUSTICE: CHALLENGES FOR EMPIRICAL RESEARCH (U.S. Institute of Peace, 2009).
- Mijke de Waardt and Sanne Weber, *Beyond Victims' Mere Presence: An Empirical Analysis of Victim Participation in Transitional Justice in Colombia*, 11(1) J. HUM. RTS. PRACTICE 209, (2019)

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Mali held a run-off presidential election between incumbent President Ibrahim Boubacar Keita and opposition leader Soumaila Cissé. The first round of elections, which took place on 29 July 2018, narrowed the field down from twenty-four candidates to two. Photo: UN Photo/Marco Dormino.



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