

# Pathways to **Partnership**

Lessons from Engaging Civil Society and Victims  
in Transitional Justice





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Lessons from Engaging Civil Society and Victims in  
Transitional Justice Processes in Bosnia and Herzegovina,  
Colombia, and the Philippines



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# Executive Summary



This research paper, prepared by Mwatana for Human Rights in cooperation with Central European University, examines three recent experiences with transitional justice:

- The case of Bosnia and Herzegovina.
- The case of Colombia.
- The case of the Philippines.

These three diverse experiences highlight the pivotal role of societal context and its specificities in shaping transitional justice processes and their associated arrangements.

This paper is part of a broader series of products and methodological approaches—including studies, research papers, and reports—that explore transitional justice, its elements, requirements, and mechanisms through research and analysis. By examining a wide range of global experiences, the aim is to provide a foundational knowledge base to identify applicable mechanisms, best practices, and potential challenges. The ultimate objective is to deepen understanding of transitional justice, raise awareness of its importance, and provide inputs that can inform and guide efforts toward transitional justice in Yemen at every stage.

The paper focuses on mechanisms for engaging independent civil society organizations and victims by analyzing three case studies of transitional justice processes in Bosnia and Herzegovina, Colombia, and the Philippines. These countries underwent transitional justice efforts in the aftermath of protracted conflicts that produced widespread human rights violations and a legacy of accumulated grievances, among other consequences. Relevant documents, including reports from the United Nations, the International Center for Transitional Justice, and other reliable international organizations, were also reviewed to gain a deeper understanding of the Yemeni context in relation to transitional justice.

The purpose of the paper is to present an analytical study of the three experiences, their challenges, obstacles, and best practices, in a way that helps identify the essential elements that should be present from the earliest stages of designing transitional justice programs in Yemen. Such insights can enhance the prospects of success and help avoid common pitfalls observed in comparable experiences.



In addition to the introduction and recommendations, the paper is structured into three main chapters, each dedicated to one of the transitional justice experiences in Bosnia and Herzegovina, Colombia, and the Philippines. Each chapter covers multiple dimensions, with a particular focus on the participation of civil society and victims, as well as the strengths, weaknesses, and challenges in each case. Each chapter concludes with an analysis comparing the specific context of the case study to Yemen's context, highlighting ways in which these lessons can be adapted and applied, particularly regarding the roles of civil society and victims.

The paper concludes with a set of recommendations drawn from the best practices identified in the transitional justice processes applied by the three experiences. These recommendations are intended to assist relevant stakeholders in Yemen in initiating or planning for a transitional justice process.





# Recommendations

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To enhance the chances of success and ensure the effectiveness of a post-conflict transitional justice process in Yemen—and drawing from best practices identified in the cases studied—Yemeni stakeholders, the international community, and civil society organizations should:

1. Ensure that human rights and transitional justice issues are placed at the core of peace efforts, negotiations, and any resulting agreements, thereby safeguarding victims' rights to redress and reparations.
2. Support capacity-building programs for independent civil society organizations and victims in the field of transitional justice.
3. Support the continuation of independent efforts to document human rights violations.
4. Support programs that include research and studies on transitional justice from the perspective of the Yemeni context, addressing its complexities and grievances, to better understand Yemen's societal specificities, identify the roots of injustices, and define sound and effective mechanisms for addressing them as a unique case, distinct from other contexts.
5. Support initiatives to provide context-sensitive and practical inputs for transitional justice in Yemen, including setting priorities, identifying mechanisms, anticipating potential challenges, and outlining ways to overcome them, among others.
6. Promote the design and development of inclusive, victim-centered transitional justice programs and plans in the post-conflict period, reflecting victims' priorities.
7. Ensure neutrality and independence in the mechanisms through which transitional justice is managed, enabling victims and independent civil society organizations to feel safe, share their narratives, and conduct their work freely.
8. Ensure that transitional justice processes include the establishment of new, specialized, and impartial institutions. These institutions should be the outcome of broad consultations involving victims, independent civil society organizations, legal experts, the international community, and neutral authorities.

9. Promote the effective participation of independent civil society in reconciliation and transitional justice processes within peace agreements and legal frameworks, ensuring their mandates, funding, protection, and other essential requirements.

10. Ensure that the international community provides impartial technical and financial support for transitional justice, with a focus on strengthening independent civil society organizations and coordination with neutral authorities.

11. Ensure the protection of independent civil society organizations from retaliation and intimidation campaigns carried out by all parties to the conflict.

# Introduction

In addition to the legacy of four decades of cycles of political conflict that Yemen experienced in both its former states—from the 1960s until the unification of the People’s Democratic Republic of Yemen (South) and the Arab Republic of Yemen (North) into the Republic of Yemen in 1990—the country has since witnessed a new series of bloody conflicts. These conflicts, driven by both local factors and external influences<sup>1</sup>, have kept Yemen in a state of political instability, divisions, and crises for decades. Over this time, a heavy burden of social grievances and human rights violations heaped up, culminating in late 2014 when Yemen was thrust into the longest and most expansive conflict in its modern history.

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the conflict that has continued since late 2014 has left around 19.5 million people in need of humanitarian assistance and protection, including 15 million women and children. In addition, 4.8 million people have been displaced, making it the fifth-largest internal displacement crisis in the world. This situation has rendered Yemen the site of the world’s worst humanitarian crisis<sup>2</sup>, during which widespread human rights violations have been committed.

Mwatana for Human Rights alone documented, between September 2014 and July 2025, no fewer than 17,487 incidents of violations affecting 31,499 victims<sup>3</sup>. These included, among others: killings and maiming, enforced disappearances and arbitrary detention, torture, extrajudicial executions, targeting of minorities and political opponents, use of landmines, destruction and confiscation of property, displacement and migration, gender-based violence, obstruction and restriction of humanitarian access, attacks on civic space, and more—alongside documentation carried out by other international and local organizations.

While ending the war in Yemen largely depends on the main parties to the conflict reaching a political settlement grounded in reconciliation, reconciliation itself cannot be separated from the pursuit of transitional justice. Genuine reconciliation requires addressing accumulated grievances through their comprehensive diagnosis, finding the truth, administering justice, providing reparations, and

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1. ‘Yemen’s Tragedy: War, Stalemate, and Suffering | Council on Foreign Relations’:  
<https://www.cfr.org/background/yemen-crisis>.

2. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Yemen Humanitarian Needs and Response Plan 2025,” Humanitarian Programme Cycle 2025.

3. Interactive map of human rights violations in Yemen, Mwatana for Human Rights:  
<https://maps.mwatana.org/en>.

instituting guarantees of non-repetition. These are essential prerequisites for any inclusive and sustainable peace process. The International Center for Transitional Justice (ICTJ), in a 2025 report, noted that the current efforts of various international organizations toward reconciliation, mediation, and transitional justice lack coordination and coherence <sup>4</sup>.

Against this backdrop, this research paper seeks to provide a comprehensive exploratory review of transitional justice mechanisms applied in different global contexts, in order to identify best practices that may be adaptable to Yemen. The study specifically examines:

1. The effective mechanisms for engaging Yemeni victims, their families, and independent civil society organizations in transitional justice processes.
2. The principal challenges and constraints to applying these mechanisms in the Yemeni context.
3. Relevant best practices and pathways drawn from international experiences that may guide future efforts.

To achieve these objectives, the paper employs qualitative and comparative methods, analyzing three case studies of transitional justice processes in Bosnia and Herzegovina, Colombia, and the Philippines. Each of these countries implemented transitional justice following protracted conflicts marked by human rights violations, among other consequences. Additionally, relevant documents—including reports from the United Nations, the International Center for Transitional Justice, and other reliable international organizations—were reviewed to deepen the understanding of the Yemeni context for transitional justice. Collectively, these studies and reports provide a foundational basis for identifying viable mechanisms, best practices, and potential key challenges that can inform and guide transitional justice efforts in Yemen.

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4. United Nations Security Council, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies" (2004), UN document No. (S/2004/616): <https://documents.un.org/doc/undoc/gen/n04/395/29/pdf/n0439529.pdf>.

## Key Concepts of Transitional Justice: A Victim-Centered Approach

According to the definition provided in the 2004 report of the United Nations Secretary-General to the Security Council, the concept of “transitional justice” encompasses “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, to ensure accountability, serve justice, and achieve reconciliation<sup>5</sup>.” Within this definition, transitional justice covers both judicial and non-judicial mechanisms, including: (1) criminal prosecutions; (2) truth-seeking initiatives, such as truth commissions; (3) delivering reparations; (4) institutional reforms, such as holding elections, and vetting for public offices, and institutional reformations for security and justice sectors; and (5) national consultations<sup>6</sup>. Regardless of the mechanisms chosen, they must be consistent with international legal standards and obligations<sup>7</sup>.

Transitional justice is a critical element of the United Nations’ framework for strengthening the rule of law. It seeks not only to address the consequences of human rights violations but also to tackle the root causes of conflict. Mechanisms of transitional justice may operate under two distinct models: **retributive justice** and **restorative justice**. Retributive justice focuses on holding perpetrators accountable for past crimes, whereas reconciliation is viewed as a process of restoring the rule of law and the moral order<sup>8</sup>. Under retributive justice, judicial tools such as prosecutions and trials take precedence. Restorative justice, on the other hand, emphasizes repairing communal identities and relationships that have been harmed through truth commissions, reparations, education, and other means<sup>9</sup>.

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5. ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’ (United Nations: Security Council) Report of the Secretary-General S/2004/616 3. para. 8.

6. ‘GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice’ (United Nations 2010), [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C8CD3-CF6E4FF96FF9%7D/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C8CD3-CF6E4FF96FF9%7D/TJ_Guidance_Note_March_2010FINAL.pdf).

7. Ibid, p. 3.

8. Ioannis Armakolas and Eleni Vossou, ‘Transitional Justice in Practice: The International Criminal Tribunal for the Former Yugoslavia and Beyond’ No 18 UNISCI (Research Unit on International Security and Cooperation) Discussion Papers 25, <https://www.ucm.es/data/cont/media/www/pag72511/UNISCI%20DP%2018%20-%20ARMAKOLAS%20AND%20VOSSOU.pdf>.

9. Ibid.



The United Nations Secretary-General's Guidance Note outlined the key guiding principles, stressing a holistic approach grounded in international law and human rights principles. Among these principles, it is emphasized that the mechanisms of transitional justice arise from the political context<sup>10</sup>. Victim-centeredness must therefore be considered a core principle of transitional justice, ensuring that victims and affected communities are actively involved in shaping and implementing transitional justice processes<sup>11</sup>. At the same time, the diverse needs and experiences of victims must be accounted for and recognized<sup>12</sup>. For this reason, transitional justice guidance integrates an intersectional dimension, taking into account that gender-based violence is exacerbated by conflict and grave human rights violations<sup>13</sup>. Implementing transitional justice in a gender-sensitive manner is therefore vital to ensure the meaningful participation of women as key actors<sup>14</sup>. Similarly, the rights of children—among the groups most affected by armed conflict and political destabilization—must be protected<sup>15</sup>.

Transitional justice mechanisms should not be understood as interchangeable substitutes, but rather as “mutually reinforcing elements” within a comprehensive strategy<sup>16</sup>. Consequently, truth-seeking, prosecutions, reparation, guarantees of non-repetition, and other mechanisms cannot be traded off against each other<sup>17</sup>. A comprehensive transitional justice strategy that integrates multiple approaches offers a more meaningful path to justice for victims and strengthens efforts to prevent future harm.

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10. “GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice” (n 6) 4.
11. “Integrated Disarmament, Demobilization, and Reintegration Standards, Module 6.20 on DDR and Transitional Justice.” (United Nations: Peacemaker 2009) 9, <https://peacemaker.un.org/en/documents/integrated-disarmament-demobilization-and-reintegration-standards-module-620-ddr-and>.
12. Ibid.
13. “GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice” (No. 6) 5.
14. Hooria Mashhour, ‘Truce or No Truce: Transitional Justice Is Yemen’s Only Path to Healing’ (24 October 2022), <https://www.atlanticcouncil.org/blogs/menasource/truce-or-no-truce-transitional-justice-is-yemens-only-path-to-healing/>.
15. ‘GUIDANCE NOTE OF THE SECRETARY-GENERAL United Nations Approach to Transitional Justice’ (n 6) 6.
16. Integrated Disarmament, Demobilization, and Reintegration Standards, Module 6.20 on DDR and Transitional Justice.’ (n 11) 10.
17. Ibid.

Finally, it is important to emphasize that “the level of political will, institutional capacities and available resources at any given time and in a specific context significantly influences the operationalization of transitional justice mechanisms and measures<sup>18</sup>.” While transitional justice carries great potential to address human rights violations and foster reconciliation, its success depends on more than just normative ideals.

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18. Ibid.



# Chapter One

Bosnia and Herzegovina –  
Overcoming Fragmentation through  
Transitional Justice

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This chapter examines the complex transitional justice mechanisms applied in Bosnia and Herzegovina (BiH). Despite the differences between Bosnia and Herzegovina and Yemen, both countries have endured horrific atrocities, deep societal divisions, and significant foreign intervention. By drawing on the experience of Bosnia and Herzegovina, civil society organizations can extract best practices for victim-centered approaches that may be adapted to the Yemeni context.

Following the collapse of the former Yugoslavia and the declaration of independence by Bosnia and Herzegovina, Bosnian Serb leadership seized control of Sarajevo in 1992, marking the beginning of a “four-year campaign of terror and persecution<sup>19</sup>.” Before the war, Bosnia and Herzegovina was a multi-ethnic republic, where Bosniaks (Bosnian Muslims) constituted 44% of the population, Serbs 31%, Croats 17%, and Yugoslavs and others 8%<sup>20</sup>. The unrest escalated into war between the Army of the Republic of Bosnia and Herzegovina (ARBiH), the Army of Republika Srpska (VRS), and the Croatian Defense Council (HVO), with the latter supported by Serbian and Croatian authorities respectively. Tensions among the three main ethnic groups—also divided along religious lines—culminated in mass killings, ethnic cleansing, and systemic mass rapes, ultimately leading to the genocide in Srebrenica in 1995, where more than 8,000 Bosniak Muslim men and boys were killed<sup>21</sup>.

By the end of the war, around 100,000 people had been killed, with the majority of civilian victims being Bosniak population. Approximately 1.4 million people were internally displaced, and 1.2 million became refugees<sup>22</sup>. Between 20,000 and 50,000 women were subjected to systematic rape during the war, most often as part of the ethnic cleansing strategy pursued by Bosnian Serb forces<sup>23</sup>.

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19. ‘Bosnian War- A Brief Overview’ Remembering Srebrenica, <https://srebrenica.org.uk/what-happened/history/bosnian-war-a-brief-overview>.

20. ‘Nacionalni Sastav Stanovništva: Rezultati Za Republiku Po Opštinama i Naseljenim Mjestima 1991.’ (Državni Zavod za Statistiku Republike Bosne i Hercegovine 1993), <https://fzs.ba/wp-content/uploads/2016/06/nacionalni-sastav-stanovnistva-po-naseljenim-mjestima-bilten-234.pdf>.

21. ‘International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica’ (United Nations: General Assembly 2024) A/78/L.67/Rev.1, <https://docs.un.org/en/A/78/L.67/Rev.1>.

22. Jessie Hronesova, *Everyday Ethno-National Identities of Young People in Bosnia and Herzegovina* (Peter Lang D 2012) 41, <https://www.peterlang.com/view/title/15242>. accessed 11 May 2025.

23. *Sexual Violence in Bosnia* Remembering Srebrenica, <https://srebrenica.org.uk/what-happened/sexual-violence-bosnia>.

In 1995, peace was formally established through the Dayton Peace Agreement (DPA), which divided Bosnia and Herzegovina territorially into two entities: the Federation of Bosnia and Herzegovina and Republika Srpska, in addition to the self-governing Brcko District. While the agreement secured peace, it also entrenched ethnic divisions and segregation, leading to a challenging future for the new country. This was evident in the formation of ethno-national political parties representing and defending the interests of their respective constituent groups: Bosniaks, Croats, and Serbs.

## Transitional Justice Mechanisms in Bosnia and Herzegovina

The transitional justice mechanisms in Bosnia and Herzegovina have been diverse, encompassing international and domestic prosecutions, truth-seeking initiatives, reparations programs, and institutional reforms. This study focuses primarily on the International Criminal Tribunal for the former Yugoslavia (ICTY) and on prominent civil society efforts to establish Truth and Reconciliation Commissions (TRCs).

The International Criminal Tribunal for the former Yugoslavia (ICTY), established by the United Nations, was one of the most powerful transitional justice mechanisms<sup>24</sup>. This ad hoc tribunal ultimately paved the way for similar measures in Rwanda, Sierra Leone, and Cambodia, and eventually for the establishment of the permanent International Criminal Court<sup>25</sup>.

Considering that the International Criminal Tribunal for the former Yugoslavia (ICTY) was the first war crimes court established by the UN and the first international war crimes tribunal since the Nuremberg and Tokyo trials, with over 161 indictments<sup>26</sup>, its effectiveness in transitional justice has long been a topic of scholarly debate and public scrutiny. The establishment of the ICTY was not solely driven by a desire to

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24. Izabela Kisic, 'Transitional Justice in the Western Balkans in Transitional Justice - Experiences from Africa and the Western Balkans' Landesverteidigungsakademie (LVAk) / Institut für Friedenssicherung und Konfliktmanagement (IFK) 64, <https://www.bmlv.gv.at/wissen-forschung/publikationen/beitrag.php?id=2517>.

25. 'Global Spread of International Criminal Justice' United Nations | International Residual Mechanism for Criminal Tribunals, <https://www.icty.org/en/content/global-spread-international-criminal-justice>.

26. 'About the ICTY' United Nations | International Residual Mechanism for Criminal Tribunals <<https://www.icty.org/en/about>>.

prosecute those responsible for the atrocities but also aimed to compensate for earlier failures to intervene in the conflict or to serve as a tool to facilitate a peace agreement<sup>27</sup>. The advocates of the ICTY believed in its role as a tool to achieve four broad goals: '(a) discover and publicise the truth of past atrocities, (b) respond to the needs of victims, (c) punish perpetrators and (d) promote the rule of law'<sup>28</sup>.

In essence, ICTY was constructed through the prism of retributive justice with the aim being establishing accountability of the individual perpetrators, whereas ICTY had a further advantage of being objective and not relying on 'victor's justice'<sup>29</sup>. Furthermore, through the focus on individual perpetrators, there was an attempt to prevent or reduce 'collective victimisation' to avoid further entrenchment of competing ethnic narratives. Important indirect long-term benefits could have been yielded through the ICTY, such as support of reconciliation by establishing an objective record of facts about the past, providing a foundation for creating a shared narrative that can help unify society<sup>30</sup>.

Nevertheless, limitations persisted in the ICTY exist, particularly given the ongoing ethnic divisions in Bosnia and Herzegovina, raising questions as to whether its judgments succeeded in establishing a historical account of events that all parties could accept.

One of the most notable shortcomings attributed to the ICTY was its geographical distance from the Western Balkans. Located in The Hague, Netherlands—chosen to ensure security and impartiality in the trials—the court also created both practical and symbolic barriers<sup>31</sup>. Its reliance on state cooperation in arrests, transfers, and enforcement of its orders made it difficult to secure evidence and bring suspects to trial, undermining its effectiveness and reinforcing the perception of justice imposed from afar<sup>32</sup>.

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27. Armakolas and Vossou (n 8) 33.

28. Fletcher, L. E., & Weinstein, H. M. (2002). Violence and social repair: Rethinking the contribution of justice to reconciliation. *Human Rights Quarterly*, 24, 573— 639. <http://dx.doi.org/10.1353/hrq.2002.0033> in Lina Strupinskiene, 'International Criminal Tribunal for Former Yugoslavia (ICTY) and Grassroots Mobilization for Justice: Insights from Bosnia and Herzegovina.' (2022) 28 *Peace and Conflict: Journal of Peace Psychology* 74, 75.

29. Armakolas and Vossou (n 8) 25.

30. *ibid.*

31. Peter J Verovšek, 'The Lessons of the ICTY for Transitional Justice' *EUROZINE* (12 January 2018), <https://www.eurozine.com/the-lessons-of-the-icty-for-transitional-justice/>.

32. *Ibid.*

The factor of distance was felt even more acutely by victims and their families, particularly due to language barriers. While witnesses testified in their native languages, the ICTY's judges and lawyers presented their evidence and accusations in English<sup>33</sup>. The language also played a crucial role for defendants, most notably in the case of Slobodan Milošević—a Serbian leader who held power for years and orchestrated large-scale ethnic cleansing campaigns in the Balkans. Milošević delivered all of his speeches within the ICTY in Serbian, using the trial as a platform to address his domestic audience<sup>34</sup>. Serbian national television amplified this, fueling greater sympathy for him<sup>35</sup>. As such, one must question the extent to which audiences in the Western Balkans were able to fully grasp and internalize the ICTY's proceedings.

While the ICTY provoked mixed reactions, especially within the states of the former Yugoslavia, its work achieved undeniable progress both in Bosnia and Herzegovina and globally. Among its most significant accomplishments was its contribution to strengthening Bosnia's capacity to prosecute war crimes domestically, through the establishment of a dedicated War Crimes Chamber within the Court of Bosnia and Herzegovina<sup>36</sup>. This was particularly important for enhancing the expertise of local judges and lawyers in handling complex war crimes cases.

In addition, the ICTY contributed to several key advancements in international law. Through a series of landmark rulings, it expanded the scope of international justice, particularly in addressing gender-based crimes. It recognized sexual violence as a war crime, a crime against humanity, and an act of genocide<sup>37</sup>. The ICTY also established the legal fact of genocide in Srebrenica and convicted sixteen individuals in relation to Srebrenica crimes before the ICTY and its successor body, the International Residual Mechanism for Criminal Tribunals<sup>38</sup>.

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33. Ibid.

34. Ibid.

35. Kisić (n 24) 66.

36. Diane F Orentlicher, *That Someone Guilty Be Punished: The Impact of the ICTY in Bosnia* (Open Society Institute 2010) 38.

37. 'Landmark Cases' United Nations | International Residual Mechanism for Criminal Tribunals, <https://www.icty.org/en/features/crimes-sexual-violence/landmark-cases>.

38. 'Introduction: Srebrenica' United Nations: International Residual Mechanism for Criminal Tribunals, <https://www.irmct.org/en/mip/features/srebrenica>.



Even after its closure in 2017, the ICTY's legacy continued through the Tribunal's Outreach Programme, which played an important role for civil society. The initiative aimed to help the public and communities affected by the crimes to access and understand the Tribunal's proceedings by providing education, fostering dialogue, engaging with the media and promoting broader awareness of the ICTY's work<sup>39</sup>. Furthermore, the ICTY Court Records (ICR), based on the Tribunal's internal judicial database (JDB), is publicly accessible, including judgements, decisions and legal submissions to transcripts and exhibits in all available languages<sup>40</sup>. As such, it represents a vital mechanism for safeguarding the ICTY's work, providing civil society and broader audiences with continued access to proceedings and findings.

Studies conducted by the United Nations Development Programme (UNDP) have shown that justice was important to all Bosnians, regardless of ethnic affiliation<sup>41</sup>. Given this widespread demand for justice, it becomes essential to explore other transitional justice mechanisms alongside the Tribunal. Assistant Professor of Politics and International Relations at the University of Sheffield, Verošek, emphasizes the need for "a more holistic understanding of transitional justice," one that incorporates—among other mechanisms—Truth and Reconciliation Commissions (TRCs) and truth-telling initiatives<sup>42</sup>.

Given that Truth and Reconciliation Commissions (TRCs), along with other truth-telling initiatives, are not bound by the strict procedural rules of legal trials, they could have provided an alternative pathway to restorative justice. This would have been achieved through their use of informal language, unconstrained testimonies, and broader forms of documentation that allow for a more inclusive and holistic recording of events<sup>43</sup>. However, efforts to implement such initiatives largely failed—a failure that can be explained, at least in part, by the specific dynamics and constraints of civil society in Bosnia and Herzegovina.

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39. 'Assessing the Legacy of the ICTY - Background Paper' United Nations | International Residual Mechanism for Criminal Tribunals (A Conference of the International Criminal Tribunal for the former Yugoslavia, February 2010) <<https://www.icty.org/en/features/legacy-conferences/international-conference-2010/background-paper>>.

40. Ibid.

41. Orentlicher (n 36) 35.

42. Verošek (n 31).

43. Ibid.

As Rangelov and Theros have explained, the literature on civil society in Bosnia and Herzegovina highlights three interrelated factors that shape its functioning: the nature of the armed conflict, the constitutional structure established by the Dayton Peace Agreement, and the approach adopted by the international community during the post-war period<sup>44</sup>.

Considering the salience of ethnicity in the political space in post-Dayton Bosnia, it is not surprising that there was an obstruction to the emergence of a shared political and civic space for debate and negotiation. In the words of Rangelov and Theros, 'Civil society has slowly returned but as a weak and fragmented force, reflecting the legacy of conflict and the design of the peace'<sup>45</sup>.

Although civil society organizations operate either at the local or entity level, their ethno-religious division leads ultimately to the failure of cooperation that could otherwise contribute to reconciliation processes in the country<sup>46</sup>. This is particularly evident in the work of victims' associations and veterans' groups. Victims' associations, in particular, have been marginalized, as they are often perceived as too "political and exclusivist"<sup>47</sup>. Their activities are frequently viewed as lacking professionalism, with many being rural associations that lack the capacity or skills necessary to align their concerns with donor priorities<sup>48</sup>.

In the post-war period, victim-focused organizations emerged within a transitional justice process characterized by "top-down accountability," driven largely by international intervention and the International Criminal Tribunal for the Former Yugoslavia (ICTY)<sup>49</sup>. Unlike Latin America, where such organizations often arose as social movements, these groups in Bosnia and Herzegovina were mobilized as part of the internationally supervised "project of social and political transformation" through the rule of law, democracy, institution building, and the strengthening of civil society<sup>50</sup>.

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44. Iavor Rangelov and Marika Theros, 'Transitional Justice in Bosnia and Herzegovina: Coherence and Complementarity of EU Institutions and Civil Society\*' in Kai Ambos, Judith Large and Marieke Wierda (eds), *Building a Future on Peace and Justice* (Springer Berlin Heidelberg 2009) 362, [http://link.springer.com/10.1007/978-3-540-85754-9\\_14](http://link.springer.com/10.1007/978-3-540-85754-9_14). Accessed 10 May 2025.

45. Ibid 363.

46. Ibid.

47. Ibid.

48. Ibid.

49. Michael Humphrey, 'Victims, Civil Society and Transitional Justice in Bosnia and Herzegovina' (2012) 15 *Temida* 59, 59.

50. Ibid, p. 62.

Considering their nature, civil society attempts with the goal of implementing restorative justice initiatives, such as TRCs, have never managed to gain either international or domestic support.

One of the most promising projects emerging from civil society was the RECOM initiative, which sought to establish a regional commission tasked with truth-seeking concerning victims of war crimes and serious human rights violations under an agreement among the states of the former Yugoslavia.

The RECOM was launched in 2008 by a group of NGOs across the former Yugoslavia, with a focus on documenting war crimes throughout the country.<sup>51</sup> However, this initiative failed to gain endorsement from either government authorities or civil society, preventing it from becoming a promising opportunity to establish a regional Truth and Reconciliation Commission (TRC). Some critics viewed RECOM as a tool for “securing impunity for the Serbian state, its institutions, and its elites<sup>52</sup>,” further arguing that it lacked clear objectives and methodologies, and that it excluded the recommendations of certain NGOs<sup>53</sup>.

At the local level, the Research and Documentation Center (RDC) in Sarajevo created a comprehensive database on human rights violations, known as the Human Losses Project, with the aim of establishing a collective memory of victims in Bosnia and Herzegovina regardless of ethnic, political, or religious affiliation<sup>54</sup>. The RDC also used Google Maps to pinpoint locations where human rights violations occurred, providing information on the type of crime, number of victims, their gender, and details about the perpetrators<sup>55</sup>. However, the Center published a report that reduced the estimated number of Bosniak victims, which provoked a wave of controversy, particularly among Bosniak elites<sup>56</sup>. Although the RDC was known for its collaboration with partner organizations in Serbia and Croatia—both of which were also outspoken on transitional justice through truth and reconciliation commissions<sup>57</sup>—the idea of a truth commission never materialized in practice.

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51. Arnaud Kurze, ‘Time for Change: Aid, NGOs, and Transitional Justice in Bosnia-Herzegovina’ (2017) 1 *Transitional Justice Review*: 53, [https://ir.lib.uwo.ca/tjreview/?utm\\_source=ir.lib.uwo.ca%2Ftjreview%2Fvol1%2Fiss5%2F2&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://ir.lib.uwo.ca/tjreview/?utm_source=ir.lib.uwo.ca%2Ftjreview%2Fvol1%2Fiss5%2F2&utm_medium=PDF&utm_campaign=PDFCoverPages).

52. Kisić (n 24) 58.

53. Žana Kovacević, ‘Zamjerke Inicijatorima Ideje o Osnivanju RECOM-a’ *Slobodna Evropa* (28 March 2010), [https://www.slobodnaevropa.org/a/plp\\_recom/1995688.html](https://www.slobodnaevropa.org/a/plp_recom/1995688.html).

54. Kurze (n 51) 52.

55. *Ibid.*

56. *Ibid.*

57. Armakolas and Vossou (n 8) 49.

Similarly, other efforts to establish a Truth and Reconciliation Commission (TRC) in Bosnia and Herzegovina received little support. One of the earliest initiatives was proposed by the Citizens' Association for Truth and Reconciliation, founded by the prominent human rights activist Jakob Finci. While the association successfully engaged with the International Criminal Tribunal for the former Yugoslavia (ICTY) and secured a measure of international backing, the draft law was never adopted domestically<sup>58</sup>—likely due to the absence of political will to support a unified truth-seeking process. Another contributing factor may have been widespread distrust of organizations that did not align with a particular “ethnic” narrative.

The second truth and reconciliation commission initiative, examined in academic research, was led by the United States Institute of Peace (USIP) in partnership with the local NGO Dayton Project<sup>59</sup>. This initiative coordinated a working group of the eight leading political parties to draft legislation<sup>60</sup>. Yet the draft law was never passed, most likely due to a lack of political will, coupled with the “lukewarm” stance or outright opposition from civil society and victims' associations<sup>61</sup>.

Truth-telling initiatives and civil society-led efforts faced persistent obstacles, stemming primarily from political fragmentation, ethno-national divisions, and limited public support. Moreover, the heavy emphasis on the ICTY as the principal mechanism of transitional justice may have overshadowed or diminished the perceived importance of truth and reconciliation commissions. Collectively, these challenges underscore the need for a more holistic, context-sensitive, and locally grounded approach to transitional justice.

Reparations remain among the most underdeveloped aspects of transitional justice in Bosnia and Herzegovina. This is largely due to the absence of a comprehensive, state-level policy to address victims' needs, despite repeated recommendations from UN human rights mechanisms and the Universal Periodic Review<sup>62</sup>. It is also crucial to recognize the different categories of victims and the

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58. Rangelov and Theros (n 44) 364.

59. Ibid.

60. Ibid.

61. Armakolas and Vossou (n 8) 49.

62. Bojana Urumova and others, 'Nearly 30 Years Following the End of the War in Bosnia and Herzegovina, War Victims Remain Neglected' OSCE Mission to Bosnia and Herzegovina (18 January 2024).

appropriate reparative mechanisms available for each case. As Professor Beganovic of Loyola University Chicago has argued in her research on victims' right to reparation in Bosnia and Herzegovina, identifying an acceptable and appropriate form of compensation requires listening to the voices of victims themselves<sup>63</sup>. This step appears to have been neglected in Bosnia and Herzegovina, given that reparations were awarded in only 19 cases out of nearly 700 adjudicated war crimes cases<sup>64</sup>.

In addition, many returnees who were displaced during the war have been critical of the programs aimed at restoring populations to their prewar homes<sup>65</sup>. Many of these individuals face not only the physical destruction of their homes, but also entrenched ethnic divisions and pervasive mistrust within communities, especially in the cases of 'minority returns' where the returnees will be in an ethnic minority<sup>66</sup>.

The civil society groups in Bosnia and Herzegovina have demonstrated diversity in reparation mechanisms. For example, the Human Rights Chamber of the Constitutional Court of Bosnia and Herzegovina accepts civil suits, as seen in 49 cases brought by victims from Srebrenica through the Women of Srebrenica association<sup>67</sup>. There have also been instances of civil lawsuits for compensation in foreign courts; for example, female victims of sexual violence pursued compensation in U.S. courts under the Alien Tort Claims Act and the Torture Victim Protection Act, such as *Kadic v Karadzic* case<sup>68</sup>. However, such cases have met with varying degrees of success due to jurisdictional issues and the difficulty of proving individual responsibility. In the absence of a unified state policy on reparations and redress, civil society in Bosnia and Herzegovina continues to play an important role in bridging the gap and supporting victims.

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63. Alma Begicevic, 'Bosnian Voices from the Bottom of the Well: Genocide, War Crimes, and Crimes against Humanity and Victims' Right to Remedies' (2023) 29 *International Review of Victimology* 75, 96.

64. Urumova and others (n 62).

65. Begicevic (n 63) 93.

66. Carl Hallergård, 'Bosnia and Herzegovina: Problems and Progress in the Return Process' *Forced Migration Review* <<https://www.fmreview.org/hallergard/>>.

67. Rangelov and Theros (n 44) 364.

68. *Ibid.*

## **Strengthening Civil Society Involvement in the Context of the Bosnia and Herzegovina Experience**

For Yemen—a country that shares with Bosnia and Herzegovina several characteristics, such as societal divisions (albeit less acute than in Bosnia and Herzegovina), ongoing violence, and the entanglement of roles between local and international actors—the Bosnian experience offers both inspiration and caution. The experience of Bosnia and Herzegovina underscores the importance of civil society organizations adopting a unified, victim-centered approach—one that is inherently multidimensional and avoids reproducing ethnic or religious divisions that may obstruct the pursuit of comprehensive transitional justice.

Although Bosnia and Herzegovina applied a range of mechanisms, including international prosecutions, domestic war crimes trials, and truth-telling initiatives, these efforts failed to secure meaningful participation of victims, largely due to political fragmentation, ethnic divisions, and externally imposed processes. It is difficult to discern whether responses to atrocities committed in Yemen will result in the creation of an ad-hoc tribunal, but even such a mechanism alone would not prove most effective in the Yemeni context. Independent civil society organizations in Yemen must be safeguarded and recognized as spaces that do not reinforce existing divides but instead put forward reform-oriented approaches that listen to the needs and narratives of all victims—while taking into account how the specific identity of a victim impacted their experience during conflict.

These organizations should also play a central role in countering harmful narratives by providing impartial support to victims and finding common goals between each other, rather than deepening divisions—a challenge that remains unresolved in Bosnia and Herzegovina. This approach must also be reflected in Yemen's peace framework by encouraging civil society organizations to adopt participatory practices that do not merely reflect the interests of elites or conflict parties.

To avoid repeating the mistakes made in Bosnia and Herzegovina—particularly the failure to establish truth and reconciliation commissions, the insufficiency of reparations, and the shortcomings of investigations in adopting a victim-centered approach—Yemen must guard against the risk of political

elites dominating the narrative. Sufficient space and investment must be provided to victims' associations—especially those representing women and marginalized communities—to take part in designing and shaping truth-telling processes.

Implementing transitional justice at the local level in Yemen may contribute to building trust and to developing a more comprehensive understanding of the harms suffered by different communities, thereby reducing the risk of divisive or blame-based narratives—narratives that can be exacerbated by sharp polarization and foreign influences.

Overall, supporting this path requires strengthening the role of independent civil society actors and expanding cross-regional networks of collaboration among them, with the aim of finding common goals through which they can exert pressure during the peace process. These networks can help lay the foundations of trust-building, contribute to effective documentation of violations, and enable ongoing dialogue even in the absence or weakness of formal institutions.

For civil society organizations, the most important lesson lies in ensuring that victims are engaged not only as witnesses or beneficiaries but as key actors in designing and implementing transitional justice processes—so that justice becomes both tangible and recognizable to those most affected.



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# Chapter Two

Colombia – Building  
Transitional Justice Institutions  
for Peace

This chapter aims to present key insights from Colombia's transitional justice experience—insights that may prove useful in the Yemeni context, as transitional justice becomes clearer when illustrated through concrete examples of implementation. It is important to note that the political and social contexts of Colombia and Yemen differ significantly; however, certain measures may still be applicable despite these differences.

In 2016, the Revolutionary Armed Forces of Colombia (FARC) and the Colombian government signed a peace agreement<sup>69</sup> that ended decades of violence which had claimed the lives of more than 200,000 people<sup>70</sup>. The most well-documented violations during the conflict were linked to forced displacement, enforced disappearance, land dispossession, massacres, and gender-based violence<sup>71</sup>.

The Peace Agreement recognized inequality and social exclusion as one of the main factors of the armed conflict in Colombia. To some extent, being a member of the guerrilla allowed people to secure basic needs like food or shelter<sup>72</sup>. One of the aims of the peace agreement is to change social conditions through civil participation.<sup>73</sup> For some, it would be impossible to think in a lasting peace without, for instance, an agrarian reform and the autonomy of indigenous people<sup>74</sup>.

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69. 'FINAL AGREEMENT TO END THE ARMED CONFLICT AND BUILD A STABLE AND LASTING PEACE', <https://peaceaccords.nd.edu/wp-content/uploads/2020/02/Colombian-Peace-Agreement-EnglishTranslation.pdf>. Accessed 3 May 2025.

70. 'Colombian Armed Conflict' (justice for colombia), <https://justiceforcolombia.org/about-colombia-colombian-armed-conflict/>. Accessed 3 May 2025.

71. Roxani Krystalli, 'Being Seen like a State: Transitional Justice Bureaucrats and Victimhood in Colombia' (2023) 64 *Current Anthropology* 128, 129.

72. Nathalia Bautista Pizarro, 'Building Peace and Restoring Law upon the Ethos: A Comparison Between South Africa and Colombia' in David Bilchitz and Raisa Cachalia (eds), *Transitional Justice, Distributive Justice, and Transformative Constitutionalism: Comparing Colombia and South Africa* (Oxford University Press 2023) 59, <https://doi.org/10.1093/oso/9780192887627.003.0003>. Accessed 1 May 2025.

73. Julián Andrés Pimiento Echeverri and Irit Milkes, 'Beyond Democracy Meaningful Public Participation as a New Approach to Public Decision-Making in the Context of Colombia's Transitional Justice Process' in David Bilchitz and Raisa Cachalia (eds), *Transitional Justice, Distributive Justice, and Transformative Constitutionalism: Comparing Colombia and South Africa* (Oxford University Press 2023) 385, <https://doi.org/10.1093/oso/9780192887627.003.0021>. Accessed 1 May 2025.

74. David Bilchitz and Raisa Cachalia, 'Developing a Conceptual Framework for Global South Comparisons Colombian and South African Contributions' in David Bilchitz and Raisa Cachalia (eds), *Transitional Justice, Distributive Justice, and Transformative Constitutionalism: Comparing Colombia and South Africa* (Oxford University Press 2023) 12, <https://doi.org/10.1093/oso/9780192887627.003.0001>. Accessed 1 May 2025.

While emphasizing that no single formula for transitional justice exists<sup>75</sup>, Colombia's transitional justice process focused on reparations for victims, collective acknowledgment of the truth, and preventing the recurrence of violence<sup>76</sup>.

To implement the peace agreement, Colombia established new institutions, including: a Truth Commission, a Special Tribunal to prosecute perpetrators, and a dedicated institution to determine the fate of those subjected to enforced disappearance<sup>77</sup>. These institutions are significant because states are generally structured to handle criminal cases under ordinary circumstances<sup>78</sup>—not in the aftermath of intense and protracted conflict.

## Transitional Justice in Colombia

The political context is a fundamental factor that must be taken into account when discussing transitional justice processes. As Teitel noted, citing Milkes, a researcher at the Universidad Externado de Colombia, and Echeverri, a lawyer at the university's law school, these processes essentially represent an attempt to provide a legal response to grave human rights violations<sup>79</sup>. The Colombian experience is particularly notable for demonstrating cooperation between the International Criminal Court (ICC) and its member states<sup>80</sup> in seeking the most effective pathways to achieve justice and secure peace.

Roxani Krystalli, Associate Professor at the School of International Relations, University of St Andrews, drawing on García-Godos and others, highlights two key elements of Colombia's transitional justice trajectory: First, although the peace agreement was signed in 2016, preparation for it had begun at least ten years earlier<sup>81</sup>. Second, the Colombian process acknowledged a greater number

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75. Ibid.

76. Pizarro (n 72) 59.

77. Bilchitz and Cachalia (n 74) 11.

78. Pizarro (n 72) 58.

79. Echeverri and Milkes (n 73) 388.

80. Annika Björkdahl and Louise Warvsten, 'Friction in Transitional Justice Processes: The Colombian Judicial System and the ICC' (2021) 15 *International Journal of Transitional Justice* 636, 655.

81. Kai Ambos and Stefan Peters (eds), *Transitional Justice in Colombia: The Special Jurisdiction for Peace* (Nomos Verlagsgesellschaft mbH & Co KG 2022) 171, <https://www.nomos-elibrary.de/index.php?doi=10.5771/9783748923534>. Accessed 1 May 2025.

of violations and victims than any other comparable experience<sup>82</sup>, which led to the adoption of the Victims' Agreement. This document established mechanisms that that combines reparation, retribution and restoration<sup>83</sup>.

To address the scale of violations, the Peace Agreement set out a series of institutional measures, including:

1. The Integral System of Truth, Reparations, and Guarantees of Non-Repetition.
2. A Special Jurisdiction for Peace (Jurisdicción Especial para la Paz JEP), accompanied by a Truth Commission.
3. A Special Unit to Find the Disappeared Persons.

Our focus here will be on the Special Jurisdiction for Peace (JEP), which seeks to hold perpetrators most responsible for large-scale human rights violations accountable, by combining both restorative and retributive approaches to justice<sup>84</sup>.

The Special Jurisdiction for Peace (JEP) is, at its core, a criminal court vested with the authority to impose specific sanctions<sup>85</sup>, characterized by the diversity of the sanctions it can enforce. These sanctions include :

1. **Special sanctions:** Imposed on those who fully acknowledge the truth and accept responsibility<sup>86</sup>. Their restorative dimension lies in requiring the responsible individual to carry out tasks, projects, or activities of a reparative nature<sup>87</sup>.

2. **Alternative sanctions:** Imposed when truth and responsibility are acknowledged before the judgment is issued. These are retributive sanctions and involve deprivation of liberty within a detention facility<sup>88</sup>.

3. **Ordinary sanctions:** Applied to those who neither acknowledge the truth nor accept responsibility, involving deprivation of liberty within a detention facility for a period ranging from 15 to 20 years<sup>89</sup>.

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82. Krystalli (n 71) 130.

83. Björkdahl and Warvsten (n 80) 648.

84. Carlos Arturo Gutiérrez-Rodríguez, 'Beyond Liberal Justice? Decolonising Colombian Transitional Justice through Victims' Participation and Indigenous Rights' (2024) 28 *The International Journal of Human Rights* 1569, 1570.

85. Ibid.

86. Janna Greve and Lorena Cecilia Vega Dueñas, 'Insights from Colombia: Restorative Transitional Justice and the Special Jurisdiction for Peace' (2023) 6 *The International Journal of Restorative Justice* 257, 266.

87. Ibid, p. 267.

88. Ibid.

89. Ibid.

These types of sanctions play a vital role in advancing truth and reparation. Moreover, the Special Jurisdiction for Peace (JEP) also addresses cases related to crimes against nature and territories, acknowledging the perspectives of Indigenous peoples<sup>90</sup>. Ultimately, the JEP seeks to recognize alternative approaches to justice, to understand the perceptions of Indigenous communities<sup>91</sup>—including through the participation of judges from diverse ethnic backgrounds in the process—and to recognize collective lands as victims of conflict<sup>92</sup>. It is worth noting that all judicial proceedings of the JEP are gender-oriented and give special attention to the needs of minorities<sup>93</sup>.

Author Pizarro makes a particular effort to explain how different minorities are engaged in the transitional justice process. First, the Misak people, an Indigenous community inhabiting Cauca—one of the areas most affected by the conflict—are a peaceful society whose inherited traditions of conflict resolution through nonviolence deserve emphasis<sup>94</sup>.

Second, the moral system of the Afro-Atritian people, which recognizes the individual as an integral part of both the land and the community<sup>95</sup>.

Third, the “Agroarte” community, an urban group harmed by paramilitary forces<sup>96</sup>, which has embraced the notion of “peaceful resistance” in the face of violence<sup>97</sup>.

Transitional justice and transformative justice alike can benefit from these diverse approaches to understanding life<sup>98</sup>. The cosmologies of Indigenous communities can also contribute to adopting a post-colonial perspective on transitional justice<sup>99</sup>, thereby strengthening the overall positive impact of the system.

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90. Kristina Lyons, “‘Nature’ and Territories as Victims: Decolonizing Colombia’s Transitional Justice Process” (2023) 125 *American Anthropologist* 63, 72.

91. Gutiérrez-Rodríguez (n 84) 1583.

92. *Ibid.*

93. Greve and Vega Dueñas (n 86) 269.

94. Pizarro (n 72) 65.

95. *Ibid.*, p. 68.

96. *Ibid.*, p. 71.

97. *Ibid.*, p. 73.

98. Louis Monroy-Santander and Germán and Otálora-Gallego, ‘Disrupting the Transitional Justice Circuit: Everyday Transformative Gender Justice in Colombia’ (2024) 18 *Journal of Intervention and Statebuilding* 659, 11.

99. Gutiérrez-Rodríguez (n 84) 1583.

However, this design alone is insufficient without accountability. Institutions subject to oversight and accountability are essential to ensure a legitimate process of investigation and truth-finding, prosecution, reparation, and the protection of minorities such as Indigenous peoples, Afro-Colombians, and peasants<sup>100</sup>.

At the same time, victims and communities must be supported in reporting the violations they have suffered—particularly given the mental health impact<sup>101</sup>—in a context where amnesties are granted, and peace and stability remain the highest values at risk<sup>102</sup>.

In Yemen, there are specific elements that can be adapted and applied. For instance, the establishment of new institutions dedicated exclusively to implementing transitional justice is of paramount importance. These institutions must guarantee effective engagement with society—and with victims in particular—in order to legitimize their work.

In addition, sectarian, factional, and social dimensions hold particular significance in the Yemeni context, alongside political and regional factors. Accordingly, the transitional justice process should adopt mechanisms that ensure all groups in society are empowered to express their voices, while simultaneously incorporating diverse approaches that may emerge from Yemen's sectarian, political, social, regional, and factional diversity. Achieving such a path, however, requires a genuine commitment from all parties concerned to reach compromises and agreements that allow progress toward peace. In the following section, we will discuss the role of victims in these processes.

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100. Greve and Vega Dueñas (n 86) 262.

101. Ibid, p. 263.

102. Mispa Roux and Natalia Silva Santaularia, 'Joint Reflection: South Africa and Colombia as Transitional Justice Societies' in David Bilchitz and Raisa Cachalia (eds), *Transitional Justice, Distributive Justice, and Transformative Constitutionalism: Comparing Colombia and South Africa* (Oxford University Press 2023) 467, <https://doi.org/10.1093/oso/9780192887627.003.0025>. Accessed 1 May 2025.

## Victim Participation in the Context of Colombia's Transitional Justice Experience

The Colombian experience was marked by a high degree of caution and precision in designing its transitional justice system. One of its most prominent foundations was placing victims at the center of the process, by creating the necessary conditions for their participation, as a safeguard against the recurrence of the circumstances that led to the outbreak of the conflict<sup>103</sup>.

This approach required the adoption of specific measures. For instance, Indigenous communities were subjected to violations of a particular nature, and therefore reparation needed to be proportionate to the specific circumstances of each case. Understanding this context was essential for implementing adequate reparation measures<sup>104</sup>. Another notable feature of the Colombian experience was that a large number of public officials working within the framework of transitional justice were themselves victims of the conflict. This lent significant legitimacy to the process, given the ability of victims to connect with peers who shared the same experiences of suffering<sup>105</sup>.

As Judge Kai Ambos and Dr. Stefan Peters point out<sup>106</sup>, genuine access to truth and justice requires :

1. not treating victims as a homogenous group of people;
2. taking the necessary steps to facilitate their participation beyond the minimum procedures prescribed by law;
3. revisiting restorative measures (including reparation and rehabilitation) directed toward victims living abroad, through the adoption of an extraterritorial approach, considering that some victims may be unable or unwilling to return to Colombia.

Victim participation is crucial to overcoming the top-down nature of transitional justice processes and giving a real voice to those who suffered from the conflict. However, ensuring effective participation remains a persistent challenge

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103. Echeverri and Milkes (n 73) 391.

104. Gutiérrez-Rodríguez (n 84) 1574.

105. Krystalli (n 71) 132.

106. Ambos and Peters (n 81) 205.



due to the complexities of reality<sup>107</sup>, as victims' feelings of marginalization or exclusion from the process could trigger a legitimacy crisis affecting the entire endeavor<sup>108</sup>.

Another notable aspect of the Colombian experience was the deep commitment to find the truth. This was achieved by enabling victims to tell their stories, listening to perpetrators, and demanding that they acknowledge their responsibilities<sup>109</sup>. This system also allowed victims to connect with one another to create forms of mutual support<sup>110</sup>, while guaranteeing them the right to receive free legal assistance<sup>111</sup>.

Working with victims also constitutes a central mission within transitional justice pathways, particularly from the perspective of civil society. For example, organizations such as the Association of Organized Women of Eastern Antioquia (AMOR) and the Provincial Association of Victims to Citizens (APROVIACI) were founded by individuals who were themselves victims of the conflict. These groups organized various activities aimed at enhancing women's political participation and supporting their community engagement<sup>112</sup>.

Among the most symbolic initiatives in this context was the "March of Light," an event "held every Friday, where groups of victims and people from all towns of the region marched across public roads with candles in their hands claiming truth, justice and recovering the good name of victims who had been wrongly accused of being part of some armed groups<sup>113</sup>." This march embodied another dimension of transitional justice, affirming that justice is not only exercised in courtrooms, but also at the heart of society.

In Yemen, it is essential to provide space for different groups—foremost among them victims' groups and vulnerable communities—to freely express their views. In parallel, civil society organizations must feel sufficiently protected to carry out their work and be able to reach all victims and integrate them into this process. Dialogue is the only path forward.

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107. Gutiérrez-Rodríguez (n 84) 1582.

108. Gutierrez Rodriguez and Carlos Arturo, 'DOING JUSTICE FOR PEACE. VICTIMS' RIGHTS AND MEMORIAL JUSTICE IN THE COLOMBIAN TRANSITIONAL PROCESS' 108, <https://tesidottorato.depositolegale.it/handle/20.500.14242/201645>. Accessed 1 May 2025.

109. Greve and Vega Dueñas (n 86) 266.

110. Rodriguez and Arturo (n 108) 108.

111. Ambos and Peters (n 81) 171.

112. Camilo Tamayo Gomez, 'Victims' Collective Memory and Transitional Justice in Post-Conflict Colombia: The Case of the March of Light' (2022) 15 *Memory Studies* 376, 380.

113. *Ibid*, p. 381.

## Civil Society Participation in the Context of Colombia's Transitional Justice Experience

As enshrined in the Colombian Constitution, public participation is a fundamental element in all public affairs<sup>114</sup>. With regard to the implementation of the Peace Agreement, the Colombian Constitutional Court affirmed that :

“Participatory democracy, as a value, is based on the participation of citizens as part of the collective destiny of all Colombians<sup>115</sup>.”

However, scholars Echeverri and Milkes highlight another problematic dimension of this participation: decisions related to peace and justice may sometimes run counter to the will of the majority, which means that democracy itself may occasionally hinder the path to peace<sup>116</sup>.

This dynamic was evident in Colombian society's rejection of the Peace Agreement through a public referendum. In this context, the Constitutional Court issued several rulings that led to a partial and necessary re-examination of the principle of democracy within the framework of the referendum on the peace agreement<sup>117</sup>. Ultimately, the Peace Agreement was approved by the Congress, underscoring that political solutions are sometimes necessary to safeguard the overarching goal of peace. This also demonstrated that the conflict affected communities in different ways: regions most severely impacted voted in favor of the agreement, unlike less-affected areas—a pattern that supports the argument that democracy, when applied in a purely procedural manner, may not always be the most suitable tool<sup>118</sup>.

Echeverri and Milkes propose specific elements for ensuring effective participation within a democratic process, which must be considered: a) the nature of the public decision at stake; b) the stakeholders who will be affected by it; c) the appropriate mechanism for participation<sup>119</sup>.

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114. Echeverri and Milkes (n 73) 386.

115. Ibid, p. 387.

116. Ibid, p. 394.

117. Ibid.

118. Ibid, p. 396.

119. Ibid, p. 398.

They also introduce important distinctions regarding the purpose and scope of participation: authorities must determine whether participation is essential for implementing particular measures, or whether it should be limited to collecting views on a specific measure<sup>120</sup>. This differentiation is crucial to understanding that procedural democracy alone is insufficient in post-conflict societies to address the complexities of such issues, and that participation is not an end in itself but rather a means to achieve broader goals<sup>121</sup>.

From this perspective, it becomes necessary to discuss the limits of public participation. Understanding participation as a foundational principle does not mean it is absolute. For example, it would be highly problematic if certain communities could impose their views on public authorities through a veto power. According to Echeverri and Milkes, decision-makers must retain the ability to balance competing interests; nonetheless, it is important to analyze the extent to which the participation of specific groups is essential in each case<sup>122</sup>.

Furthermore, it must remain clear that decision-making power lies with public officials, within a framework of transparency in the decision-making process and with opportunities for citizens to seek judicial review when necessary<sup>123</sup>. Participation also implies that victims and communities will engage with state institutions that had failed them during the conflict<sup>124</sup>.

The most fitting term to describe public participation in decision-making—particularly “bottom-up” participation—is **“balancing.”** Bottom-up participation incorporates multiple perspectives from civilians, victims, organizations, and others, in pursuit of truth, justice, and reparation<sup>125</sup>.

Drawing on his experience in Colombia, Tamayo stresses that:

“There is a need to frame transitional justice practices ‘from below,’ using insights from the field of sociology to better situate victims’ experiences within broader social, political, and historical contexts<sup>126</sup>.”

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120. Ibid, p. 400.

121. Ibid, p. 401.

122. Ibid, p. 402.

123. Ibid, p. 404.

124. Elsa Voytas and Benjamin Crisman, ‘State Violence and Participation in Transitional Justice: Evidence from Colombia’ (2024) 61 *Journal of Peace Research* 1069, 1.

125. Camilo Tamayo Gomez, ‘Recognition as Transitional Justice “From Below”: Analysing Victims’ Grassroots Activism in Postconflict Colombia’ (2022) 16 *International Journal of Transitional Justice* 314, 316.

126. Ibid, p. 317.

He further adds that the conflict stripped people of their humanity, but that bottom-up participation can help rebuild social justice, uncover truth, ensure reparation, and so on to put individuals at the core of the transitional process<sup>127</sup>.

Dr. Camilo Tamayo Gómez also underscores the importance of museums that showcase photographs, timelines, diaries, murals, books, poems, and various objects as a means of creating open dialogue with victims to reconstruct life and remember the past<sup>128</sup>.

Researchers Elsa Voytas and Benjamin Crisman made an important contribution through their work on transitional justice, showing that those most affected by the conflict are often the least engaged in transitional justice processes<sup>129</sup>. This reality places a heavy burden on authorities: state institutions must recognize that the conditions for achieving justice are fundamental, and victims must have full confidence that perpetrators have genuinely relinquished power and withdrawn completely from public life<sup>130</sup>.

In this section, we sought to shed light on civil society participation in Colombia and how it influenced the process, then we will discuss ongoing challenges.

## Challenges Faced by the Colombian Experience

Peace does not come cheaply. It requires significant resources to implement, and in Colombia, this led to coordination challenges within institutions<sup>131</sup>. Another important issue concerned the criteria used for allocating benefits to victims: some victims received more than others, which generated distrust in the post-conflict justice system<sup>132</sup>.

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127. Ibid, p. 318.

128. Ibid, p. 323.

129. Voytas and Crisman (n 124) 13.

130. Ibid.

131. Krystalli (n 71) 130.

132. Voytas and Crisman (n 124) 13.

Another key factor is that financial and technical support from the international community is essential—such as the support provided by the European Union<sup>133</sup> or other donor countries—even though this sometimes introduces competing interests<sup>134</sup>.

With regard to the Special Jurisdiction for Peace (JEP), some ethnic organizations called on the court to adopt a more communicative and approachable way in handling cases, among other demands<sup>135</sup>. Sustainable peace requires that all parties feel heard and that they play a role in shaping a common future<sup>136</sup>.

Another core challenge lies in overcoming the tension between official and unofficial narratives of memory and truth, in which victims play a central role<sup>137</sup>. This challenge is fundamental to the success of the process.

The path of transitional justice in Colombia remains far from complete<sup>138</sup>, and no final rulings have yet been issued in any of the cases.

## Strengths and Weaknesses of the Colombian Model

The Colombian transitional justice experience offers valuable lessons that can be applied in diverse contexts, especially in Yemen, despite the differences in political settings and social dynamics between the two countries.

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133. European Commission, 'EU and Colombia. Key Partners for Peace', [https://international-partnerships.ec.europa.eu/system/files/2019-09/eu-colombia-key-partners-for-peace\\_en.pdf](https://international-partnerships.ec.europa.eu/system/files/2019-09/eu-colombia-key-partners-for-peace_en.pdf). Accessed 3 May 2025.

134. Annie R Bird, 'Conclusion' in Annie R Bird (ed), *US Foreign Policy on Transitional Justice* (Oxford University Press 2015) 152, <https://doi.org/10.1093/acprof:oso/9780199338412.003.0007>. Accessed 1 May 2025.

135. Gutiérrez-Rodríguez (n 84) 1583–1584.

136. Tamayo Gomez (n 125) 330.

137. Tamayo Gomez (n 112) 387.

138. Diana Carolina Rivera-Drago and Filipo Ernesto Burgos Guzman, 'Evaluating the Impact of the Peace Agreement on the Indigenous Peoples of Colombia Land Rights and Compensation' in David Bilchitz and Raisa Cachalia (eds), *Transitional Justice, Distributive Justice, and Transformative Constitutionalism: Comparing Colombia and South Africa* (Oxford University Press 2023) 348, <https://doi.org/10.1093/oso/9780192887627.003.0018>. Accessed 1 May 2025.

One of the model's key strengths is the diversity of mechanisms that allow victims of the conflict to be heard, reflecting a serious commitment to their narratives. Another essential aspect is the integration of approaches rooted in indigenous and minority communities, which has provided a broader understanding of conflict-related violations from multiple perspectives.

On the other hand, the main weaknesses or challenges concern funding, international influence, and the degree of commitment by the relevant actors. For example, many segments of society that were indirectly affected by the conflict have begun to question the usefulness of dedicating substantial financial resources to the transitional justice process instead of addressing pressing social issues in the country.

The role of the international community remains pivotal. In Yemen, multiple international actors are directly engaged in the conflict, and for peace to be achieved, these actors must work together to prioritize the Yemeni people. However, such processes also show that financial support and capacity-building provided by the international community are vital for achieving peace, even if this sometimes affects key political decisions.

Finally, Colombia witnessed political consensus that enabled progress toward peace. By contrast, some political actors continue to oppose—not peace itself—but rather the granting of amnesties to perpetrators. This is an issue that can only be addressed with parties genuinely committed to peace, as it requires concessions at the highest levels.

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# Chapter Three

The Philippines – Finding Common  
Grounds in Reconciliation and  
Transitional Justice

The Philippines' experience with transitional justice stems from its turbulent history, marked by prolonged injustice and systemic violations against the Bangsamoro people in the Bangsamoro region. Officially known as the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), it is located in the southwestern part of the Philippines. According to the 2020 census, the region has a population of around five million and is the only Muslim-majority region in an otherwise predominantly Christian country<sup>139</sup>.

The root causes of historical violations in Bangsamoro are closely linked to structural and historical grievances, including the denial of the Bangsamoro people's right to self-determination and the imposition of a centralized Philippine identity and governance system upon the tribal and ethnic communities of southern Mindanao, including Bangsamoro<sup>140</sup>.

The imposition of centralized state governance, without recognition or accommodation of the pre-existing identities of the Bangsamoro people and other Indigenous communities in southern Philippines, led to systemic exclusion and marginalization. These injustices were further compounded by land dispossession, lack of political representation at both national and subnational levels of governance, and the persistent failures of the state to address the grievances of the Bangsamoro people.

For decades, the region endured waves of violence between the state and local paramilitary groups led by the Moro Islamic Liberation Front (MILF). This violence resulted in heavy civilian casualties, mass displacement, chronic underdevelopment, unstable and unreliable governance, and continued exclusion from the country's broader economic development.

This produced a vicious cycle of deepening grievances, armed conflict and violence, underdevelopment, and persistent human rights violations in the region. The protracted conflict has claimed the lives of more than 13,000 people and displaced over one million internally from their homes.

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139. Marilyn Sera Biwang, 'Bangsamoro Identity: Its Role in the Mindanao Conflict and the (Current) Peace Process'.

140. Siân Herbert, 'Conflict Dynamics, Political-Economy, and Natural Resources in the Bangsamoro Autonomous Region' (The Institute of Development Studies and Partner Organisations 2024) report, [https://opendocs.ids.ac.uk/articles/report/Conflict\\_dynamics\\_political-economy\\_and\\_natural\\_resources\\_in\\_the\\_Bangsamoro\\_Autonomous\\_Region/26403448/2](https://opendocs.ids.ac.uk/articles/report/Conflict_dynamics_political-economy_and_natural_resources_in_the_Bangsamoro_Autonomous_Region/26403448/2). Accessed 10 May 2025.



## Establishment of the Transitional Justice and Reconciliation Commission (TJRC)

Following the signing of the “Normalization Annex” to the Framework Agreement between the Government of the Philippines and the Bangsamoro (BARMM), the Transitional Justice and Reconciliation Commission (TJRC) was established in 2014. The Commission’s primary mandate is to promote reconciliation through employing the pillars of transitional justice by addressing past violations stemming from the conflict, including legitimate grievances such as human rights abuses, land dispossession, and others<sup>141</sup>.

The Commission adopted the Dealing with the Past (DwP) framework, rooted in the United Nations principles to combat impunity. This framework places victims at the center of transitional justice, ensuring their rights to truth, justice, reparation, and guarantees of non-recurrence. The Commission conducted a series of hearings with political actors, Indigenous peoples, and civil society organizations, which generated significant insights, including on sensitive issues such as gender-based violence—particularly violence against women—among others.

While the DwP framework adopted by the TJRC sought recovery and reconciliation with the past, it also provided a forward-looking approach. This future-oriented strategy aims to prevent the recurrence of human rights violations through short-, medium-, and long-term interventions that address the root causes of political and social conflict in the region.

The TJRC consistently recognized the central role of civil society organizations and worked closely with them in shaping the path of transitional justice in Bangsamoro. Both local and international civil society organizations played a vital role in activating non-judicial mechanisms to prevent the recurrence of human rights violations in the region, particularly in the absence of judicial mechanisms to date.

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141. ‘TJRC Report’,

<https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAAsia/Docs/Publications/2016/10/TJRC%20Report.pdf>. Accessed 9 May 2025.

## Community and Civil Society Engagement in the Philippine Experience

The International Monitoring Team (IMT) is tasked with monitoring the implementation of the peace agreement between the Government of the Philippines and the Moro Islamic Liberation Front (MILF)<sup>142</sup>. Its mandate covers: (a) security, (b) humanitarian assistance, rehabilitation, and development, (c) socio-economic support, and (d) civilian protection.

Under the Civilian Protection Component, civil society organizations were granted a mandate in peacebuilding, a role that has proven essential in achieving sustainable peace and transitional justice. Among these organizations is Bantay Ceasefire (Ceasefire Watch), established in 2000 as an “independent grassroots-level monitoring” mechanism. It has played a significant role in documenting and reporting human rights violations in Bangsamoro, with the primary aim of holding perpetrators from all parties accountable for such violations<sup>143</sup>.

The formal inclusion of the Civilian Protection Component (CPC) in the Peace Agreement (Tripoli Agreement)<sup>144</sup> gave civil society organizations clear mandates as key actors in post-conflict reconciliation and transitional justice mechanisms. This also allowed for structured funding to strengthen their capacity to monitor and document human rights violations as part of the comprehensive peace process.

While the peace process was primarily led by major political actors such as the Moro Islamic Liberation Front (MILF) and the Government of the Philippines, with the government of Malaysia as facilitator, civil society organizations helped bring the outcomes of this process to the grassroots level. Their initiatives included reviewing the territorial boundaries of Bangsamoro, organizing hearings for Indigenous peoples and marginalized minorities during the peace process, and holding reflection sessions to shed light on past human rights violations and experiences under martial law and authoritarian rule during the presidency of Rodrigo Duterte.

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142. Cedric De Coning, Ako Muto and Rui Saraiva (eds), *Adaptive Mediation and Conflict Resolution: Peace-Making in Colombia, Mozambique, the Philippines, and Syria* (Springer International Publishing 2022), <https://link.springer.com/10.1007/978-3-030-92577-2>. Accessed 10 May 2025.

143. Andaya Raymond, ‘Unarmed Civilian Peacekeeping as a Transformative Justice Concept: Civilian Protection and Everyday Justice in the Bangsamoro’ (2021) 9 *Asian Journal of Peacebuilding* 279.

144. Tripoli Agreement 1976.

Civil society's role as monitors of the peace process in Bangsamoro led to the emergence of a strong coalition of local and international organizations. These included the Civil Peace Service Program of GIZ (GIZ-CPS), the Civil Peace Service Forum (ZFD), and various local organizations. Together, they convened conferences aimed at placing transitional justice high on the agenda of political actors and unifying initiatives related to it. These conferences also served as platforms for Indigenous peoples, grassroots representatives, and others to engage in dialogue sessions that brought together all political stakeholders—including representatives from Bangsamoro, the Government of the Philippines, national legislators, and NGOs<sup>145</sup>.

More than four decades of protracted conflict, grave human rights violations, and repeated attempts to revive and amend peace agreements between the Philippines and the MILF ultimately culminated in the legal recognition of Bangsamoro as an autonomous region in the southern Philippines<sup>146</sup>. The region's transition toward adopting its own organic law began in February 2019 and continued until February 2025. This period is critical for advancing transitional justice, particularly in institutionalizing mechanisms for reparation, guarantees of non-recurrence, and other key elements.

At present, the Bangsamoro Organic Law obliges the regional parliament to address historical grievances, human rights violations, and ongoing issues such as land dispossession—the very root causes of the protracted conflict in the region. As part of embedding transitional justice into Bangsamoro's legal frameworks, the Bangsamoro Human Rights Commission (BHRC) was established, tasked with documenting and investigating past human rights violations and supporting transitional justice processes.

Despite these achievements, implementation of many of the recommendations made by the Transitional Justice and Reconciliation Commission (TJRC) remains slow. The issue of state-led land dispossession remains unresolved, and the grievances of Indigenous peoples—raised during hearings—have yet to be addressed. While some grievances have been addressed partially or substantively—such as gender-based violence, amnesties, and the dismantling of private armed groups—responses have been fragmented, overlooking the interconnections between these issues in the broader context of transitional justice<sup>147</sup>.

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145. Ces Rodriguez, 'Transitional Justice IN THE BANGSAMORO: WHAT'S NEXT?'

146. 'Republic Act No. 11054', [https://www.lawphil.net/statutes/repacts/ra2018/ra\\_11054\\_2018.html](https://www.lawphil.net/statutes/repacts/ra2018/ra_11054_2018.html). Accessed 10 May 2025.

147. Dr Nora Refaeil and Yasmira Moner, 'Independent Study on the Status of the Implementation of the 2016 Recommendations of the Transitional Justice and Reconciliation Commission'.

These challenges call for more inclusive dialogue between the Government of the Philippines, the Bangsamoro Parliament, the TJRC, and civil society organizations.

Nonetheless, the firm and consistent stance taken by civil society organizations—from their role in mediating reconciliation processes, to their pivotal position in the Civilian Protection Component of the peace agreement, to their close partnership with the TJRC in linking grassroots communities to transitional justice—has been instrumental in achieving sustainable peace in Bangsamoro and in launching and shaping transitional justice processes in the region.

The key lessons learned from the case of the Philippines are as follows:

1. The inclusion of civil society organizations and the official recognition of their role in peace agreements and frameworks is of critical importance in the short, medium, and long term, given the deep interconnection between reconciliation and transitional justice.
2. The organization and coordination among civil society organizations—away from fragmented approaches—strengthens advocacy efforts and unifies initiatives related to transitional justice.

These factors contributed to achieving positive results in the fields of reconciliation and transitional justice, ultimately ensuring that these results reached victims and marginalized groups.

## **Strengths and Weaknesses of the Philippine Experience**

Both the national government and the de facto government of the Bangsamoro region adopted a serious and pragmatic approach toward reconciliation. On the part of the national government, this was demonstrated by transforming the Comprehensive Agreement on the Bangsamoro (CAB) and the normalization agreement into national law, marking the starting point for the Bangsamoro autonomy process. Meanwhile, the de facto government of Bangsamoro expressed its genuine support for the reconciliation process by handing over weapons to the state and agreeing not to militarize the region.

However, transitional justice in Bangsamoro experienced slow implementation due to the political and governmental transition phase. Despite ongoing dialogues between civil society organizations, grassroots communities, and victims on the one hand, and the government on the other, key grievances—such as land dispossession—remain unaddressed. The absence of specialized courts also reflects a lack of clarity or weakness in defining justice for the victims of the region, which risks undermining the centrality of victims within the transitional justice process.

One of the most important lessons for Yemeni civil society from the Philippine experience in transitional justice is the integration of civil society organizations into the peace process. This secures their legitimacy as representatives of victims of human rights violations, ensures access to the necessary funding, and strengthens the inclusiveness of grassroots participation along with other key stakeholders in both reconciliation and transitional justice processes. Such integration also shields civil society from political changes and other risks that might hinder the implementation of its tasks or undermine its role.

Moreover, the grievances that formed the roots of the conflict in Bangsamoro—such as land dispossession and the imposition of a national identity on Muslims in the southern regions—must be at the heart of reconciliation and transitional justice efforts. In the Philippines, grievances linked to the forced imposition of national identity were addressed by granting Bangsamoro autonomy, which represented a tangible beginning for transitional justice for many who had long felt marginalized.

Although the situation in Yemen is more complex, mapping out a roadmap to address historical grievances in a way that is acceptable to communities that have endured longstanding marginalization would not only open the door to sustainable reconciliation but also mark a pivotal step toward transitional justice.

Finally, the institutionalization of the Civilian Protection Component (CPC) within the Bangsamoro peace agreement provided genuine protection for civilians in the post-conflict phase. This also enabled civil society organizations to mobilize their capacities and carry out their roles in monitoring and documenting human rights violations—an essential element for implementing an effective transitional justice mechanism. This component could also be adopted in Yemen, provided it is included in an agreement that enjoys the acceptance of all parties and their willingness to commit to it.

## The Role of Civil Society in Transitional Justice Processes in the Post-Conflict Phase

In this section, we will briefly discuss the critical importance of the participation of independent civil society organizations in transitional justice processes, and the necessity of protecting them from any threats or external influence.

During armed conflicts, independent civil society organizations lead efforts to document human rights violations, gather testimonies, evidence, and indicators—forming the basis for their work to protect civilians, ensure accountability and redress, and support victims and affected communities. Through their fieldwork in the midst of armed conflicts, they acquire specialized knowledge, expertise, data, and information that together serve as essential inputs for transitional justice processes.

Therefore, the participation of independent civil society organizations in transitional justice processes during the post-conflict phase is essential to ensure that these processes are inclusive, standardized, and objective—covering all violations, all victims, all geographic areas, all groups, all needs, and all standards. Their role also guarantees independent oversight throughout the various stages of transitional justice processes, from planning, through implementation, to post-implementation phases. In addition, they play an important role in awareness-raising, capacity-building, knowledge production, sustainability efforts, and victim engagement. Often, these organizations assume oversight of transitional justice processes once both international and national actors have withdrawn from the scene<sup>148</sup>.

According to Maya Schkolne and Van der Merwe, civil society in the Global South “has been challenged by reality to re-diagnose deeply rooted conflicts, and to reinvent ways of rebuilding communities after decades or centuries of ontologies imposed upon them by colonialism<sup>149</sup>.” This is a pivotal point in transitional justice processes: models should not be mechanically replicated from elsewhere, but rather, local specificities must be understood in order to develop systems capable of achieving tangible results. Besides, there are new organizations capable of contributing innovative ideas in the field of transitional justice<sup>150</sup>.

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148. Maya Schkolne and Hugo van der Merwe, ‘Chapter 11: Civil Society and Transitional Justice: Building an Expanded Vision from Below’ (2023) 160, <https://www.elgaronline.com/edcollchap/book/9781802202519/book-part-9781802202519-20.xml>, accessed 1 May 2025.

149. Ibid.

150. Ibid, p. 161.

The two authors emphasize that human rights organizations, peacebuilding organizations, medical organizations, gender justice organizations, grassroots community groups, and religious organizations are among the most engaged actors in these processes. They highlight the wealth of information these organizations can collect, which can be used for “targeted advocacy, monitoring and transparency, gaining official support, activating public participation, providing services and supporting victims, peacebuilding, reconciliation and development, truth-telling, remembrance, and memorialization<sup>151</sup>.”

Transitional justice cannot be conceived without independent civil society organizations. They are deeply rooted in local communities and directly connected to the most vulnerable groups. This field-level connection grants them a high degree of legitimacy, which must be leveraged in peacebuilding. Ensuring their security and safety is therefore of paramount importance.

In the Yemeni context, despite the vast number of victims of the various forms of violations committed by all parties to the conflict on a wide scale for more than a decade, no independent initiatives have emerged to represent the victims. This is largely because most victims of violations belong to weak, poor, and marginalized groups, often living in remote areas still deprived of basic services such as education, electricity, and communication. Thus, the participation of independent civil society organizations in transitional justice processes becomes doubly important—as a vital link to victims from these vulnerable, poor, and marginalized groups, in documentation, awareness-raising, capacity-building, and in amplifying their voices and causes.

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151. Ibid, p. 162.



# **Recommendations**

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To enhance the chances of success and ensure the effectiveness of a post-conflict transitional justice process in Yemen—and drawing from best practices identified in the cases studied—Yemeni stakeholders, the international community, and civil society organizations should:

1. Ensure that human rights and transitional justice issues are placed at the core of peace efforts, negotiations, and any resulting agreements, thereby safeguarding victims' rights to redress and reparations.

2. Support capacity-building programs for independent civil society organizations and victims in the field of transitional justice.

3. Support the continuation of independent efforts to document human rights violations.

4. Support programs that include research and studies on transitional justice from the perspective of the Yemeni context, addressing its complexities and grievances, to better understand Yemen's societal specificities, identify the roots of injustices, and define sound and effective mechanisms for addressing them as a unique case, distinct from other contexts.

5. Support initiatives to provide context-sensitive and practical inputs for transitional justice in Yemen, including setting priorities, identifying mechanisms, anticipating potential challenges, and outlining ways to overcome them, among others.

6. Promote the design and development of inclusive, victim-centered transitional justice programs and plans in the post-conflict period, reflecting victims' priorities.

7. Ensure neutrality and independence in the mechanisms through which transitional justice is managed, enabling victims and independent civil society organizations to feel safe, share their narratives, and conduct their work freely.

8. Ensure that transitional justice processes include the establishment of new, specialized, and impartial institutions. These institutions should be the outcome of broad consultations involving victims, independent civil society organizations, legal experts, the international community, and neutral authorities.

9. Promote the effective participation of independent civil society in reconciliation and transitional justice processes within peace agreements and legal frameworks, ensuring their mandates, funding, protection, and other essential requirements.

10. Ensure that the international community provides impartial technical and financial support for transitional justice, with a focus on strengthening independent civil society organizations and coordination with neutral authorities.

11. Ensure the protection of independent civil society organizations from retaliation and intimidation campaigns carried out by all parties to the conflict.



# Pathways to Partnership

Lessons from Engaging Civil Society and Victims in Transitional Justice Processes in Bosnia and Herzegovina, Colombia, and the Philippines.

## **Pathways to Partnership: Lessons from Engaging Civil Society and Victims in Transitional Justice Processes in Bosnia and Herzegovina, Colombia, and the Philippines**

Mwatana for Human Rights, in collaboration with students from Central European University, prepared this research paper examining mechanisms for the engagement of independent civil society organizations and victims in transitional justice processes in Bosnia and Herzegovina, Colombia, and the Philippines—countries that experienced transitional justice efforts following protracted conflicts that resulted in widespread human rights violations and a legacy of accumulated grievances.

The paper discusses the challenges encountered across the three case studies, the strengths and weaknesses of each experience, and provides an analysis of the contextual factors shaping these processes. It also explores ways to link these international experiences to the Yemeni context in order to draw lessons and identify opportunities for adaptation and benefit.

The research employed qualitative and comparative methods, analyzing three case studies of transitional justice processes. It also reviewed relevant documents, including reports by the United Nations, the International Center for Transitional Justice, and other recognized international organizations. Together, these studies and reports form a foundational basis for identifying applicable mechanisms, best practices, and major potential challenges to inform transitional justice efforts in Yemen.

Mwatana for Human Rights calls on all relevant stakeholders in Yemen—first and foremost the parties to the conflict, along with the international community and civil society organizations—to work towards maximizing the prospects for a successful and effective transitional justice process in the post-conflict stage. This requires placing human rights issues and transitional justice at the heart of peace negotiations and any resulting agreements, thereby ensuring victims' right to remedy and reparation.