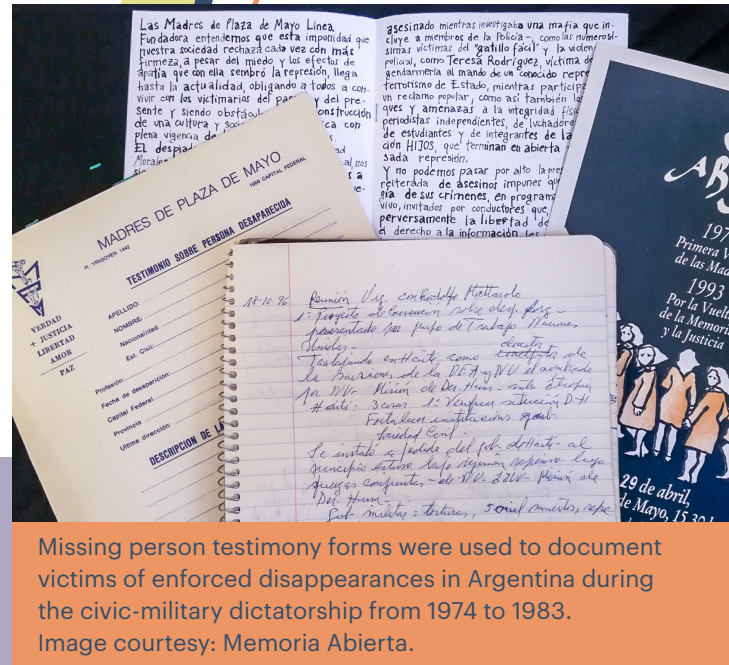


THE ROLE OF THE ARCHIVES IN ATROCITY PREVENTION

POLICY PAPER



Missing person testimony forms were used to document victims of enforced disappearances in Argentina during the civic-military dictatorship from 1974 to 1983. Image courtesy: Memoria Abierta.

INTRODUCTION

People have the collective right to the integrity of their memory, access to the truth, identify those responsible for crimes, know the fate of disappeared relatives, obtain rehabilitation of victims, know their data (habeas data), conduct historical research, benefit from amnesty for political prisoners, and receive reparation, compensation, and restitution of property. In the context of prevention, archives contribute to these multiple needs. In order to counter atrocities more effectively, it is necessary to strengthen and expand the use and protection of archives.

SUMMARY

The right to know implies the inalienable right to the truth about past events and the circumstances and reasons that led to the commission of the most heinous crimes through the massive or systematic violation of human rights. The whole and effective exercise of the right to the truth and the duty to remember is essential to prevent the recurrence of violations in the future. These measures intend to preserve people's collective memory by preventing the development of revisionist and negationist theories.

The above follows a need to preserve archives related to human rights violations. A people's knowledge of the history of its oppression belongs to its heritage and, as such, must be held appropriately in the name of the state's duty to remember.

At the international level, there are several existing principles and instruments concerning preserving archives of the repressive past.

First, the International Council on Archives (ICA¹) is a non-governmental body established in Paris in 1948 under the auspices of UNESCO.

Five of the 40 Principles for the protection and promotion of human rights through action to combat impunity, contained in a 1997 report by Louis Joinet,² and updated in 2005, are devoted to the preservation of and access to related records to human rights violations.

The Study on the Right to the Truth submitted to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2006 devotes a paragraph to the importance of archives.³ Following this report, in 2010, the OHCHR developed the Study on Archives and the Right to the Truth to create a tool for post-conflict societies, raising awareness among governments, administrations, and civil society in these countries of the crucial importance of archives.

In 1992, UNESCO created the Memory of the World Register to recognize the documented heritage as being a universal interest. The archives of human rights NGOs in Argentina, Paraguay, Chile, the Dominican Republic, and Cambodia are included in this register.⁴ The international organization Archivists Without Borders carried out the ambitious project of inventorying the archives of repressive regimes in Latin America. Following the disintegration of the USSR and the end of the communist regimes in Europe in 1993, UNESCO and the ICA supported a group of international experts to draw up a report with recommendations on the legal and scientific treatment of the archives of the fallen regimes' security services.

In order to counter atrocities more effectively, it is necessary to strengthen and expand the use of available tools, including the use and protection of archives. Archives related to human rights violations represent a treasure trove of valuable data that makes it possible to prove, beyond any reasonable doubt, the criminal responsibility of the perpetrators of the most serious crimes, such as genocide, crimes against humanity, and other war crimes. The archives are clearly an indispensable tool for establishing accountability and fighting against claimed impunity.

However, this is not the only way archival material can manifest its preventive potential. If adequately preserved and made available to the public, archive documentation can form the basis on which a culture of memory can be built, including narratives that future generations will learn and adopt. This is significant for at least two reasons: to help future generations identify and address atrocity threats and, eventually, to prevent revisionism and the denial of past human right violations, each of which is ultimately linked to prevention.

THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH, AND RECONCILIATION

In 2014, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth & Reconciliation (GIJTR), a consortium of nine international organizations focused on offering holistic, integrative, and multidisciplinary approaches to issues of truth, justice, and reconciliation. GIJTR works primarily with local populations, civil society organizations, survivors, and governments to develop transitional justice approaches that are victim-centered and collaborative and support dignity, respect, inclusion, and transparency in societies emerging from conflict or periods of authoritarian rule. Since its founding, GIJTR has engaged with people from 76 countries, worked with 760 civil society organizations, conducted 463 community-driven projects, and documented more than 7460 human rights violations.

For more information, please visit gijtr.org.



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KEY FINDINGS

Many international principles and instruments aim to guide UN field missions, transitional administrations, and civil society on the management, reform, use, and preservation of archives to help guarantee and enforce human rights, particularly the right to the truth.

Throughout its various projects since 2014, GIJTR has recognized a gap in the capacity of grassroots civil society organizations (CSOs), survivor groups, community organizations, and initiatives to understand and adequately apply these international principles properly. Many documenting methodologies are rigid, and require resources and expertise that are unavailable or anticipate protocols that may be difficult to follow.

GIJTR's multidisciplinary approach has so far supported CSOs in Africa, Asia, Latin America, the Middle East, and North Africa by providing financial and technical support for investigation missions and the selection of a record system, in addition to record management, staff training, security management, and access to the records.

In several contexts, GIJTR has succeeded in gathering CSOs that are currently documenting human rights violations and are interested in building their capacity by increasing their coordination to jointly address challenges, improve effectiveness, and work together to expand the scope of their documentation efforts. Much attention is being paid to addressing the lack of human resources and expertise to carry out public awareness programs, community consultations, local government's reach regarding documentation and its role in transitional justice, as well as engaging with the media and youth.

Other challenges CSOs are experiencing include government interference, restricted access to information, legislative obstacles, overlapping information, and cultural obstacles. For instance, women are often difficult to reach in certain societies, and their high illiteracy rate affects collection methods.

Given the diversity of experiences and skills within GIJTR and among the ICSC network members, these projects offer post-conflict societies a unique opportunity to address transitional justice needs promptly while promoting local participation and building the capacity of community partners.

CASE STUDIES

TRANSFER OF INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA ARCHIVE

GIJTR's partner, Humanitarian Law Center (HLC) from Serbia, holds almost a complete mirror archive of the International Criminal Tribunal for the former Yugoslavia (ICTY).⁵

This archive holds exceptional legal and historical importance and contains a wealth of information about the events that occurred during the armed conflicts of the former Yugoslavia (1991–2001). It represents the basis for establishing the rule of law and the long-term political and social process of *dealing with the past*.

Even though Serbia is a state party to the International Covenant on Civil and Political Rights⁶ and a sponsor of the UN HRC's Resolution on the Right to the Truth,⁷ Serbian institutions systematically obstruct public access to documents. For these reasons, HLC's work preserving and using the ICTY archive is critical.

HLC uses this material to compile the register of human losses, support domestic war crimes trials, identify possible perpetrators of war crimes, locate persons who were forcibly disappeared, and develop

a planned program of informal training seminars on transitional justice for youth and media.

An example of how HLC uses the ICTY archive is Dossiers. After researching available archival material, Dossiers aim to present evidence and information on mass crimes whose perpetrators have not been brought to justice yet. Dossiers urge government institutions to prosecute all those responsible for war crimes, be they direct perpetrators, order-givers, or those responsible based on command responsibility.

In this way, HLC both helps the authorities in charge of prosecuting war crimes bring to justice perpetrators and offers valuable materials and easy access to the ICTY archive to researchers, scholars, journalists, victims, victims' family members, and other interested individuals.

SUPPORTING CSOS IN DIGITAL ARCHIVING

Digital archiving is crucial to CSOs in helping document both past and ongoing human rights violations and better utilizing information to support transitional justice mechanisms and community-based truth, justice, and memory initiatives.

However, many organizations with the potential to create and sustain significant digital archives cannot do so. Due to a lack of capacity and resources, CSOs may be unable to effectively archive, store, and share their documentation, thereby creating the risk that this valuable documentation could be lost or rendered ineffective in pursuing larger goals related to accountability and remembrance.

On this basis, GIJTR seeks to establish a set of guidelines that distill best practices and potential solutions to the use of civil society documentation for transitional justice purposes.



The Historical Archive of the National Police in Guatemala is composed of over 23 million documents, including testimonies, forensic evidence, and documentary evidence of the crimes committed in Guatemala between 1960 and 1996.



KOSOVO DOCUMENTATION CENTER

The Kosovo Documentation Center (KDC) is a public space managed by the Humanitarian Law Center Kosovo (HLCK) that contains information about the Kosovo war, dealing with the past, and transitional justice. The data collected over the years by courts, different publications, and research is presented in exhibitions, documentaries, lectures, and debates to inform the public and create a new comprehensive space whose aim is to preserve collective memory.

An example of a past event organized in this space that reflects how documentation can be used as a resource in dealing with the past process was the exhibition "Once upon a time and never again."⁸

RECOMMENDATIONS

The following are measures that must be taken to ensure the preservation of archives and records:

- Archives and records must be protected from theft, destruction, and misappropriation.
- The inventory of available archives, including those held by third countries, should be drawn up such that they can be communicated and, if necessary, returned.
- Regulations concerning access to and consultation of these archives, in particular by giving any person implicated by them the possibility of adding a right of reply to a file, should be adopted.
- National archives systems that can handle both governmental and non-governmental materials should be strengthened, and their capacities upgraded.
- Records created by transitional justice initiatives must be preserved and made available to future users. These records are a concentrated, rich source of information about a country's history and its people.
- Records that document human rights violations must be accessible and their use should be encouraged. The documentation contained in archives can form the basis on which a culture of memory can be built, including narratives that future generations will learn and adopt.
- Governments should encourage competent state institutions to systematically use the benefits of archive documentation. The archives represent an indispensable tool in establishing accountability and fighting against alleged impunity.
- Governments should be open to an extensive use of archives in official school curricula. This can significantly help future generations identify and address atrocity threats.
- All stakeholders, including government, CSOs, and victims' communities, should participate in information collecting.
- Stakeholders should recruit volunteers to act as data collectors in their communities.
- CSOs should conduct risk assessments to evaluate the security risks present in documentation processes.
- CSOs should coordinate with government entities, especially local governance structures, on information collection to encourage government cooperation in documentation processes.
- Stakeholders should raise awareness of the importance of documenting past human rights violations through broad public campaigns.
- Public campaigns should focus on overcoming cultural barriers that may impede information collection.
- CSOs should work together to prevent information collection duplication by holding networking and documentation meetings.
- Stakeholders should encourage the use of simple methods of information collection, such as oral interviews, recordings, and group discussions, which may prove more feasible than other information-gathering methods.
- Recognizing the critical role women play in conducting complete and accurate documentation of human rights violations, the representatives should take the necessary steps to increase the number of women participating in the documentation process.

FURTHER READING

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ENDNOTES

- ¹ Available at: www.ica.org.
- ¹ In 1993, in Vienna, the World Conference on Human Rights adopted a declaration and a Program of Action asking the UN to intensify the fight against impunity. This led to Louis Joinet as Special Rapporteur on the question of impunity for human rights violations.
- ¹ See: <http://daccessdds.un.org/doc/UNDOC/GEN/G06/106/57/PDF/G0610657.pdf>, para. 52.
- ¹ The archives of the “Plan Condor” in Paraguay, those of the Tuol Sleng prison in Cambodia, and those of the Trujillo regime in the Dominican Republic have joined them. Available at: https://drive.google.com/file/d/0B7pQUrAWJ9ZVSU5PNhWa1gtR1k/view?resourcekey=0-2hB4sVxDztZ977WqKMG_1w.
- ¹ Official website: <https://www.icty.org/en>.
- ¹ Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.
- ¹ Available at: https://ap.ohchr.org/documents/e/hrc/resolutions/a_hrc_res_9_11.pdf.
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