

Call for Input to inform the thematic report of the Special Rapporteur on the question of the documentation of gross violations of human rights and serious violations of international humanitarian law in the context of transitional justice processes

Submission by Every Casualty Counts

10 December 2024

Every Casualty Counts (ECC) is an independent non-governmental organisation which works to ensure all casualties of armed conflict and other situations of gross human rights violations are recorded, identified and acknowledged. We have more than a decade of experience working with a wide range of casualty recording initiatives. ECC conducts global research and advocacy and supports the development and implementation of best practice among casualty recorders worldwide. We also convene the Casualty Recorders Network, which comprises more than 60 civil society organisations documenting casualties in current conflicts and post-conflict situations across the globe.

1. Basis of documentation obligations

In 2023 ECC published extensive research on states' legal obligations to comprehensively document casualties of armed conflict and gross human rights violations. It includes examples of relevant state policies and practice, national and regional jurisprudence, and non-binding but influential international norms. The report focused particularly on states' obligation to document all violent deaths, and not only those arising from (suspected) violations of international humanitarian law.

The full report can be found at: [Casualty Recording in Human Rights and Humanitarian Law](#).¹

2. Lessons from State-led initiatives

Contemporaneous and systematic documentation of fatalities by health services in [Croatia](#)² provided valuable evidence for transitional justice processes. Similar recent efforts in [Gaza](#)³ have also demonstrated the importance of ensuring adequate capacity within health and death-care services to deal with potentially large numbers of fatalities in volatile circumstances. ***States should plan for potential mass fatality situations, including internal or international armed conflicts, and ensure healthcare and deathcare services have adequate procedures and capacity available.***

¹ <http://bit.ly/4gso2hM>

² <https://bit.ly/3ZM41gG>

³ <https://bit.ly/3OW0g1K>

ECC previously published a detailed analysis of the casualty documentation work undertaken by the Bouderbala Commission investigating deaths resulting from the popular uprising in Tunisia in December 2010. The full report can be found at: [Casualty Recording in Tunisia](#).⁴

3. Lessons from civil society initiatives

The collective experience of members of the casualty recorders network illustrates that civil society led documentation efforts typically begin at a far earlier stage than those led by states or international institutions. Civil society actors begin documenting violations while they are happening, and are therefore able to collect and preserve sensitive physical or testimonial evidence before it is lost or deliberately destroyed. Examples of this include records rescued by civil society from abandoned detention centres in Syria and Cambodia.⁵

This early action by civil society has substantial repercussions for the future success of transitional justice processes. It can be years or decades between a violation and the beginning of a transitional justice process, and if basic information is not gathered as soon as possible it can become permanently unavailable. The more time elapses between violations and documentation processes, the less comprehensive the outcome is likely to be.

In 2014 the civil society coalition, [Ukrainian Helsinki Human Rights Union](#)⁶ (UHHRU), began collecting information on war crimes resulting from the Russian invasion of Crimea. This information was compiled in a comprehensive and publicly accessible database of deaths, both military and civilian, arising from the conflict. In 2021, this project and its research archives were transferred to the Ministry of Reintegration of the Temporary Occupied Territories⁷ for use by its Peacebuilding Centre.⁸ This is a good example of collaboration between civil society and subsequent state-led documentation initiatives.

However, a major obstacle to the work of civil society casualty recorders is the lack of willingness by donors to fund documentation work at this early stage. Funders are often reluctant to fund documentation efforts when there is no certainty about when, if, or how transitional justice processes may eventually take place. This limits the ability of civil society to collect, verify, and safely store vital information, and increases the personal risk to human rights defenders who have no budget for personal or institutional security. ***Funders should recognise that high quality documentation work will always be of benefit to victims of***

⁴ <https://bit.ly/3OPkoD1>

⁵ <https://bit.ly/4ix4RVS>

⁶ www.helsinki.org.ua

⁷ <https://minre.gov.ua/>

⁸ Due to the intensification of conflict in 2022, this initiative is currently on hold.

gross human rights violations, and funding should not be dependent on its use for specific future outcomes or processes.

Trust and access

Civil society organisations have a unique role to play in ensuring that the experience of all sectors of an affected society are documented. Both during situations of armed conflict/gross human rights violations and in the post-conflict period, there may be widespread reluctance among witnesses and survivors to share their testimony and evidence with state-led or internationally-mandated documentation processes. Witnesses may be more willing to share their testimony with civil society documenters from a shared ethnic/religious/political background.

Civil society documenters can also benefit from physical access to witnesses which independent external investigators, such as an international commission of inquiry, cannot reach. In situations where the state concerned has imposed access restrictions on external actors, civil society initiatives rooted in local contacts may be the best and only sources of information. For example, despite government restrictions on access to media and investigators, civil society casualty recorders were able to document fatalities in Tigray during 2020 - 2022 by communicating with personal contacts in the region by phone.⁹ Similar research methods have been used in Myanmar.

Based on its experiences documenting violations in Crimea from 2014 - 2018, UHHRU made a number of recommendations concerning the creation of a state-led system for documenting violations of human rights and IHL.¹⁰ They highlighted ***the importance of establishing safeguards to avoid abuse which could arise from a “monopolistic” state-led system of documentation of violations.*** This could include the creation of a supervisory board of external experts and observers drawn from among national and international civil society human rights organisations. They also emphasised ***the need to allocate sufficient resources to build systemic and collaborative relationships between civil society and state agencies*** established to document violations. This should include the collaborative development, adoption and implementation of regulatory, technical and methodological procedures to ensure that violations can be documented in a single, coordinated database.

International donors can encourage inclusive and comprehensive documentation of past abuses by choosing to fund initiatives which require collaboration across affected communities. An example of this is the Kosovo Memory Book¹¹, which was a joint initiative of the Humanitarian Law Centres in Serbia and Kosovo. The project documents the life

⁹ <https://bit.ly/49Aagrd>

¹⁰ <https://bit.ly/3DlNd7f>

¹¹ <https://bit.ly/3Doi82M>

stories and circumstances of death or disappearance of 13,535 victims of the 1998 – 2000 conflict in Kosovo. It is the result of years of research conducted within affected by communities via personal interviews with thousands of witnesses and family members, photographs, court documents, forensic reports, records of the armed forces, reports of non-governmental organizations and the media, war diaries and other related documents.

A similar example is the book ‘Lost Lives’, which documents the circumstances of each of the more than 3,700 violent deaths resulting from the Northern Irish ‘Troubles’ over thirty years.¹² It was published in 1999, a year after the Good Friday Agreement, and documents each death chronologically, with no division by political affiliation. The book was a private initiative by a small group of journalists with no institutional backing, but has been widely heralded as a vital tool of reconciliation within the post-conflict context.

4. Timeliness of documentation efforts

Achieving comprehensive documentation that adequately supports transitional justice processes requires efforts to start as early as possible – as soon as armed conflict breaks out or gross violations begin. Vital physical or testimonial evidence is quickly lost or deliberately destroyed in these contexts. If basic information is not gathered and preserved as soon as possible, future prospects for successful documentation are drastically reduced. ***Funders must commit to funding documentation efforts from the outset of the violence/violations, even when there is no certainty about when, if, or how transitional justice processes may eventually take place.*** The more time elapses between violations and documentation processes, the less comprehensive the outcome is likely to be.

For example, forensic investigators seeking to identify missing persons in the context of the Georgia-Abkhazia conflict found that their task was complicated by the lack of accurate official data on deaths.¹³ Lists of missing persons compiled by civil society in collaboration with local family associations were essential starting points for the search. Where there are no official lists of the dead, investigators do not know how many bodies they need to search for or where. This can result in identification projects being under-resourced and prematurely abandoned. Alternatively, investigators may continue searching unnecessarily in areas where the task has already been completed.

5. Better integration and standardisation

A standardised approach to methodology, definitions and categories assists with integration of documentation where multiple actors are engaged in the process. For this reason, ECC

¹² <https://www.bbc.co.uk/news/uk-northern-ireland-51480198>

¹³ <https://bit.ly/4gv2QrA>

published the [Standards for Casualty Recording](#) in 2016.¹⁴ The Standards provide a shared framework which allows information to be shared, analysed and combined consistently between different casualty recording actors and initiatives. This reduces the need to re-interview vulnerable witnesses and creates transparency regarding the documentation process. ***All actors engaged in documentation of casualties and other violations should adhere to standardised best practices.***

For further information please contact info@everycasualty.org.

¹⁴ <https://bit.ly/3VAZXgC>