

Principles of Transitional Justice
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transitional
Justice
principles

Strengthening Inclusive Victims' Voices in the West Balkans

Principles of Transitional Justice for Victim Groups

Introduction

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One of the key outcomes of the Strengthening Inclusive Victims' Voices (SIVV) project was the production of joint sets of locally grounded transitional justice (TJ) principles meaningful to victim groups in North Macedonia, Serbia and Kosovo, as well as at the regional level.

The primary aim was the establishment of victim-centred and practical TJ principles at the national and regional levels in the West Balkans that are relevant to the daily lives of victims. The specific objectives of the principles are set out in detail in the preamble.

It was decided that the ultimate product needed to be short, concise and clear, while encapsulating essential victim values and principles. The underlying rationale was to guide conduct, discourse and communication on victim issues.

SIVV Consortium members from North Macedonia, Serbia and Kosovo worked with victim groups to develop national principles applicable to their needs and context. One of the key questions asked at the national level was: "what is the change and process you would like to see in the future?"

The International Centre for Transitional Justice (ICTJ) provided feedback on the initial drafts and supplied comparative experiences for the consideration of the consortium. Further consultations followed at ground level and revised principles were developed.

The ICTJ then prepared a draft preamble and consolidated the 3 sets of national principles into a draft set of regional principles. Collective conversations, themes and commonalities were identified. Care was taken to capture all proposed principles from the national level, without introducing repetition.

The principles were considered and debated at the 2nd regional meeting of the SIVV in Prizren between 20 – 21 May 2023. General consensus was achieved, and some modifications were made to the draft principles. The principles were agreed to by those present and adopted by the Consortium. Individual victim groups are free to formally adopt them once their management structures or boards approve them.

The principles can now be used to guide the decisions and choices of victim groups in the West Balkans. They can also become a platform around which victims can unify and mobilize to voice their demands. The challenge is how to meaningfully action the principles and make them work both nationally and regionally.

Preamble

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We, the victim groups of Kosovo, North Macedonia and Serbia, **desirous** of creating meaningful and sustainable victim-centred transitional justice processes in our countries and the wider region, **recognise**:

- ▶ the suffering, hardship and injustice endured by victims throughout the region following past conflicts,
- ▶ the deep fault lines that have caused divisions in our countries, as well as the West Balkans region,
- ▶ the urgent need to:
 - redress the harm sustained by all victims in the region, and heal the divisions of the past that continue to afflict our region,
 - set in place guarantees to prevent the recurrence of conflict, and the suffering it brings.

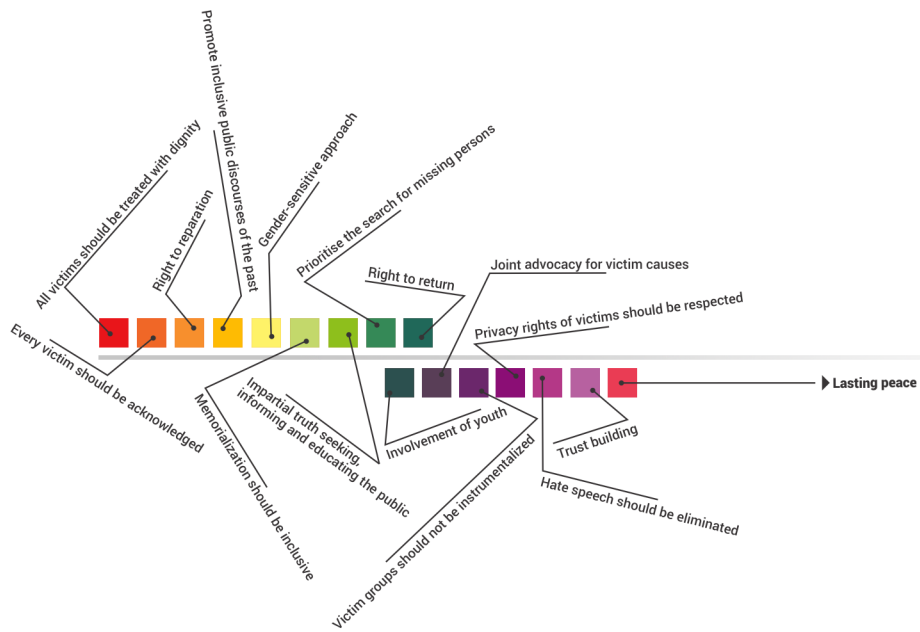
Determined to protect the dignity of all victims and survivors of our painful past and to always act in their best interests.

Concerned by the ongoing mistreatment of victims and survivors, and the manipulations of the past, and noting:

- ▶ the diminished voices of victims from marginalised groups, particularly minorities, women and youth,
- ▶ the dominance of one-sided narratives, the refusal to acknowledge the existence of victims of other ethnic groups, and the prevalence of inflammatory speech,
- ▶ the ever-present potential for further violence and conflict.

We accordingly adopt these principles to guide the establishment of victim-centred transitional justice processes at the national and regional levels, and:

- ▶ **Commit** to apply these principles and respect the values and sentiments they embody to ensure that the interests of victims and survivors are served, and they are not harmed.
- ▶ **Call** on political and public actors to abide by these principles and uphold their enumerated values and standards.
- ▶ **Undertake** to act with due diligence, professionalism and transparency in our pursuit of the principles, and
- ▶ **Encourage** political and public actors to act similarly when dealing with the past, and in particular in relation to their discourse and actions with victims.





All victims should be treated with dignity

- ▶ All victims, without exception, should be treated with compassion, dignity and respect for their humanity.

Victims must be recognised as rights-bearing persons. All victims are entitled to the truth of past violations and to know the fate of their loved ones. They are entitled to accountability and justice, and acknowledgment and redress for their sufferings. They are also entitled to guarantees of non-recurrence of such violations.

Victims should be visible, and their voices heard in a manner that protects their dignity.





Every victim should

be acknowledged

- ▶ Each and every victim must be honoured, without distinction. The sacrifice of every war victim must be recognized and respected, regardless of ethnic background or group affiliation.

No single group owns a monopoly over past suffering. The minimizing of the suffering and loss of others should cease. Understanding and knowledge of each other's past should be promoted.

Victims should be treated equally and with due regard to the nature and extent of their suffering.





Right to reparation

- ▶ All victims have rights to effective reparation, including access to specialist services to address physical, mental and emotional harm, as well as violations of their basic human rights.

Reforms should be pursued to provide effective legal protection for victims and their families, inclusive of their legal status, in order to entrench their rights to meaningful redress.

Victims should be counselled as to their rights and in respect of remedies and procedures available to them. They should be provided with up-to-date information on how to access services and reparations.





Promote inclusive public discourses of the past

- ▶ Narratives of past conflicts must be inclusive and based on evidence and facts. The narratives must reflect what happened. One-sided narratives do not reflect the full truth and are harmful to communities.

Narratives must speak for all victims and survivors. Each and every victim must have an opportunity to tell their story.

All have a responsibility to preserve stories from the past and to ensure that they are widely heard and not suppressed.





Gender-sensitive approach

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- ▶ Sexual and gender-based violence were used as weapons of war. The experiences and suffering of women during conflict must be recognised. The stigma and harm endured by victims of such violations must be addressed through concrete programs. Communities should nurture these survivors. Their privacy should be respected and they should be treated with respect and dignity.

Women should be involved at all levels of transitional justice processes. They should participate not only in such programs but also play a meaningful role in decision making and leadership. Such involvement will contribute to the creation of fairer and more inclusive societies in the region.





Memorialization

should be inclusive

- ▶ Memorialisation and commemorations should reflect the sacrifices and experiences of all communities and be fact-based. Memorials should not be confined solely to mono-ethnic programs, but where possible should transcend ethnic and religious divisions. Context should be carefully considered to ensure that local needs, traditions and socio-cultural sensitivities are respected.

Memorials should be the product of grassroots participation that includes the involvement of youth. Memorial activities should be aimed at promoting inter-generational dialogue and social exchange between communities. The ultimate aim of memorialisation should be to reclaim and affirm violated rights and for dignifying the memories of victims and survivors.

Events of the past should be commemorated in a way that does not deepen divides between communities. Memorials should not only focus on official figures and fighters, but also civilian victims, to whom respect should be offered.





Impartial truth seeking, informing and educating the public

- ▶ Rigorous and impartial fact finding of past conflicts is needed, together with detailed analysis to draw credible and objective and conclusions. There ought to be regional cooperation to ensure unhindered access to all relevant information.

One-sided interpretations must be avoided. In the search for the truth all sides and perspectives must be heard. The past must be considered with all its complexities and nuances. Personal experiences from all sides should be highlighted.

Confirmed facts should be made publicly available and accessible, accurately summarised, and where necessary translated into different languages. Information collected should be preserved in archives and made publicly accessible.





Prioritise the search

for missing persons

- ▶ Given the uncertainty family members live with, the issue of missing persons must be placed high on political agendas throughout the region. All efforts should be directed at shedding light on the fate of missing persons and locating and identifying their remains.

There should be regional cooperation amongst states and victim groups to coordinate the search for missing persons and the dignified return of remains to families.





Right to return

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- ▶ Displaced persons are often overlooked as a victim group. Their right to return should be guaranteed, which includes creating a safe environment for them and restitution or fair compensation for their property.





Involvement of youth

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- ▶ Innovative ways should be explored to inform and educate youth to think critically and constructively about the past.

Victims' associations should involve youth in their activities to ensure their voices are heard in transitional justice and peace-building processes.

Opportunities should be created for youth from different communities to engage in intercommunity dialogue, social and cultural projects and exchange programs to enhance mutual understanding and respect.





Joint advocacy

for victim causes

- ▶ Victims should unite and mobilize together around common goals. Joint advocacy has greater impact on public institutions and society. Victims' demands are taken more seriously when their voices come together. Collaboration also builds solidarity amongst victim groups.

Victim organisations should resolve any disputes between them and seek to build a united front on key victim demands.





Victim groups should not be instrumentalized

- ▶ Survivors and victim groups should not allow themselves to be instrumentalized by political stakeholders or other interest groups for malevolent or ulterior purposes.

Victim groups should strive to be open and transparent in their decision making. Victim representatives must act with integrity at all times.

Members and constituents should be kept informed of key developments. They should be helped to engage in meaningful participation in decisions and activities that concern them.





Privacy rights of victims

should be respected

- ▶ The stories of victims belong to them. They may not be disseminated or published without their specific prior consent.

It is for victims to decide what details of their experiences may be publicly released. They may also decide to withhold the disclosure of their identity. Victims are entitled to claim full confidentiality, in which case their rights to privacy must be respected at all times.





Hate speech

should be eliminated

- ▶ Hate speech incites violence and promotes a return to conflict. It demeans the dignity and humanity of people and threatens democracy itself.

Representatives of victim groups should avoid nationalistic or ethnic based discourse.

Speech which promotes collective punishment or attributes collective blame to ethnic groups or communities must stop. Only individuals or institutions who committed or ordered crimes should be held responsible, and only after the facts have been checked and verified.





Trust building

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- ▶ Societies need to offer safe spaces for people to listen to the “other” side. A culture of respectful remembrance and tolerance should be nurtured in which communities are willing to hear different perspectives and interpretations. War crimes and convicted war criminals should not be glorified.

In dealing with the injustices of the past in such a constructive manner the groundwork can be laid for building a vision for a common future in the region.





Lasting peace

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- ▶ Lasting peace in the region, and between communities, is a prerequisite to the rebuilding of lives. This involves not only the cessation of hostilities but the removal of fear of renewed conflict or violence.

Victim associations must demand full respect of human rights and that guarantees of non-recurrence of conflict be put in place. This involves upholding the principles set out in this document. It also requires in-depth dialogue within the region at different levels. Formerly abusive public institutions must be reformed or overhauled.

Values that promote tolerance, understanding and respect of human dignity must be enshrined across the region.





Civic Initiatives: Civic Initiatives is a civil society organisation that for the past 25 years has been working on educating citizens about their rights, democracy, civil society, and how to be active and equal citizens in decisions that affect their lives. Civic Initiatives' vision is a just society of citizen's conscious of their responsibilities and roles, socially active and vocal in a constant dialogue with an open and accountable state. <https://www.gradjanske.org>



International Center for Transitional Justice (ICTJ): ICTJ works side by side with victims to obtain acknowledgment and redress for massive human rights violations, hold those responsible to account, reform and build democratic institutions, and prevent the recurrence of violence or repression. <https://www.ictj.org>



Integra NGO: Integra's mission is to assist the development of Kosovo, especially in the context of human rights and integration, by dealing with and promoting stories and experiences of marginalised communities, thus contributing to democratic processes and building trust and peaceful coexistence. <https://www.ngo-integra.org>



New Social Initiative (NSI): NSI is a civil society organisation that empowers non-majority communities to participate in the social and institutional life of Kosovo and increases trust among communities by supporting them to deal with the past and normalise relations between Kosovo and Serbia. <https://www.newsocialinitiative.org>



Peace Action (Mirovna Akcija): Peace Action is a non-profit organisation of activists who work on peacebuilding and promoting a culture of nonviolence through initiating and nurturing constructive dialogue, dealing with the past, integrated education and regional cooperation. <https://mirovnaakcija.org>



PAX: PAX is the largest peace organisation in the Netherlands. PAX works to protect civilians against acts of war, to end armed violence and to build inclusive peace. PAX works in conflict areas worldwide with local partners and people who, like them, believe that everyone has the right to a dignified life in a peaceful society. <https://www.paxforpeace.nl>



This publication was produced as part of the project “Strengthening Inclusive Victims Voices, Transforming Narratives”, with the financial support of the European Union. Its contents are the sole responsibility of the project consortium and do not necessarily reflect the views of the European Union.



2023.

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