

Reparation

From the Perspective of Local Communities in Syria

Al-Kasrah and Hajin as a Case Study

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JFL's mission is to collaboratively promote human rights, dialogue, and freedoms in Syria through documentation, advocacy, access efforts, and capacity building for communities and organizations. JFL operates on two strategic tracks, which are reviewed and adjusted every three years. These tracks focus on enhancing justice and defending human rights in Syria, and advocating for the right of Syrians to participate in political and civil life.

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EXECUTIVE SUMMARY

This research paper presents an analysis of the perceptions of representatives¹ from local communities in Al-Kasrah and Hajin areas of Deir ez-Zor² regarding measures of reparation that could address the harm suffered by individuals and communities in these areas due to patterns of violations witnessed during years of conflict. The paper aims to present these opinions and perceptions as a case study analysed through a participatory approach to understand how local communities view the feasibility and potential implementation of reparation measures. Additionally, it discusses the criteria and elements that should be considered at all stages of addressing this issue, based on an understanding of the unique experiences of these communities during the conflict, as well as their cultural and social environment.

By comparing the perspectives of the participants in this paper with relevant standards and principles in the provisions and interpretations of international law and transitional justice, in addition to the opinions of experts and practitioners in these fields, this research paper concludes with a set of findings aimed at contributing to a broader objective discussion on reparations in Syria. The key findings can be summarized as follows:

1. Discussing reparation measures, despite the ongoing conflict and the lack of readiness of other transitional justice elements, does not imply dispensing with these measures or imposing priorities contrary to the interest or general orientations. Contemplating reparation enhances awareness and reaffirms the victims' and local communities' commitment to their inherent rights to effective remedy, emphasizing the legal duties of conflict parties, foremost among them the Syrian State.
2. Transitional justice programs must be officially designed and implemented at the national level when the necessary conditions are met, foremost among them achieving transition and establishing a framework that ensures the legal certainty of these programs and the entitlements they provide. Engaging with local communities in open dialogues and informed consultations about reparation measures and/or other elements of transitional

¹ The use of gendered language in this research paper aims for linguistic simplicity and does not imply any bias or discrimination towards any gender or sex.

² For a brief background on Al-Kasrah and Hajin, please refer to Appendices One and Two.

justice constitutes a form of victim and community participation, ensuring the preparation of the form and content of transitional justice programs.

3. "Harm reduction" interventions may play a crucial role in mitigating the intensity of conflict and encouraging victims to take initiative in active participation in public life and expanding access to the victim community, even in the current situation and despite the ongoing conflict.
4. The comprehensive and inclusive approach to transitional justice does not contradict the design of interventions based on a "customized" approach that target specific local communities and consider and respond to the specificities of their experiences, cultural, and social environments. This approach contributes to overcoming many challenges facing the design and implementation of reparation measures, such as establishing victim registries and identifying patterns of violations and appropriate reparative measures to address their effects.
5. The broad and multi-level scope of patterns of violations has led to a convergence between individual and collective harm in local communities. This necessitates the design of reparation programs that take this impact into account, while at the same time not conflicting with individual rights to reparation. Efforts contributing to "harm mitigation" or sometimes referred to as "interim reparative measures"³ should not pose legal dilemmas in the future, such as claiming that individuals who have benefited from certain entitlements for harm mitigation have waived their right to reparations and absolved the authority responsible for implementing transitional justice programs from that responsibility.
6. The traditional community measures and structures may positively contribute to the design and implementation of reparation measures tailored to local communities due to their stability and societal acceptance. However, this role should not be isolated from multiple considerations to ensure it does not lead to further conflicts or undermine the rule of law and human rights of individuals and communities.
7. Rehabilitation is considered one of the most important measures that provides essential entitlements for both individual and collective reparations, intersecting with other measures and contributing to their success, such as those related to economic and

³ It is worth noting that the use of the terms "harm mitigation" and "interim reparative measures" in this research paper does not imply their adoption as legal terms or obligations. Rather, they are used within the context of presenting the perspectives and viewpoints of the participants in the interactive dialogues of this paper.

livelihood situations, restitution, compensation, and commemoration. Financial compensation measures specifically should be handled sensitively, taking into account the prevailing cultural and social backgrounds in each local community, ensuring they do not create a competitive environment that detracts from the primary goals of reparation.

8. Reparation measures derive their legitimacy from the active participation of victims and local communities in their design, implementation, and monitoring. This participation should not be merely symbolic or limited to general consultation; rather, it should meet a fundamental precondition of informed knowledge sharing. Supporting victim groups and family networks is an effective strategy to facilitate their active participation by enhancing their access, communication, and sharing of informed knowledge, as well as discussing reparation priorities through simplified and accepted means based on solidarity and shared experiences.
9. Despite the commonalities between humanitarian, development, and early recovery efforts on one hand, and reparations measures on the other, the role of the entities involved in these interventions must be distinct and based on a rights-based approach rather than merely responding to needs.
10. Civil society organizations (CSOs) play a primary role in discussing and designing reparation measures at any stage, with the necessity for their interventions to be based on expertise and a participatory approach with local communities.

INTRODUCTION

Although transitional justice mechanisms are typically designed in post-conflict or post-authoritarianism situations to address the legacies of the past, many of its dimensions can and sometimes must begin during conflict, such as documenting violations, searching for missing persons, empowering victims, preserving memory, and pursuing criminal accountability. However, in the absence of effective executive mechanisms that employ their content and outcomes, these dimensions may "paradoxically aggravate the victims' feelings of abandonment and impotence by highlighting the international community's ineffectiveness in putting an end to such violations",⁴ necessitating interventions to provide them with some certainty in responding to the harm they have suffered and the efforts they are undertaking. The Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence has noted that "[i]n times of conflict, transitional justice mechanisms must deal as best they can with the fact that they are unable, at least temporarily, to meet the unsatisfied expectations of the victims and communities on whose behalf they were created".⁵

Accordingly, the importance of enhancing discussion and working on various dimensions related to transitional justice becomes evident, even if the contextual and objective conditions for its implementation are not yet available. This is to provide appropriate answers to victims and local communities, contributing to managing their expectations and enhancing their current and future participation in the preparation, design, and implementation. Reparations emerge as a priority in this discussion because it directly concerns victims in addition to its societal dimensions. In the face of ongoing conflict, absence of rule of law, multiple controlling powers, continued violations, deteriorating economic conditions, limited avenues for accountability, and a blocked horizon for political transition, victims and local communities need to consider what partially or temporarily meets their expectations and efforts, similar to other measures associated with justice and truth dimensions established despite ongoing conflict, such as the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab

⁴ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/45/45, 09 July 2020, para. 49.

⁵ *Ibid.* para. 50.

Republic since March 2011,⁶ and the Independent Institution on Missing Persons in the Syrian Arab Republic.⁷

“Justice for Life” seeks to contribute to the development of an objective discourse on appropriate reparation measures for local communities in Syria by presenting a case study from Al-Kasrah and Hajin in Deir ez-Zor. Through this study, the organization analyses how local communities perceive reparation and the underlying factors that shape their attitudes and priorities towards these measures and the suitable entitlements. Justice for Life believes that this research paper provides a model that could be applicable in other contexts in Syria to enhance national-wide discourse on reparations. It takes into consideration the participatory approach adopted by the paper, which stems from the perspectives of local communities as the primary stakeholders who are most capable of formulating appropriate frameworks for their experiences and the specificity of their communities.

The case study in Al-Kasrah and Hajin illustrates how local communities can frame patterns of violations, classify victims, and identify measures that are likely to be more suitable for reparation, from a community perspective that balances between individual and communal experiences. Consequently, these frameworks and classifications may differ from those expressed by other local communities, highlighting the importance of avoiding generalizations and “blanket solutions” that do not consider community-specific and regional particularities.

Practical examples of this distinction and its impact include the participants in this research paper placing particular emphasis on the influence of tribal environment on most aspects of reparation issues, which may not necessarily have the same impact in other regions and communities. This implies that framing violations, experiences, and appropriate entitlements may not necessarily align with the vision of local communities in Al-Kasrah and Hajin. Of course, this does not mean the exclusion or disregard of several common experiences and priorities at the Syrian national level, such as the issue of arbitrarily detained and forcibly disappeared individuals.

⁶ UN General Assembly, *Resolution adopted by the General Assembly on 21 December 2016: International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011*, A/RES/71/248, 11 January 2017.

⁷ UN General Assembly, *Resolution adopted by the General Assembly on 29 June 2023: Independent Institution on Missing Persons in the Syrian Arab Republic*, A/RES/77/301, 05 July 2023.

Therefore, this research paper does not assume that the findings expressed by the participants necessarily reflect a consensus. Additionally, the absence of addressing specific patterns of violations or reparation measures does not imply their inapplicability to any other context in Syria. The results of this paper are linked exclusively to the experience of participants from local communities in Al-Kasrah and Hajin and have been analysed on this basis compared to relevant legal, academic literature, and practical experiences available.

The research topics are divided into eight main sections as follows:

The **first section** provides a summary of the theoretical framework of reparation as an essential component of effective remedy in all circumstances, as well as one of the measures of transitional justice and its connection to addressing the effects of violations during armed conflict or authoritarian rule. This section is the only one that does not integrate the views and inputs of the participants in the research paper, as its aim is to establish the theoretical foundation of the adopted conceptual framework.

The **second section** attempts to answer the pivotal question of whether it is possible and feasible to design and implement reparation measures before the end of the conflict and independently of establishing a formal framework legally responsible for transitional justice mechanisms. This section integrates theoretical analysis based on expert opinions with the perspectives of the participants in the paper.

The **third section** focuses on the fundamental requirement for addressing reparation measures, which is informed knowledge and managing the expectations of victims and local communities. In addition to presenting the logical foundation for this requirement, the section provides recommendations from the participants regarding it. The **fourth section** is objectively linked to the third section since the role of victims and local communities in designing and implementing redress measures can only be achieved through fulfilling the requirement of informed knowledge.

The **fifth section** addresses the issue of victim identification conceptually and practically, which is an indispensable aspect of reparation measures directly linked to the victims. This section outlines the participants' perspectives on the practical considerations necessary for victim identification, in addition to the theoretical framework that deals with this issue.

The **sixth section** presents the participants' findings on identifying the main patterns of violations within the context of the specific experiences undergone by local communities in Al-Kasrah and Hajin. Based on this, the **seventh section** introduces what the participants consider as the general framework for reparation measures that align with victim identification and the patterns of violations, starting from assessing the extent of harm and the impact caused by those violations.

The **eighth section** is dedicated to examining the role and impact that existing community structures in local communities can play in facilitating or hindering redress measures.

The research paper concludes with a set of conclusions and recommendations that primarily reflect the findings derived from the discussions and interviews conducted with the participants. It's worth noting that these conclusions and recommendations are not exhaustive and may not necessarily reflect all viewpoints analysed within the context of this paper.

RESEARCH METHODOLOGY

This research paper raises two interconnected questions that have been identified as needing answers based on previous activities and interventions by “Justice for Life”:

1. What is the perspective of local communities in Syria on reparation measures that are appropriate to their unique experiences and within the context of meaningful transitional justice?
2. What are the challenges, opportunities, and relevant objective conditions related to subject-matter, actual circumstances, and the diversity of experiences and socio-cultural environments?

The paper adopts a comparative analytical approach based on participatory inputs alongside relevant literature from international law, previous experiences, and expert opinions. It draws on the outcomes of four FGDs comprising 32 women and men from the Al-Kasrah and Hajin in Deir ez-Zor, in addition to semi-structured interviews with eight experts and/or practitioners in the fields of transitional justice, civil society, and human rights.

The criteria for participation in the FGDs were determined in consultation with “Justice for Life”, taking into account their field-specific knowledge and contextual understanding in the region, aligned with the needs of addressing the research questions. Prior to the FGDs, two “knowledge-sharing” sessions were held to present the general conceptual framework of effective remedy and transitional justice, with a focus on reparation. The aim of these sessions was to ensure that participants were able to form viewpoints and positions based on an acceptable level of informed understanding of the details of reparation within its theoretical, legal, and general contextual framework. The FGDs were conducted following the preparation of a series of specific questions derived from the main research questions. The researcher and members of “Justice for Life” team facilitated the sessions remotely and face-to-face in the targeted regions.

Based on the initial analysis of the FGDs, interviews were conducted with experts and practitioners selected based on pre-defined criteria that varied across contextual knowledge, academic and/or practical experience in transitional justice, and active engagement in civil society work. The purpose of these interviews was to provide an additional source for analysis and comparison, supplementing the findings from desk research that focused on relevant literature,

particularly reports and positions of the Special Rapporteur on the promotion of truth, justice, reparations, and guarantees of non-recurrence, as well as publications and reports from other specialized entities and experts in the field of international human rights law and transitional justice, among others.

The comparative approach between the inputs of the participants and the available literature aims to shed light on theoretical and practical opportunities and challenges. It also seeks to enhance the proposed solutions or actionable elements identified by the participants in the interactive dialogues. The sections of the research paper integrate diverse discussion inputs with the findings of desk research, while emphasizing that the starting point in shaping the content is always the perspective of local communities.

1. REPARATION

The term "reparation" is unique in that it denotes the act of repairing or restoring something to its rightful state in both Arabic⁸ and English⁹ languages. Reparation requires identifying the cause of the damage in order to determine how to rectify it. This linguistic concept of reparation makes its terminological concept in the legal context inherently interpretive, aiming to "acknowledge and repair the causes and consequences of human rights violations and inequality."¹⁰ Despite this presumed clarity, dealing with reparations often involves cognitive and contextual complexities, whether as an element of the right to effective remedy or transitional justice measures.

1.1 REPARATION AND EFFECTIVE REMEDY

Article 8 of the Universal Declaration of Human Rights of 1948 stipulates the right of every individual to access to "an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." Article 2(3) of the International Covenant on Civil and Political Rights of 1966 further solidifies this right and expands its scope by ensuring its application to all rights enshrined in the Covenant, which must be protected by national laws and regulations.¹¹ Therefore, the right to remedy is based on the premise that human rights are inherent and protected, and any impediment to individuals' enjoyment of these rights constitutes a violation that must be addressed as a legal obligation of the State.

The duty to provide access to remedy is not limited to grave violations of human rights but applies to all rights, defending them upon violation without requiring a threshold of seriousness for that violation. For remedy to be effective, appropriate judicial and administrative mechanisms must be established and easily accessible to address claims of violations. Judicial mechanisms ensure the enforcement of legal provisions through the interpretive framework of the Covenant, while administrative mechanisms reflect the State's duty to promptly investigate allegations of violations through independent and impartial bodies.¹² Consequently, the right to effective remedy is linked

⁸ Al-Maany Dictionary.

⁹ Cambridge Dictionary.

¹⁰ International Center for Transitional Justice, *Reparations*.

¹¹ International Covenant on Civil and Political Rights of 1966, Article 2(1-2).

¹² UN Human Rights Committee, *General comment No. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 15.

to individuals' enjoyment of all rights at all times and under all circumstances, whether the violation is committed by official or private entities, and regardless of the prevailing conditions, whether in peace or in war.¹³

In addition to these procedural obligations of the State, effective remedies entail substantive obligations represented by the reparation provided to individuals whose rights have been violated. Without this, the duty to provide effective remedies is not fulfilled, which is essential for the effectiveness of this State obligation.¹⁴ Despite some rights being specifically designated with a duty of "compensation" upon violation,¹⁵ it is a general obligation for the State to provide remedy in all circumstances and for all rights.¹⁶

In this context, reparation is not limited to financial compensation but, where appropriate, includes restitution, rehabilitation, satisfaction and acknowledgment, which may take the form of public apology, memorialization, guarantees of non-repetition, and changes in laws and practices.¹⁷ It is important to note that reparation does not negate or contradict the State's duty to hold perpetrators accountable for violations, especially when they are criminal according to national or international law, such as torture, inhumane treatment, extrajudicial killing, and enforced disappearance. Accountability of perpetrators is one of the substantive elements of effective remedy resulting from procedural measures, notably prompt and effective investigation and fair trial.¹⁸ There should be no trade-off between accountability and reparation because they are complementary elements of effective remedy.

1.2 REPARATION AND TRANSITIONAL JUSTICE

The phenomenon of impunity has been increasingly prevalent since the 1970s, particularly in Latin American countries that were under authoritarian regimes. While the primary efforts during that time were aimed at advocating for amnesty for political prisoners under those regimes,

¹³ Other provisions in international law also stipulate the duty of States to provide effective remedies, including the International Convention on the Elimination of All Forms of racial Discrimination, Article 6; The Convention against Torture, Article 14; The Convention on the Rights of the Child, Article 39; The First Additional protocol to the Geneva Conventions of 1949, Article 91; and the Rome Statute, Article 75.

¹⁴ UN Human Rights Committee, *General comment No. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 16.

¹⁵ International Covenant on Civil and Political rights of 1966, Articles 9(5) and 14(6).

¹⁶ UN Human Rights Committee, *General comment No. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 16.

¹⁷ *Ibid.*

¹⁸ *Ibid.* para. 18.

amnesty evolved into a form of reward for escaping punishment, which those regimes used to organize their impunity for systematic human rights violations they committed.¹⁹ It is worth noting that the essence of "amnesty" leading to impunity stems from the desire to forget what happened, countered by the victims' insistence on the opposite. Hence, "measures of truth-seeking, justice initiatives, reparation and guarantees of non-repetition emerged first as practices and experiences in post-authoritarian settings".²⁰

Although the countries that experienced these situations largely had legal and institutional systems that were supposed to enforce State obligations towards their citizens, including preventing violations and ensuring effective remedy, this did not prevent widespread and serious human rights violations. This indicates that addressing these situations requires a structural transition that goes beyond theoretical application of procedural measures through legislation and mechanisms to the actual addressing of the root causes of these violations. Accordingly, the approach that seeks to achieve this through measures and initiatives that emerged in post-authoritarian societies, as well as conflict and post-conflict contexts, known as transitional justice measures, crystallized.

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, in order to ensure accountability, serve justice, and achieve reconciliation".²¹ Truth, justice, reparation, and guarantees of non-recurrence are considered the four pillars of transitional justice that must be addressed as an interconnected and mutually reinforcing set when implemented to address the legacies of serious and grave human rights violations and violations of international humanitarian law. This is particularly crucial as transitional justice extends to addressing the legacy of the past in cases of armed conflict as well as authoritarianism.

Therefore, reparation measures, as a pillar of transitional justice, play a central role in acknowledging victims and building trust on one hand, and contributing to reconciliation and

¹⁹ For more on the historical background, see: Commission on Human Rights, *The Administration of Justice and the Human Rights of Detainees, Question of the impunity of perpetrators of human rights violations (civil and political), Revised final report prepared by Mr. Jinet pursuant to Sub-Commission decision 1996/119, E/CN.4/Sub.2/1997/20/Rev.1*, 02 October 1997, paras. 2-5.

²⁰ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff*, A/HRC/21/46, 09 August 2012, para. 15.

²¹ United Nations Security Council, *Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies*, S/2004/616, 23 August 2004, para. 8.

strengthening the rule of law on the other.²² Consequently, the scope of reparation in the context of transitional justice expands beyond its individual and direct impact to become a central factor in the structural addressing of the past's legacy at the societal level as a whole. Thus, reparation measures should be dealt with as part of the holistic approach to addressing the legacy of armed conflict or authoritarian past on both individual and collective levels, and in alignment with the integrated policy of transitional justice measures, rather than as separate and independent initiatives.²³

There is consensus on the general framework of reparation elements, which include restitution, monetary compensation, rehabilitation, and satisfaction.²⁴ These elements are derived from the fundamental concept of effective remedy within the broader framework adopted by the United Nations concerning victims of serious violations of international human rights law and serious violations of international humanitarian law.²⁵

²² Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, Pablo de Greiff, A/HRC/21/46, 09 August 2012, para. 21.

²³ For further details, see: Pablo de Greiff, *Justice and Reparations*, in Pablo de Greiff (ed.), *The Handbook of Reparations*, Oxford University Press (2006).

²⁴ For further details, see: Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, Fabián Salvioli, A/HRC/54/24, 10 July 2023, paras. 48-51.

²⁵ United Nations General Assembly, *Resolution adopted by the General Assembly on 16 December 2005: Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147, 21 March 2006.

2. REPARATION DURING ARMED CONFLICT

Given that transitional justice measures were primarily designed to address the legacy of authoritarian regimes with more robust institutional frameworks, post-conflict societies often face institutional fragility, which increases the challenges in designing and implementing such measures.²⁶ Considering that contemporary armed conflicts are often protracted and violent, resulting in significant casualties and divisions within local governance structures due to de facto rule and the dominance of conflict parties, the question arises whether there is a necessity or benefit in designing and implementing reparation measures while the conflict persists. In comparison to the challenges of designing and implementing these measures in the post-conflict phase, can some local reparation measures play a role in preparing to mitigate some of these challenges in the post-conflict phase? Could the reduction in the intensity of hostilities present an opportunity to design and implement reparation interventions? Is it not possible to utilize judicial and quasi-judicial systems that typically emerge in different control areas during conflict to enforce the right to effective remedy and reparations specifically?²⁷

2.1 THEORETICAL ANALYSIS

Indeed, direct and specific answers to these questions may not be readily available, especially at the theoretical and academic level of discussions on transitional justice issues. However, some positions can be inferred through reviewing and analysing opinions and theories addressing transitional justice measures in post-conflict societies. Some argue that a unified and integrated approach and comprehensive strategies should be followed because fragmented approaches lead

²⁶ For a comprehensive analysis, see: Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/36/50, 21 august 2017.

²⁷ For a comprehensive analysis of a dataset on justice in armed conflict, see: Cyanne E. Loyle and Helga Malmin Binningsbø, *Justice during Armed Conflict: A New Dataset on Government and Rebel Strategies*, *Journal of Conflict Resolution* (2016), 62(2), 442-466.

to a lack of appropriate balance among all elements contributing to justice and the rule of law,²⁸ which are considered as primary goals of transitional justice.

As a practical example, one may consider the measures known as “*ex-gratia compensation*”, which are financial grants provided to individuals harmed by hostilities during armed conflict regardless of whether the damages resulted from violations of international humanitarian law or not. This practice is not implemented as part of a reparation strategy or through institutional judicial mechanisms but is typically executed as part of policies aimed at winning “hearts and minds,” with field commanders responsible for implementation to encourage reconciliation and enhance security.²⁹ This practice raises legal dilemmas and others related to the endeavours of post-conflict transitional justice. The most significant of these dilemmas is whether such grants represent an alternative or implementation of reparations, thereby waiving the right to future access or claims, especially since these grants are not necessarily awarded in response of a violation, which is the logical legal basis activating the obligation to provide reparation.³⁰ It should be noted that the implementation of these programs often involves complex measures and procedures based on calculations of loss, budgetary considerations, on a case-by-case basis, or randomly.³¹ Nevertheless, this practice poses practical challenges concerning how beneficiaries are identified and whether they are considered victims in the intended sense of reparations, thus potentially negatively impacting societal interaction instead of compensation – assuming it is a form of reparation – being a means to mitigate societal conflicts and contribute to reconciliation.

On the contrary, the perspective arguing that transitional justice can itself play a preventive role in curbing the continuation or outbreak of new violations emerges.³² While this perspective may not directly relate to transitional justice measures before the end of the conflict, the preventive perspective warrants analysis in the context of the possibility of implementing specific reparation measures during armed conflict for preventive purposes that may contribute to reducing

²⁸ United Nations Security Council, *Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies*, S/2004/616, 23 August 2004, paras. 23-26.

²⁹ For more details, see: Sophie van Dijken, Suzanne Knijnenburg, and Rabia el Morabet Belhaj, *Monetary Payments for Civilian Harm in International and National Practice*, Amsterdam International Law Clinic and Center for Civilians in Conflict.

³⁰ For an analysis of a relevant case, see: Steven van de Put, *The Dutch Chora Judgment: Ex-Gratia Payments and Compensation*, Lieber Institute West Point, Articles of War, 10 April 2023.

³¹ Sophie van Dijken, Suzanne Knijnenburg, and Rabia el Morabet Belhaj, *Monetary Payments for Civilian Harm in International and National Practice*, Amsterdam International Law Clinic and Center for Civilians in Conflict, p. 6.

³² See in particular: Human Rights Council, *Joint study on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Advisor to the Secretary-General on the Prevention of Genocide*, A/HRC/37/65, 06 June 2018.

violations, the intensity of conflict, and the challenges of transitional justice measures following the end of the conflict. “Although redress [and reparation is one of its elements] is triggered by a past violation, it is meant to ensure that the violation has present and future consequences”.³³

Specific reparation measures during armed conflict can be considered by the analogy of the logic of constitutional reform, which can begin while the conflict is ongoing, as in the Syrian context.³⁴ This reform is expected to contribute to reducing violence because “any measure that limits the government's ability to act outside the law and unilaterally usurp power, makes the government a more attractive negotiating partner, and offers combatants an alternative way out of war”.³⁵

In any case, the issue of possible reparation measures before the end of the armed conflict should not be approached solely from a theoretical perspective. Instead, it should be addressed through active participation of victims and local communities in the discussion and decision-making process, especially considering that this participation equally influences the “identification of commonalities of experiences, values and principles among different types of victims as well as between victims and non-victims, which is important for the sake of coalition- and consensus-formation regarding transitional justice policies”.³⁶

2.2 OPERATIONAL ANALYSIS

Participants' opinions varied regarding the possibility and feasibility of designing and implementing reparation measures in Syria before the end of the conflict and the achievement of democratic political transition, without the availability of a consensus framework responsible for implementing transitional justice programs in general.

None of the participants downplayed the impact of the security situation in any area of Syria on any potential efforts to implement reparation measures. Regardless of how coherent and objective the planning for such measures may be, military developments or security risks cannot be predicted in the absence of a unified security authority governed by the rule of law, considering

³³ Ibid. para. 14.

³⁴ The experience of the Syrian Constitutional Committee may be viewed as a form of constitutional reform during the armed conflict, without any prejudice regarding its effectiveness and the various stances regarding it.

³⁵ Barbara F. Walter, *Conflict Relapse and the Sustainability of Post-Conflict Peace*, World Bank, World Development Report 2011, 13 September 2010, p. 33.

³⁶ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/34/62, 27 December 2016, para. 26.

the competing powers even in the same region. Such security threats affect the implementing actors, the victims, and other stakeholders involved in these measures, in addition to any resources used in them, whether financial or in-kind.³⁷ Furthermore, the continuation of conflict and security threats may undermine the substance of reparation measures due to the possibility of victims being subjected to the same or other patterns of violations after benefiting from the entitlements of these measures.

In a related context, reparation measures require what is known as “legal certainty” to achieve their sustainability and desired outcomes regardless of political fluctuations.³⁸ Some participants argue that reparations should always be the responsibility of the State based on its obligations under international law. With the absence of a legal framework or official entity tasked with implementing reparation measures, there is a fear that the State may evade its responsibilities not only regarding reparations but also towards other elements of remedy.

In contrast to these considerations, participants do not prefer to refrain from taking any measures altogether while awaiting political transition and achieving legal certainty through national laws and entities, especially given the lack of a near-term horizon for accomplishing this and the absence of trust in the governing system and its willingness, even in the future, to undertake these measures seriously and effectively. Participants believe that the focus of non-governmental actors, including civil, human rights, and political organizations, should be on developing a strategy at the level of local communities to implement cohesive projects, what could be termed “harm reduction measures”.³⁹

These projects and interventions should be designed distinctly from humanitarian, development, and early recovery activities, despite the multiple intersections among them. The starting point for harm reduction measures is to contribute to alleviating the harm experienced by individuals and communities as a result of the violations they have endured, thereby achieving a degree of recognition, satisfaction, and empowerment to take a more positive role in society. Therefore, those responsible for planning these interventions must consider, during needs assessments and contextual analysis, the specificity of the content, target groups, and the conditions that must be

³⁷ For further details, see: Ibid. para. 66.

³⁸ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/42/45, 11 July 2019, para. 74.

³⁹ Further details about the main features of these measures are presented in the following sections.

followed in dealing with them on a rights-based rather than needs-based approach, including informed knowledge and active participation of the victims.

To avoid legal implications resulting from providing monetary reparations for individuals, as in the case of ex-gratia compensation mentioned above, participants recommend designing these projects and interventions based on a balance between individual and collective reparations at the local communities' level. This should take into account possible individual measures that do not entail unjust legal consequences, such as targeted microfinance projects specifically for victims of certain types of violations, which can be controlled without any adverse distinction.⁴⁰

⁴⁰ For a comprehensive analysis in this context, see, for example: Hans Dieter Seibel and Andrea Armstrong, *Reparations and Microfinance Schemes*, in Pablo de Greiff (ed.), *The Handbook of Reparations*, Oxford University Press (2006), pp. 676-698.

3. INFORMED KNOWLEDGE AND EXPECTATIONS MANAGEMENT

Communities are not expected to have an in-depth understanding of transitional justice and reparation concepts and measures, and this should not be perceived as a negative indicator of general ignorance or a reflection of low cultural levels. Rather, it is a logical outcome stemming from several reasons. Transitional justice, as measures related to post-oppression or post-conflict, is not a common content addressed by people in their daily lives or a compulsory educational component. Instead, it typically remains a specialized subject matter of interest to specific groups of stakeholders and experts.⁴¹

Gradually, transitional justice becomes a public concern with the evolution of the reality of oppression or conflict to a stage where discussions about the transitional phase of the State and society begin. Moreover, existing official policies play a fundamental role in obscuring knowledge about effective remedy in itself, through legislation and measures taken by State institutions, which are usually complex, ambiguous, and burden victims with the responsibility of enjoying this right.

On the other hand, amid conflict and the emergence of different priorities for populations such as protection, basic needs, and the effects of violations such as displacement, and property loss and damage, discussions about transitional justice and reparations are confined to specific frameworks within communities, either political or rights-based. The urgency of responding to those priorities marginalizes plans and interventions within those frameworks, potentially leading to an unintentional neglect of spreading knowledge about the post-conflict phase and transitional justice measures.

In parallel, as violations escalate, the sense of injustice grows, and demands for accountability occupy a broader space in public narratives and attention, prioritizing it cognitively and practically. Additionally, as in the case of Syria, the focus on detention and enforced disappearance, as systematic practices affecting broad sectors of society, usually coincides with

⁴¹ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/34/62, 27 December 2016, para. 71.

legitimate demands and expectations. However, these demands may have a threshold that is not achievable in the near term, at least. These narratives typically take an almost absolute priority, leading to the marginalization and diminishing of the actual value of other elements of effective remedy, including reparations in particular.

Over time, as accountability processes slow down or even fail to materialize, and the fate of the disappeared remains undisclosed, the interest of victims and affected communities wanes. This logically reflects on the inclination and attention towards other paths, which are usually considered a regression from the demand for accountability and an acquiescence to perpetrators and the status quo, such as reparations—often due to a lack of informed knowledge as a primary cause.

The participants unanimously agreed that informed knowledge and shared understanding are crucial and prerequisite for ensuring a participatory approach and objective expectations for reparation processes. They concluded that regardless of the timing of implementing reparation measures and transitional justice in general, special, practical, and immediate attention must be paid to sharing knowledge with victims and local communities considering them the main stakeholders. This is to ensure, first and foremost, their equal awareness of their rights and, secondly, to empower them to engage in a participatory approach in planning and implementing reparation measures.

However, the participants highlighted a set of observations that must be taken into consideration:

1. **Innovation and Regeneration:** Given the density of dialogic activities carried out by CSOs, it is necessary to differentiate informed knowledge-sharing activities about reparations as an attractive added value for the target groups. Designing these activities innovatively should offer the targets a new participatory approach that highlights the importance of the content and its relevance to their interests and concerns.
2. **People's Experiences:** One of the most innovative approaches to ensure departure from theoretical frameworks and connect them with reality is to make the experiences of other communities in the field of transitional justice and reparations the primary entry point for informed knowledge-sharing. It is essential that these experiences are conveyed objectively, with an obligation to emphasize that they are not necessarily ideal models applicable in other contexts.

3. **Media and Social Media:** Traditional and modern media, including social media platforms, can play a crucial role in sharing informed knowledge, especially since these channels occupy a significant portion of the attention and interaction of local communities in general. It is also essential that this happens through innovative and renewed approaches, diverging from conventional templates, with wise content management to prevent distortion through misinformation, inaccurate concepts, or exaggerated expectations.
4. **Safe Space:** It is not easy for local communities that have suffered from years of accumulated violations and oppression to engage smoothly in knowledgeable dialogues about reparations. The targeted groups need to genuinely feel that the space for sharing informed knowledge is indeed safe on all fronts, whether regarding the physical location and conditions or the content itself and how it is addressed.
5. **Specialisation:** Any entity designing and implementing interventions for sharing informed knowledge must possess the appropriate and sufficient level of expertise in the field of law in general, and specifically in reparations and transitional justice. These interventions should not become secondary activities or funding opportunities and must maintain their specificity by being implemented through a specific category of specialized and qualified actors.
6. **Attraction and Expectations Management:** Considering the anticipated loss of hope within local communities, it is necessary for activities related to sharing informed knowledge to precede or coincide with "attractive" interventions that revive faith and hope in the feasibility and importance of seeking reparations. There may not be a clear model for such interventions, but they could be, for example, limited-service activities linked to common basic needs in a particular area, or morale-boosting activities based on pre-assessment and analysis of feasibility. In any case, activities related to sharing informed knowledge must strike a balance between revitalizing hope and managing expectations. Direct or indirect implications should not suggest that this knowledge is the immediate gateway to achieving reparations.

4. THE ROLE OF VICTIMS AND LOCAL COMMUNITIES

Victim participation in the design, implementation, and monitoring of reparation programs is considered a prerequisite for the legitimacy of these programs.⁴² It is essential to distinguish between participation and consultation, as "consultation does not necessarily mean that the opinions of those consulted will be taken into account."⁴³ Victim participation contributes to reducing challenges and gaps in the implementation of reparation programs because they are the primary stakeholders in providing contextual content for these programs, which in turn contributes to achieving satisfaction and expanding the scope of reparations to positively impact society.

In traditional paths of transitional justice, victim participation is evident in the customary practice of truth-seeking or truth commissions, which fundamentally rely on the testimonies of victims. However, the role of victims should not be limited to this; rather, they should go beyond it as the primary drivers of advocacy for the adoption of transitional justice measures in general, especially as experience indicates that most transitional systems seek to evade their obligations in this regard.⁴⁴ One of the most important roles played by victims is providing practical proposals for reparation measures to the authorized official frameworks responsible for their implementation, as seen in the Colombian experience where "the consultation process around the peace agreement [...] established a mechanism for civil society organizations, including victim groups, to submit suggestions in writing for the negotiation table".⁴⁵

Furthermore, the active participation of victims in designing reparation measures helps in identifying patterns of violations and levels of severity based on the impact reflected in the experiences of the victims themselves. This is crucial for reparation measures to be successful in responding to and addressing that impact. The preconceived assumption of aligning specific

⁴² Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/42/45, 11 July 2019, para. 61.

⁴³ Impunity Watch, *Guidelines on Transformative Reparations for Survivors of Sexual Violence*, Guatemala 2019, p. 33.

⁴⁴ See, for example: Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/34/62, 27 December 2016, para. 38(a).

⁴⁵ *Ibid.* para. 38(d).

measures to the extent of harm without verifying this alignment with the main stakeholders – the victims – has dire consequences on the objectives of reparations as it perpetuates marginalization and a sense of injustice, thereby undermining opportunities to rebuild trust between individuals and the authority on one hand, and among individuals within society on the other.

Moreover, the process of engaging victims ensures that no categories of victims are excluded, whether due to assumptions and evaluations detached from the experiences of local communities and victims, or due to the limited mandate granted to the frameworks responsible for designing and implementing reparation measures. This phenomenon has been repeated in many contexts and experiences. In Spain, for example, reparation programs for victims of the civil war and Franco's rule did not provide any entitlements to individuals who had been convicted by special courts that did not meet fair trial standards.⁴⁶

On the practical side, victims contribute to overcoming many obstacles related to the design and implementation of reparation programs. Victims are the most appropriate stakeholders to ensure effective communication and participatory dialogue with other victims due to the shared experience of violation and its effects. This access and communication help simplify methodologies and formulations that are usually technical, and their use may lead to reluctance to interact with them. Victims, along with other groups from local communities, can raise the interest of other victims and their families and convey ideas and discuss them to ensure informed knowledge and effective participation through simplified language and methods of communication and discussion that may take the form of daily traditions and community communication methods.

In this context, some practitioners have noted an increase in the interest and engagement of victims' families with several complex human rights issues, such as the case before the International Court of Justice regarding the Syrian government's implementation of its obligations under the Convention against Torture,⁴⁷ once it was spontaneously discussed among a group of mothers on a social media platform. One participant mentioned that some of these mothers

⁴⁶ UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, para. 65.

⁴⁷ International Court of Justice, *Canada and the Kingdom of the Netherlands jointly institute proceedings against the Syrian Arab Republic and request the Court to indicate provisional measures*, Press Release, 12 June 2023.

contacted him seeking further clarification on the issue to share it with the rest of the mothers in their chat group.

To ensure broader and effective participation of victims in designing and implementing reparation measures, participants emphasized the importance of empowering victims and their pivotal role in sharing informed knowledge. They considered these aspects fundamentally interconnected. Participants suggested that CSOs should play the proposed role in sharing informed knowledge, focusing on empowering groups of victims with this knowledge to undertake a complementary role in dissemination, as well as engaging victims and local communities in the design and implementation of reparation measures thereafter. Empowerment processes do not necessarily entail establishing institutionalized structures or groups; rather, it may suffice, if not be preferable, to focus on creating networks and groups in the simple community sense for victims. Any group of victims can decide at any time to strengthen its organizational framework and shape its involvement in human rights work in general and reparation measures specifically. Through these groups and networks, victims - including families - affected by specific patterns of violations or belonging to specific demographic or geographical categories impacted by these violations, can feel a sense of collective solidarity and agency over their issues and fate.

Based on that, participants pointed out a set of elements and conditions that must be taken into consideration to achieve effective victim participation:

1. The necessity of direct communication and engagement with victims while ensuring standards of confidentiality, safety, and privacy by providing safe spaces. Victim groups represent one of the most prominent forms of such engagement.
2. Activities involving victim engagement should be implemented by reputable and trusted organizations to ensure that it does not become merely a traditional activity or temporary initiatives.
3. Therefore, planning for effective victim engagement should be based on an objective assessment of the success rate of implementing the identified reparation measures within an actual context.
4. To ensure a higher success rate, the actual planning process should be preceded by organized efforts for open dialogue and consultation with victims and local communities to form a deeper understanding of their needs, perspectives, and expectations.

5. The focus should be on both individual and collective circumstances without excluding either at the expense of the other. While victim engagement interventions may sometimes be beneficial in a collective sense, this should not imply that the focus will solely be on the collective participation outcomes regarding collective reparation measures.
6. The integration between informed knowledge-sharing activities and empowering interventions for victims, involving them in the design and implementation of redress measures, is essential.
7. Sharing lessons learned from previous experiences, highlighting successful practices, analysing reasons for perceived failures, and managing expectations objectively are crucial.
8. Providing psycho-social support services before engaging with victims and considering them as an integral part of informed knowledge-sharing interventions and effective participation, is essential.
9. Giving special attention to engaging with women and considering the gender dimension in all interventions, while also recognizing the intersectionality with other aspects of identity such as religion, ethnicity, tribal origins, and structural conditions like education level,⁴⁸ experiences related to patterns of violations, among others, is crucial.

⁴⁸ UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, para. 70.

5. WHO ARE THE VICTIMS ENTITLED TO REPARATION?

The definition of victims adopted by the United Nations, which is widely accepted in the context of addressing effective remedy and transitional justice, stipulates that:

“[....]victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

*A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim”.*⁴⁹

Despite the comprehensiveness of the definition and its positive reflection in terms of not excluding any group that has been harmed by authoritarian regimes or armed conflict, the practical application of this definition to achieve its inclusive goals is highly complex, especially regarding reparation measures. Reparations is conceptualised “as a three-term relationship in which the crucial concepts are “victims”, “beneficiaries” and “benefits”. The ideal behind a reparation programme, then, is to distribute a set of benefits in such a way as to turn every victim into a beneficiary”.⁵⁰ In complex situations like Syria, which experience both authoritarianism and armed conflict simultaneously, identifying victims becomes extremely challenging, especially as it also depends on the patterns of violations and the form of harm caused by those violations to individuals and communities. It is impossible to determine the benefits provided by reparation

⁴⁹ UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147. 21 March 2006, paras. 8-9.

⁵⁰ UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, para. 23.

measures without a clear framework for the violations and the resulting harm to ensure that victims become beneficiaries.

5.1 IDENTIFYING VICTIMS

The participants unanimously emphasized the utmost importance of the documentation that has been and continues to be carried out in the Syrian context. However, they also pointed out the urgent need to immediately start the process of individual and collective victim record-keeping, whether for immediate reparations purposes or future use. This viewpoint aligns with the findings of the Special Rapporteur on truth, justice, reparations, and guarantees of non-recurrence regarding the establishment of victim records, especially considering the significant additional challenges faced by some experiences due to the lack thereof.⁵¹ While the Syrian case is often referred to as the most documented in history, participants believe that the documentation primarily focuses on accountability purposes, thus leaving many elements necessary for identifying victims for reparation purposes incomplete in those documentation efforts. Additionally, participants agree that relying on and waiting for official authorities to establish appropriate victim records is not viable. Therefore, CSOs must play a pivotal role and immediately allocate sufficient resources and efforts towards this endeavour. Among the key conclusions reached by the participants:

1. **From specific to general:** Participants believe that the preparation of victim records should commence at the level of regional contexts, as this would help overcome many obstacles and enhance the effectiveness of available resources for this process. Starting from identified regional frameworks leads to a quicker and more objective quantifiable and qualitative containment. The likelihood of effectiveness and numerical objectivity during the establishment of victim records is more logical in identified areas, especially when considering the availability of quasi-official, voluntary, familial, or tribal local frameworks that may provide a primary source of information and data, both quantitative and qualitative, regarding victims and the patterns of violations related to their experiences. On the other hand, this approach may not only be a helpful method in the process of establishing victim records but may also be necessary due to the specificity of

⁵¹ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/42/45, 11 July 2019, paras. 47-50.

the Syrian context, which is sometimes characterized by sharp differences in experiences during the conflict. Participants noted that despite various types of violations occurring throughout Syria as a whole, each region—and sometimes even within the same region—has specific characteristics regarding the documentation of violations and victims due to different factors, including the controlling authorities in the area, its unique resources that play a significant role in those violations, the reflection of social and cultural backgrounds on the victims' stance towards and perception of the violations, among others.

2. **Task assigned to civil society:** Participants unanimously agreed that the task of identifying victims and establishing individual and collective records is crucial and should be undertaken and led by CSOs. It is evident that there is not a sufficient level of trust in the existing authorities—whether governmental or *de facto*—for local communities to entrust them with this task, especially in the current situation where there is no foreseeable democratic political transition soon. CSOs have gained extensive experience over the past years and have developed vital connections with local communities that enable them to communicate, network, compare data, and have an impact.
3. **Identifying patterns of violations first:** Building upon the definition of victims mentioned earlier, it is imperative to first identify the violations that occurred and the resulting harm. In the context of recommending the establishment of victim records at the regional level, it is essential to study the patterns of violations experienced by local communities in these regions. Participants suggest not only relying on descriptive documentation of violations but also employing “econometric” analysis to assess the extent and severity of the harm.³² This is particularly important as the social, economic, and psychological indicators of such analysis can offer a more accurate and objective insight into the impact of these violations. Moreover, this analysis helps identify gender-sensitive aspects and takes into account groups that are most vulnerable.

³² For a simplified analysis of the econometrics and econometric analysis, see, for example: Adam Hayes, *Econometrics: Definition, Models, and Methods*, Investopedia, 31 July 2023. The “econometric” analysis is a model within the theory of econometrics, which involves the use of statistical and mathematical models to develop theories or test hypotheses existing in economics and predict future trends based on historical data. Real-world data is subjected to statistical experiments, and the results are then compared with the theory being tested. One of the main advantages of this analysis is its ability to attempt to predict future trends based on a thorough study of currently available and/or past data. Adopting this analysis enables the confirmation of logical and actual relationships between several variables. For example, this analytical model allows confirming or refuting a hypothesis such as whether women whose husbands have forcibly disappeared are closer to poverty line compared to other women who have experienced different situations. “Econometric” analysis requires studying available data about these women falling within this category, as well as women in other categories, data related to the economic status of women in both groups, and other relevant data. Based on the results that prove or refute this hypothesis, the extent of harm becomes clearer, and thus, the most tangible forms of reparation responding to this harm can be identified. However, it is undeniable that this theory is not always accurate and acceptable and faces criticism from economists and others.

4. **The specialized mandate:** Participants unanimously agree on the necessity of establishing specific, acceptable, and mandated mechanisms to identify victims. These mechanisms should not be purely statistical or documentary, as stated in the previous recommendation. Instead, they should begin with specialized study committees tasked with framing mechanisms for victim identification and establishing their records. This would enable other operational committees to follow these frameworks and standards in implementing operational procedures for victim identification. Participants propose that human rights CSOs take on the responsibility of forming these committees, with a quasi-official mandate at the community level. Community leadership frameworks, such as tribal councils and "communes," could play a role in this field. Some participants recommended that coordination with international entities, exercising an agreed-upon form of oversight, transparency, integrity, and professionalism, precede work in this area.
5. **Diversification of information sources:** In addition to the general study of local community experiences and "econometric" analysis, participants emphasized the central importance of direct fieldwork through collective and individual meetings, as well as the adoption of standardized forms and secure, efficient systems for data storage, collation, and analysis. This, in itself, not only ensures the creation of comprehensive victim records but also plays a crucial role in facilitating informed knowledge-sharing necessary for victims to understand their rights and manage their expectations. Field registration processes should not be automated in a purely statistical manner, as the lack of dissemination of information and informed knowledge leads to a limited number of registrations compared to the actual number of victims.⁵³

5.2 OPERATIONAL CHALLENGES

It is worth noting that the general approach of transitional justice experts emphasizes that the goal of the registration process should not be "to challenge the veracity of the claims made by the victims or the evidence they have provided, rather to assume in good faith that what has been said is a statement of truth".⁵⁴ Undoubtedly, this approach is necessary to avoid placing the burden of proof on the victims, which would exacerbate their suffering resulting from the

⁵³ See, for example: Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/42/45, 11 July 2019, para. 53.

⁵⁴ *Ibid.* para. 57.

violations they endured in the first place. Additionally, it ensures broader inclusivity and reduces the likelihood of excluding victims who may not be able to prove their harm due to logical reasons or high evidentiary thresholds.

However, some participants have drawn attention to an important challenge in light of the prolonged conflict in Syria and the unprecedented number of victims and damage inflicted on local communities. This challenge lies in the ability to verify and assess the extent of damage claimed by some without genuine substantiation of their claims. From their perspective, the danger of this issue lies in its negative impact on the credibility of any reparative measures, turning them into a competition for benefits rather than genuine entitlements. Some participants shared their experiences in implementing certain "harm reduction" projects, empowering specific categories of victims of certain violations, such as torture, through microfinance initiatives. Participants did not anticipate that this phenomenon would pose a significant challenge during the design of these projects, but it indeed did. They highlighted that verification processes were highly challenging and accompanied by numerous obstacles due to the spread of rumours, misinformation, and attempts at exploitation, negatively impacting actual victims. Despite successfully overcoming these challenges to a high degree, the shared lessons indicate the necessity for those responsible for verifying the identities of victims to possess an advanced level of expertise and detailed knowledge of the contexts of the targeted groups. One of the most important lessons learned is that the narrower the geographical and contextual framework, the more accurate, objective, and successful verification and registration opportunities are, with less burden on actual victims. Enhancing these opportunities is facilitated by the involvement of reliable and accepted community frameworks in regulating registration and verification processes.

In another relevant context, it is imperative not to overlook the reality of the distribution of affected individuals from local communities in various locations inside and outside Syria due to displacement, refuge, and migration. This reality poses a significant challenge concerning both the identification of victims and the active participation of local communities and victims in designing and implementing reparative measures. One of the challenges posed by this reality is that individuals who remain in their original areas of residence within their local communities may consider themselves to still be directly exposed to various patterns of violations and the resulting cumulative harm, while those who have left may have different current circumstances, regardless of whether they have improved or not. This change affects the proposed standards of

“econometric” analysis and complicates the assumption that contextualising reparation programs is the most appropriate model for the Syrian context. Although those who have left for any reason theoretically belong to these communities, in reality, they live in a different context that necessitates specialized entities responsible for identifying victims, sharing informed knowledge, and engaging victims to address the local community from multiple perspectives. Despite this challenge, the cultural and social environment of local communities, such as Deir ez-Zor as a direct example, may offer an opportunity to overcome these challenges by maintaining community ties and respecting existing social structures even by individuals residing away from those local communities. These ties and structures may facilitate interventions targeted at local communities within Syria in the same way they do for individuals and families in other areas.

6. PATTERNS OF VIOLATIONS

The participatory dialogue activities in the context of this study have highlighted that local communities in Syria are affected by specific patterns of violations collectively across all regions. However, they are also influenced by other patterns that are regionally specific. Although these regionally specific patterns may also be common in other areas, albeit to varying degrees, certain factors may exacerbate their impact on local communities due to the social, economic, or contextual nature of the damage they entail.

6.1 LIBERTY AND SECURITY OF PERSON

It is evident that violations related to deprivation of liberty and security of person, notably arbitrary detention and enforced disappearance, along with accompanying violations, are not confined to specific local communities in Al-Kasrah and Hajin compared to other regions in Syria. However, participants noted that the severity and prevalence of this pattern have not diminished with changes in the controlling authorities in the area since 2011. This indicates that this pattern continues to inflict harm on local communities not exclusively linked to the armed conflict but rather suggests that these years have yet to witness a genuine transition from authoritarian rule.

Participants highlighted several levels of complexity and impact associated with this pattern of violations. Al-Kasrah and Hajin share the experience of other regions in Syria before March 2011 and during the few months or years thereafter. This experience can be characterized by authoritarian control and the monopolization of security by a single party, resulting in deprivation of basic civil and political rights, accompanied by violations against liberty and security of person. It is undeniable that those affected by this period cannot be limited to direct victims, such as those subjected to detention and associated violations. In addition to them, the entire community is considered affected due to the normalization of deprivation of participation in public life in general. Participants consider this collective harm manifested in the direct or indirect adoption of the authoritarian control approach by other powers that successively controlled the region, reflecting the structural penetration of this approach into the political culture of the society.

On the other hand, participants consider the region to have witnessed a peculiarity associated with this pattern of violations, characterized by the multiplicity of controlling authorities and the phenomenon of the disappearance or dissolution of those authorities. These entities committed various forms of violations against liberty and security of person during their control but faded away at some point with the dominance of other forces. The multiple groups of what was known as the Free Syrian Army, which almost took control after the Syrian government, have disappeared, and it has become nearly impossible to trace their members or leaders responsible for those violations. The same applies to the Islamic State (ISIS). These entities have vanished, but the harm caused by their violations persists, whether in terms of the continuation of authoritarian and repressive approaches or more directly in terms of the ongoing disappearance of thousands of victims who have been subjected to various forms of deprivation of liberty.

The final level of impact is the exacerbation of the absence of public and personal security, accompanied by the continuation of violations of liberty and repression based on regional or ideological grounds. Participants consider that local communities collectively suffer from the threat to personal security due to the practices of the existing authority or its negligence and omission. Compared to the comprehensive concept of victims as outlined in the "Basic Principles,"⁵⁵ the failure "to take appropriate measures in response to death threats against persons in the public sphere, and more broadly to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors,"⁵⁶ may render local communities - as groups - victims of serious violations of international human rights law.

6.2 DISCRIMINATION AND MARGINALISATION

The issue of discrimination and marginalization has occupied a significant space in the dialogues, reflecting the profound and enduring harm of this pattern on local communities. It was evident from the participants' experiences that the current discrimination based on ethnic or regional grounds exacerbates the regional marginalization they have endured for decades. Discrimination is entrenched in practices targeted against them, particularly those outlined above, involving violations of the right to liberty and security of person, as well as other discriminatory policies at

⁵⁵ Review Section 5 above.

⁵⁶ Human Rights Committee, *General comment No. 35: Article 9 (Liberty and security of person)*, CCPR/C/GC/35, 16 December 2014, para. 9.

the economic, institutional, and service levels. Participants link the existing security shortcomings and the discrimination practiced against them, believing that the current authority is capable of enforcing the rule of law but deliberately fails to do so for discriminatory reasons, as evidenced by its significant success in maintaining security and enhancing the rule of law in other areas under its control. Additionally, participants increasingly believe that many direct violations, such as raids, arrests, prolonged or indefinite detention, and inhumane treatment, are nothing but implicit implementation of discriminatory policies against them.

Participants believe that the harm resulting from this pattern not only affects local communities in Al-Kasrah and Hajin and other areas in the same context but also impacts the Syrian society as a whole in the long run. The sense of discrimination creates societal reactions that perpetuate structural violence in the community, leading to the continuation of conflict even if a form of what is known as negative peace is achieved, characterized by the apparent absence of violence but failing to address the root causes of the conflict, making it susceptible to erupt violently again.⁵⁷

Consequently, as the damage caused by the sense of discrimination worsens, addressing this harm becomes more complicated, potentially leading to its neglect or, at best, its confinement to limited measures that deviate from its core objective as a fundamental factor in achieving peace and reconciliation.

6.3 LIVING AND ECONOMIC CONDITIONS

Despite the overall economic downturn in Syria, the participatory dialogues in Al-Kasrah and Hajin were characterized by participants extensively addressing it as a serious pattern of severe violations, not isolated from other patterns but potentially rising to become one of the deliberate methods of discrimination and marginalization against local communities. Given that the region historically and presently relies primarily on agriculture and livestock economically, several related factors have exacerbated the deteriorating livelihoods of the area's residents to the extent that securing daily necessities has become a priority even over addressing other patterns of violations at times.

⁵⁷ To know more about the theory of negative and positive peace, see: Johan Galtung, *Theories of Peace: A Synthetic Approach to Peace Thinking*, International Peace Research Institute, September 1967.

Among these factors is the water crisis and the absence of any foreseeable measures or policies to address it, along with the poor quality of grains used in agriculture and the phenomenon of fuel smuggling and the halt of export movement, rendering the local market paralyzed.

In contrast to these circumstances, many participants perceive a near-total absence of activities and interventions by CSOs and humanitarian organizations in supporting small projects and other activities that contribute to sustainable economic improvement. Some participants believe that these projects already exist but lack continuity, in addition to being limited regionally and quantitatively in terms of the number of beneficiaries. Participants also link this reality to other challenges related to the generally dilapidated infrastructure, which also does not witness any interventions to rehabilitate it to support economic growth.

Some interventions are limited to partial renovation of some infrastructure, but there is a complete absence of any interventions for new construction that responds to the increasing need in the region. Moreover, these limited projects suffer from a clear lack of administrative efficiency and are plagued by manifestations and practices of corruption, in addition to being continuously subjected to deliberate sabotage by unidentified entities and/or individuals, negatively impacting the effectiveness of these interventions and the willingness of the responsible actors to develop or expand them.

Some participants pointed out that some of these limited interventions usually avoid the agricultural and livestock sectors and focus on certain craft and commercial sectors to a limited extent.

The participants highlighted the phenomenon of taxation, which they deemed illogical, especially in light of certain entities monopolizing transit routes used for commercial transportation. The exorbitant cost of living resulting from all of this is now considered by participants to be intentionally caused by the responsible authorities, either through engaging in these practices or through deliberate negligence in addressing them and putting an end to them. Participants believe that the deterioration of the economic situation, limited services, and the collapse of infrastructure are direct causes of the worsening security situation,⁵⁸ marginalization, and feelings

⁵⁸ See, for example: Justice for Life, *Deir Ezzor: Victims in Local Conflicts... Protests Continue*, 15 November 2022.

of discrimination. Additionally, they view displacement and illegal migration as forms of forced displacement.

6.4 FORCED DISPLACEMENT

The region has experienced several waves of displacement and forced migration due to changes in controlling powers and conflict conditions, with the latest being the displacement of approximately 6,500 families in 2023 as a result of clashes between local tribes and the forces of the Syrian Democratic Forces.⁵⁹ However, participants emphasized that displacement is not merely a direct result of hostilities, and therefore, it is not temporary, as it is linked to other contextual factors, including previous circumstances and patterns that constitute both push and pull factors. Participants identified issues of housing, land, and property (HLP) and associated communal disputes, whether due to destruction, confiscation, or seizure, as key factors contributing to displacement and hindering return. Additionally, participants pointed out a pattern of displacement linked to certain practices related to tribal conflicts that emerged as a result of what is referred to as "tribal fragmentation" due to armed conflict. This fragmentation diminishes the traditional role of "tribal mediation mechanisms, whether through custom, law, or tradition," in resolving tribal disputes.⁶⁰ As a result of this tribal fragmentation, exacerbated by the deliberate lack of cooperation from the existing authority with tribal leaders,⁶¹ participants cited several instances of unusual practices, particularly related to issues of HLP and displacement. One significant aspect of this is the imposition—based on claims of tribal representation—of displacement and confiscation of properties belonging to specific tribal families, preventing them from returning.

Taking into account the specificity of local communities with tribal characteristics, the harm resulting from this pattern intersects between the individual and the community, profoundly affecting the societal fabric as a whole. This makes identifying measures for remedying the harm exceptionally difficult and complex, especially considering that continuous displacement

⁵⁹ UNOCHA, *Syrian Arab Republic: Deir-ez-Zor, Situation Report No. 1 as of 14 September 2023*.

⁶⁰ See, for example: Walid Al Nofal, *Clan conflicts in Syria: Seeds of revenge grow under the ashes amid attempts to renew customary law*, Syria Direct, 09 December 2022.

⁶¹ See, for example: Bashir Al-Abbad, *"Deir Ezzor Tribes and SDF"... from de facto authority to armed confrontation*, Aljazeera, 27 September 2023.

coincides with victims being subjected to additional forms of violations during their displacement in host communities.

6.5 EDUCATION

Among all the patterns described and analysed by the participants, the damage inflicted on the education sector emerged as the common and most focused-upon axis by all participants. The magnitude, continuity, and difficulty of addressing this damage were the primary reasons for the participants' interest in addressing this pattern. One of the most dangerous forms of this harm is the tendency of deprived youth from education to join extremist groups, along with the spread of drug abuse.⁶² With the deterioration of economic and living conditions for families and other challenges hindering access to the right to education,⁶³ the phenomenon of child labour and exploitation is spreading. Additionally, there is a continuous increase in the phenomenon of underage marriages.

Participants addressed numerous explicit and implicit reasons for the deterioration of the education system and the resulting harm. At the top of the list of those reasons was the absence of officially recognized and socially accepted standardized curricula, especially since there is a general perception that even if children and adolescents succeed in engaging in the educational process, the lack of recognition for certificates issued by the Autonomous Administration of North and East Syria (AANES) prevails. This implies that the effort exerted during years of education will not be considered in any pursuit of higher education or in future careers in Syria or abroad. One of the few ways to obtain formal education and recognized certification is to obtain them in areas under the control of the Syrian government, which most families consider a risky and challenging option, both in terms of security and economics. This makes it a limited option that contributes only minimally to addressing this dilemma.

It is evident to the participants that the attention of the existing authority to address this problem falls short of what is required, given the apparent deliberate neglect in providing the financial resources, administrative competencies, educational expertise, and necessary infrastructure for

⁶² For further details, see: Justice for Life, *Deir ez-Zor: Youths' Right to Education*, 14 December 2023.

⁶³ It is estimated that more than half of school-age children in Syria were prevented from attending school in 2014-2015: The World Bank, *Economic Effects of War and Peace in the Middle East and North Africa*, 02 February 2016.

an effective educational process.⁶⁴ Many educational facilities remain unfit for use or are used for military or security purposes. Teachers continue to suffer from poor economic and security conditions, which personally affect them and hinder their ability to focus on their profession and contemplate how to address these situations.⁶⁵

The participants also highlighted the disproportionate gender impact of this pattern. One of the main reasons for this is the patriarchal nature of the society, which makes girls and women more vulnerable to educational deprivation compared to prioritizing males. This, in turn, exacerbates the phenomenon of child marriage prevalent in local communities.

⁶⁴ Justice for Life published a detailed report addressing this issue and the teachers' strike because of it: *Teachers' Strike in Deir Ezzor... Reasons and Recommendations*, 13 May 2022.

⁶⁵ See, for example: Justice for Life, *Teachers in North Eastern Syria under Poverty Line*, 21 September 2023.

7. REPARATION MEASURES

The participants discussed measures they deemed appropriate and necessary for remedying the harm resulting from patterns of violations experienced by local communities, which continue to affect them. This discussion stemmed from an exploration of the impact of such harm and the extent to which its reparation can contribute, in the short term, to mitigating the intensity of conflicts – both militarily and socially – and, in the long term, to facilitating pathways for transitional justice and positive peace. Participants were aware and in agreement that reparation measures should be an integral part of a comprehensive approach to transitional justice, agreed upon within a framework encompassing accountability, justice, truth, reparation, and guarantees of non-recurrence. However, they also examined the feasibility of working on "interim remedial measures" or "harm mitigation." This awareness and perspective influenced the crystallization of the participants' viewpoints on the forms and priorities of individual and collective reparations.

7.1 INDIVIDUAL AND COLLECTIVE REPARATION APPROACH

Collective reparations can be understood from the perspective of the intended beneficiaries, focusing on providing entitlements to groups of victims who share identity, experience, temporal and/or geographic framework, as well as patterns of violations. Collective reparation measures may offer an effective response to harm inflicted on infrastructure, identity, and community trust.⁶⁶ They can also serve “as a way of simplifying delivery of reparations either in the context of practical limitations or concerns about drawing too stark a line between victim classes of victims or between victims and non-victim groups. [...] Collective reparations avoid the potentially disruptive effect individual payments can have on communities”.⁶⁷

The participants agreed that accountability, regardless of its forms and pathways, cannot be considered in isolation from the feasibility and effectiveness of reparations in Syria as a whole.

⁶⁶ See, for example: Lisa Magarrell, *Reparations in Theory and Practice*, International Center for Transitional Justice, Reparative Justice Series (2007), p. 5.

⁶⁷ Ibid. p. 6.

Instead, they emphasized that accountability must also be addressed in this context. In this discussion, they focused on the recognition element inherently linked to the outcomes of accountability, which constitutes one aspect of individual and collective satisfaction.

As the participants formulated their perspectives on individual and collective, tangible and symbolic reparations, they did so based on several realistic considerations, the most important of which include:

1. The impossibility of establishing accurate and comprehensive victim registries under the current circumstances, making the planning and implementation of individual reparations impractical. This may result in selective reparations rather than comprehensive ones, exacerbating the harm that is supposed to be addressed, contrary to the logical basis of reparations.
2. The absence of an authority capable of and responsible for implementing comprehensive reparation measures, especially since such authority is also responsible for providing avenues for appeal within the framework of implementing those measures.
3. The scarcity of resources available to provide reparation entitlements to individual victims as direct beneficiaries, especially in terms of in-kind entitlements. Funding reparations requires wide-ranging plans such as "creating special trust funds or introducing a dedicated line in the yearly national budget for reparations".⁶⁸
4. The continuation of the conflict and ongoing violations despite a decrease in the intensity of armed violence among conflict parties. Some patterns of violations are inherently ongoing until their elements are addressed through one or more elements of effective remedy, such as enforced disappearance, forced displacement, and HLP confiscation or seizure. It is difficult to envision reparation entitlements that address the harm to victims without accountability and truth being the cornerstone of it.
5. The existing exceptional circumstances require prioritizing the most urgent needs based on the positive impact they may achieve socially. Through these priorities, the patterns of reparations that achieve the highest level of responsiveness and outcomes, whether materialistic or symbolic, individual or collective, as well as immediate or deferred implementation, are identified.

⁶⁸ UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, para. 56.

7.2 ECONOMY AS REPARATION

Participants believe that the deteriorating living and economic conditions represent the most prominent challenge exacerbating societal conflict and directly or indirectly leading to other patterns of violations and harm against individuals and local communities. It is worth noting that even if economic practices do not necessarily constitute violations in the legal sense that triggers State responsibility according to its obligations under international law, such practices, whether perpetrated by non-State actors whether individuals or entities, undoubtedly result in a blatant deprivation of the affected population's economic rights. The Truth and Reconciliation Commission in Liberia concluded this despite not considering economic crimes as human rights violations, and it found that this impact extends beyond affected individuals and communities to the long-term economic and social development of the country.⁶⁹ In their assessment of the impact of violation patterns, participants expressed their conviction that addressing the harm caused by these patterns significantly addresses both the immediate and long-term effects, while also facilitating other forms of reparations even after any potential political transition.

Participants recognize that addressing economic conditions may initially seem like one of the most difficult and complex plans and measures due to the significant resources it requires. However, adopting a targeted and regionalized approach may contribute to strategically utilizing available resources. With the absence of a comprehensive national plan for transitional justice amid ongoing conflict and division, development programs and early recovery interventions are still in place but are generally fragmented and lack strategic direction. These interventions and programs, for various reasons, target several regions based on their specificities and capacity to identify and assess their needs. It is possible to leverage these interventions and allocated resources to design and implement limited-area programs that respond to carefully evaluated needs based on impact measurement rather than merely identifying temporary needs.

In this context, participants emphasized the importance of giving special attention to programs for rehabilitating infrastructure, agricultural, and livestock assets, as they constitute vital components of local communities' livelihoods, and their improvement has a positive impact on all residents. Indeed, the participants' perspective is not unprecedented or impractical, as several

⁶⁹ Republic of Liberia, Report of Truth and Reconciliation Commission, *Volume Three: Appendices, Title III: Economic Crimes and the Conflict, Exploitation and Abuse*, 03 December 2009, para. 138.

transitional justice and reparation programs worldwide have previously recognized the importance of addressing similar patterns. Following a recommendation from the Truth and Reconciliation Commission in Peru, the law defined collective victims as local communities that have suffered multiple human rights violations, resulting in serious harm to family structures or local communities. Consequently, infrastructure projects or essential service developments were implemented based on the decisions of these communities themselves, linking these collectively oriented measures to development and the enjoyment of certain economic, cultural, and social rights. It is noteworthy that local communities favoured infrastructure projects, with estimates indicating that the number of implemented projects in these local communities provided reparations to over 600,000 victims across more than 1,400 local communities.⁷⁰

There is no doubt that recalling these experiences does not imply any direct correlation between the experiences and the circumstances in Syria, especially since these experiences may have occurred in the context of post-conflict or post-authoritarianism, and under the auspices of official, legally mandated mechanisms. However, this does not preclude drawing on certain aspects of these experiences in line with the conclusions reached by the participants in the participatory dialogues. This experience highlights the potential added value of narrowing the scope of implementation to the local level. This approach leads to more effective involvement of victims and local communities in selecting and implementing reparation measures on one hand and alleviates financial burdens and challenges on the other. For example, in the aforementioned quoted experience, the financial value of each local project did not exceed \$35,000.⁷¹

To compensate for the absence of official legal mandates for implementing such measures, CSOs play a central role as a crucial link between key stakeholders, including local communities, supporters and funders, and local authorities. Participants believe that despite the responsibility of these authorities often being implicated in negative practices and/or failing to address them, CSOs are capable of developing convincing strategies for engaging with key stakeholders. They are also able to provide support for these strategies from external actors with whom they have developed a relationship of trust and expertise exchange over years of work, such as governments, UN bodies, and international NGOs.

⁷⁰ OHCHR, *Transitional Justice and Economic, Social and Cultural Rights*, 01 January 2014, pp. 42-43.

⁷¹ Ibid.

7.3 RESTITUTION

The discussion on rights restitution measures was closely linked to patterns of displacement and forced migration, which the participants considered to have a severe and lasting impact on local communities. These issues are inherently closely tied but not limited to HLP rights. Participants specifically highlighted these issues because remedies for their restitution are related to tangible material rights that can more realistically identify victims of the violations they have suffered. On the other hand, participants believe that restitution interventions are feasible and executable despite some challenges, and as long as they are, they can have a positive impact on several levels. This includes alleviating the burden on humanitarian response by facilitating the return of displaced persons due to such violations and fostering positive community relations by refuting the "victor" claims made by some conflict parties that have primarily caused HLP rights violations and displacement. Addressing these issues can achieve levels of satisfaction for the victims, regardless of the level and scope of intervention.

While the restitution of these rights requires the provision of necessary resources, participants believe that a change in political will specifically regarding this issue can help overcome resource challenges. Participants see that community governance frameworks, such as tribes and notable persons, can effectively influence all relevant parties, whether existing authorities or familial and tribal entities, to facilitate the identification of victims, prove their ownership, and agree on their restitution and return. Additionally, participants believe that CSOs, development organizations, and international humanitarian actors can provide the necessary support for specific interventions, such as repairing housing units or economic facilities. Furthermore, initiatives at the regional and local community levels contribute to overcoming the challenges of the overwhelming number of claimants seeking to regain these rights at the national level and enhance the effectiveness of measures to verify such properties.⁷²

7.4 REHABILITATION

Participants discussed rehabilitation as a multifaceted reparation measure, which can be implemented and invested in both the short and long terms. This intersects with the view that

⁷² For further details about these challenges, see, for example: Rhodri C. Williams, *Restitution at the Juncture of Humanitarian Response to Displacement and Transitional Justice. Research Brief*, International Center for Transitional Justice, June 2013.

advocates for defining rehabilitation based on identifying what is needed to respond to the needs of victims, rather than focusing solely on the conceptualization that may be limited to medical and psychological domains.⁷³ Participants presented several ideas that could contribute to addressing individual and collective harm at times.

At the forefront of priorities, participants emphasized the rehabilitation of survivors of detention. Considering the current absence of fair accountability measures and compensation for the harm and losses they suffered due to their deprivation of liberty; urgent action is deemed necessary to provide rehabilitation services in various forms. Survivors of detention are, according to participants, also victims of torture and inhumane treatment. Therefore, it is essential to consider providing medical and psychological services, along with developing measures that contribute to their social and economic reintegration. In consultations with experts and practitioners, experiences of some CSOs and victim and survivor associations in relevant measures were highlighted. These interventions, despite their contextual and material limitations, have had a significant impact on victims and survivors. Many beneficiaries of these programs have transitioned from being described as "passive victims" to being willing volunteers to support other victims and survivors. Some interventions involved limited economic empowerment based on participatory needs and desires assessment, while others focused on responding to medical, psychological, and legal needs, which are crucial for the survivors' ability to reintegrate into society.

Given the widespread impact of violations and omissions related to education, participants consider rehabilitation measures in this sector to be an urgent priority to mitigate the generational impact and because "[e]ducation is a tool that can provide inclusion, recognition and empowerment" in conflict-affected communities.⁷⁴ Participants classified education rehabilitation measures into individual and collective levels. At the individual level, survivors of detention and their families who have lost educational opportunities can be targeted through targeted programs such as alternative or vocational education, or scholarship programs coordinated with academic institutions. Participants also proposed developing programs targeting youth who have not had the opportunity for basic education in recent years, focusing on literacy, vocational education,

⁷³ Redress and Essex Transitional Justice Network, *Rehabilitation as a Form of Reparation: Opportunities and Challenges*, Workshop report, September 2010, p. 5, quoting Professor Sir Nigel Rodley.

⁷⁴ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/42/45, 11 July 2019, para. 103.

and economic empowerment. At the collective level, participants emphasized that individual measures cannot achieve the desired results without focusing on rehabilitating the education sector itself, including basic infrastructure, addressing the issue of non-uniform curricula, and professionally and economically empowering teachers and education sector workers. It is worth noting that educational rehabilitation has been one element of reparation programs in several contexts, including Chile and Sierra Leone, where measures were tailored to sectors of victims based on recommendations from truth commissions. These measures included providing full scholarships up to secondary education and vocational/technical education, as well as providing parents with fixed salaries to avoid having to send children to the labour market to cope with economic and livelihood burdens.⁷⁵

Participants acknowledge the realistic challenges of implementing proposed rehabilitation measures. These measures require substantial financial resources and unique human resources, both of which are fundamentally lacking in local communities. Moreover, these measures cannot be successful and effective without, at the very least, meaningful engagement from the existing authorities. The measures cited above, and others, are usually within the context of the official trajectory carried out by the State in post-conflict or post-authoritarianism. However, participants believe that the horizon is not entirely closed for designing rehabilitation interventions, where CSOs and international NGOs can play a crucial role. At the same time, investing in the interest of existing authorities to provide services that indirectly contribute to enhancing social stability in targeted local communities is also possible.

7.5 COMPENSATION

Participants distinguish between financial compensation as one form of individual reparation and other forms that may have material nature but are collective, including some of those mentioned above. Participants believe that any measures for financial compensation without addressing the damages resulting from the root causes of violations, particularly the economic and livelihood situation, can turn these financial measures into deliberate bargaining and exploitation of the

⁷⁵ For more details, see: Ibid. paras. 104-105.

deteriorating reality of the victims in exchange for foregoing other transitional justice measures,⁷⁶ especially accountability and truth.

Participants emphasize that financial compensation must be considered, particularly concerning specific patterns of violations for which other forms of reparation may not be possible or suitable to address their impact. This is in turn linked to mechanisms for identifying and involving victims, as well as ensuring that any plans to implement financial compensation measures are coordinated with other individual and collective measures. Moreover, any financial compensation measures should be in line with the social and cultural context and should not be limited to achieving individual benefits for direct beneficiaries.⁷⁷

Regarding alignment with the social and cultural environment and considering the specificity of this in local communities, some experts and practitioners have pointed out that while financial compensation is a common and accepted social practice in some local communities, it is subject to a governance framework, especially in tribal societies. Traditionally, this framework does not aim to provide compensation in and of itself to address the harm resulting from violations but rather sees it as a component of a system that acts as a safety valve in tribal communities, playing a prominent role in resolving conflicts, halting retaliations, and maintaining the peaceful cohesion of local communities.⁷⁸

Planning for financial compensation measures must undergo careful study to assess their positive contribution to local communities based on a thorough evaluation of their social and cultural backgrounds.

7.6 MEMORIALISATION

Participants discussed the appropriateness and importance of memorialization measures for local communities, considering them as a form of reparation (satisfaction) and truth. Participants took into account the complexity of the conflicts in Syria, where the distinction between victim and perpetrator becomes blurred between different communities or regions. They agreed that

⁷⁶ The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence emphasises this conclusion: UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, para. 11.

⁷⁷ Ibid.

⁷⁸ Walid Al Nofal, *Clan conflicts in Syria: Seeds of revenge grow under the ashes amid attempts to renew customary law*, Syria Direct, 09 December 2022.

memorializing the victims is a pivotal decision in enhancing transitional justice efforts and is a fundamental element of effective collective reparations.⁷⁹

Despite recognizing this importance and impact, participants emphasized the need for caution and adopting a comprehensive approach to memorialization measures that contribute to the implementation of other pillars of transitional justice and do not reinforce the rationale of hatred and conflict. This is particularly crucial as memory “is part of a broader cultural framework in which different visions, values and narratives come together”.⁸⁰

Given these considerations, participants note the importance of distinguishing between memorialization measures at the national level and those at the local community level. They link this, once again, to the importance of “unpacking” the conflict in Syria and its effects at the regional level within the context of complex reparation programs that combine different types of material and symbolic, individual and collective entitlements.⁸¹

Due to the specificity of the experience of local communities at the regional level in Syria, memorialization measures for these communities may have a positive psychological and social impact given the shared context and experience of each of these communities. Memorialization measures at the national level require more complex interventions to ensure that memorialization plays the expected role in “allowing society to live more peacefully with the legacy of past divisions [, where] different narratives and interpretations of past violence can coexist [...] and this feeds into the dynamics of social reconstruction”.⁸²

⁷⁹ The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence considers that memorialisation forms the fifth pillar of transitional justice: Human Rights Council, *Memorialisation processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/45/45, 09 July 2020.

⁸⁰ Ibid. para. 32.

⁸¹ For more details, see: UN General Assembly, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/69/518, 14 October 2014, paras. 29-34.

⁸² Human Rights Council, *Memorialisation processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/45/45, 09 July 2020, para. 37.

8. THE ROLE OF COMMUNITY MEASURES AND STRUCTURES IN REPARATION

The term "community measures and structures" refers to governance practices and traditional structures within local communities, typically derived from religion or customs. They are often inherited and implicitly agreed upon, although they lack formal legal constitutional frameworks. Nevertheless, they significantly impact the daily lives of community members and their social, economic, and political interactions.⁸³ Customary law or tribal justice represents one of the prominent forms of these widespread measures in many countries. Additionally, indigenous peoples, agricultural communities, and ethnic minorities adhere to similar tribal measures and systems, reflecting their original culture. In fact, some researchers indicate that more than half of the world's countries have dual governance policies linked to traditional governance arrangements.⁸⁴ The question addressed by participants is whether these measures have a positive or negative role in the planning and implementation of interventions for reparation within local communities.

8.1 OPPORTUNITIES

Some argue that these measures provide a better opportunity for a collaborative approach, given their local nature at the regional level, which often witnesses implicit representation through existing structures, whether familial, tribal, or even socially accepted elite structures. In addition to the implicit representation of local communities, the moral authority granted to these structures may make them more acceptable and capable of facilitating broader participation of victims and their families in discussing and determining any measures to be adopted. An element

⁸³ For more details, see, for example: Georg Lutz and Wolf Linder, *Traditional Structures in Local Governance for Local Development*, University of Berne, Switzerland, Institute of Political Science, May 2004.

⁸⁴ Katherina Holzinger, Florian G. Kern, and Daniela Kromrey, *The Dualism of Contemporary Traditional Governance and the State: Institutional Setups and Political Consequences*, *Political Research Quarterly*, 69(3), 2016, 469-481.

of this collaborative approach is that these structures often seek to make decisions by consensus or agreement, such as tribal councils, for example.

On the other hand, it has been noted that community measures and structures enhance the capacity to overcome existing challenges in implementing reparation measures, such as the absence of official mandate, lack of national programs, and difficulties in establishing victim registries and proving harm, among others. Through existing governance measures and structures, the scope of difficulties can be reduced in terms of both quantity and type by leveraging the knowledge and access of these structures within local communities and their extensions internally and externally. Additionally, their close familiarity with the context of experiences and patterns of violations, as well as their significant ability to classify victims and verify the extent of harm, greatly contribute to this reduction.

Furthermore, existing local structures based on community measures possess traditional tools that are commonly used outside the context of serious violations due to conflict, such as customary reconciliation councils, tribal and noble councils, religious rulings, clan justice, the influence of religion and religious leaders, collective financial contributions, among others. These tools can be creatively employed at the local level to adapt to changing social and contextual circumstances, generating pragmatic solutions and interventions capable of addressing a wide range of issues.⁸⁵

Some participants argue that the absence of rule of law and the chaos resulting from conflict have led to a resurgence of tribal affiliations, reflecting the local communities' need for community measures and structures as a natural response to the need for authority to regulate relations within this community and undertake its traditional roles in conflict prevention and resolution through restitution and community reconciliation. Others consider that, given the current circumstances, relying on the role of tribal authority is not feasible due to deliberate weakening and dismantling. They also point to the younger generation, which did not experience the traditional role of tribal authority and whose experience was confined to the period of conflict and its associated absence of this role, making their involvement in reparation measures managed by these structures generally unlikely because they do not feel obliged to respect and be loyal to them and the measures they facilitate. Conversely, some believe that despite the apparent absence of the actual

⁸⁵ Erica Harper, *Customary Justice: From Program Design to Impact Evaluation*, International Development Law Organization (2011), pp. 19-20.

role of community structures, the younger generation has not detached from the familial upbringing in tribal communities, which inherently instils the respect and loyalty that become a necessity in the absence of legal authority and justice and reparation measures.

8.2 CHALLENGES

Despite the many positive aspects that community measures and structures may contribute to in reparation, participants emphasized the importance of not exclusively relying on local community structures for reparation interventions without considering the challenges and risks that such measures and structures may entail.

Considering the reality of tribal conflicts, some of which date back decades while others have been exacerbated during the recent conflict and for related reasons, is unavoidable. This means that cohesive and homogeneous community structures and measures capable of partially or temporarily compensating for the absence of official authority to implement the pillars of transitional justice at the national level cannot be expected. Some participants pointed out that if community structures were to undertake reparation measures, tribal conflicts could lead to unintended consequences contrary to the essence and objectives of reparation. This is because they may be based on tribal competition and reinforce the notion of "victory" by discriminating between beneficiaries of reparation entitlements based on tribal affiliation and the dynamics of conflict between them. What is considered fair and just can be influenced by power differentials, status, wealth among disputants, discriminatory social norms, and perceptions of community and/or tribal cohesion.⁸⁶ Therefore, rather than investing in community structures to facilitate restitution, it may be necessary to first allocate resources and efforts to address these conflicts. This does not mean that such efforts are unnecessary; on the contrary, they may be more urgent in mitigating the intensity of conflicts in local communities. However, these efforts should not be limited or sporadic when planning for reparation measures through community structures begins.

Amongst other challenges is the consistency of traditional measures by community structures with the principle of rule of law and the inclusivity of human rights. Specifically, several participants pointed out challenges of discrimination and marginalization compared to gender standards and the duty to consider and integrate more vulnerable groups such as persons with

⁸⁶ Ibid. p. 22.

disabilities and children. It is widely recognized that tribal and customary practices, which, as one participant described, often take precedence over legal/religious rulings, face criticism regarding discrimination against women in many issues related to reparation, especially restitution and compensation. Some participants fear that enforcing reparation measures through community structures may perpetuate structural discrimination against women by imposing measures consistent with the traditional patriarchal nature of those structures. Prominent examples include issues related to HLP restitution or compensation, and the accompanying legal and customary challenges related to inheritance, possession, and official documentation, where women are generally the “weakest” in this context, exposed to additional levels of discrimination and marginalization under patterns of violations and measures that may deprive them of those rights.

Some participants also pointed out the danger of community measures and structures becoming an alternative to the rule of law, contradicting one of the key goals of transitional justice in post-conflict situations. Given the current circumstances and the absence of the rule of law, and the possibility of these measures and structures assuming this role, there is concern that, with the prolonged duration of the conflict and the absence of prospects for political and democratic transition, these measures and structures may become entrenched as a permanent alternative governance system to the rule of law in the future.

Therefore, some participants believe that investing in community measures and structures to implement reparation measures should not be a one-size-fits-all approach with uniform standards and conditions. Instead, it should be designed based on the specificity of each local community, grounded in an objective understanding of its circumstances, challenges, and anticipated opportunities, and how to proactively address them. Participants agreed that these measures and structures can be more effective and beneficial to reparation efforts in a stage where a national pathway for transitional justice is agreed upon, as their mechanisms of engagement and investment will be an authentic part of the assessment and planning processes preceding implementation. However, reparation interventions through community measures and structures should be developed to reflect the interests of local communities and the priorities they set. It should be noted that priorities and preferences may change with evolving circumstances. For instance, reliance on traditional community structures may be prioritized due to the absence of the rule of law and official legal frameworks, but this choice may change when local communities perceive the feasibility of official frameworks and their ability to implement effective reparation

measures within the context of effective remedy mechanisms or comprehensive transitional justice plans.

Among the prevalent models concerning traditional structures in local communities and their role in transitional justice and reconciliation in post-conflict situations, the “Gacaca” courts in Rwanda stand out. The Rwandan government established the community-based justice system known as "Gacaca" in 2005 to address the reality of thousands of suspects awaiting trial in the national judicial system, and to ensure justice and reconciliation at the grassroots level. In this system, judges are elected by local communities to hear cases of suspects accused of genocide crimes, contributing to lenient sentences if the accused show remorse and seek reconciliation with the community. A report indicates that over 12,000 community courts handled more than 1.2 million cases nationwide. This type of trials works to enhance reconciliation among individuals and communities, providing victims the opportunity to learn the truth about the fate of their family members, and affording perpetrators a chance to confess their crimes and repent. The “Gacaca” courts officially closed on 04 May 2012.⁸⁷ While these courts cannot be considered a success story on their own, they garnered significant acceptance from local communities, who found in them an effective and comprehensive system surpassing local and international official systems.

⁸⁷ United Nations Department of Public Information, *The Justice and Reconciliation Process in Rwanda*, Background Note, Outreach Programme on the Rwanda Genocide and the United Nations, March 2014.

CONCLUSIONS AND RECOMMENDATIONS

The participatory dialogue activities in this research paper have shown that addressing the harm suffered by victims of conflict-related violations in Syria is a top priority not only for local communities in Al-Kasrah and Hajin in Deir ez-Zor but also for communities in other areas. There is a growing consensus that reparation can contribute to mitigating the severity of the conflict and restoring the social fabric, while also enhancing more effective participation in shaping the future of Syria and its democratic transition.

This research paper highlights the importance of engaging with local communities in informed discussions regarding reparation measures, as it provides insights from primary sources - the key stakeholders - to be considered at the macro level when addressing this issue and others. Engaging in discussions on reparation does not imply imposing or altering the priorities of justice pathways, victims' rights, and the future of conflict resolution in Syria. On the contrary, it reinforces the commitment of local communities and victims to uphold their vested rights in effective remedy.

Any discussion on reparation measures must be preceded by informed knowledge-sharing with local communities and victims to prevent these discussions from becoming dictations or impositions of predetermined measures on participants. Additionally, victims should not be treated merely as witnesses but as key actors in all stages of planning reparation measures, starting from participatory assessment, through planning, and up to implementation, monitoring, and evaluation.

While transitional justice programs are supposed to be comprehensive and nationally integrated, participants' perspectives have focused on the effectiveness of adopting a "customization" approach targeting local communities based on the specificity of their experiences and cultural and social environments. This approach can be interpreted in the context of the concept of complex reparation programs recommended by transitional justice experts. Through this approach, a balance is struck between direct victims and local communities in terms of effective participation mechanisms and patterns of individual and collective entitlements.

Based on the findings of this research paper and the discussions among the participants, the following recommendations can be summarized as non-comprehensive and directed towards specific stakeholders deemed relevant to the subject and context of the research:

Civil Society Organisations

- Incorporate reparations as a key component in the planning of programs and projects, especially informed knowledge-sharing interventions targeted at local communities.
- Capitalize on partnerships and trust relationships developed over years of work and experience with international actors - NGOs, donor and friendly countries, UN agencies
 - to prioritize reparations on their agenda and be prepared to support efforts and interventions addressing it within Syria.
- Support the formation of informal groups and networks of victims and families at the local community level.
- Coordinate plans and programs addressing reparations among active organizations and focus on specialization in implementation.

Donors and Development and Humanitarian Actors

- Develop rights-based strategies for funding interventions, support, and response aimed at integrating reparation-related activities in local communities.
- Provide administrative facilitations for reparation-related programs and establish a mutual evaluation system to ensure that these programs meet the criteria and specialized elements, including effective participation of victims and local communities, coordination, and integration.

Victims and Family Associations and Groups

- Linking reparation issues to various fields of activity, each with its own uniqueness and specificity.
- Leveraging access to victim communities and families to share informed knowledge and open dialogue on reparation issues.
- Investing in experiences gained to encourage and support the formation of victim and family groups and facilitate dialogue activities on reparation.

Experts and Specialised Actors

- Directing academic and practical efforts towards addressing the perspective of local communities in Syria on reparation.
- Providing knowledge and technical support to CSOs and other local actors active in the field of reparation.

Local Authorities

- Reviewing existing legislation and measures that either perpetuate patterns of violations or lead to discrimination and marginalization.
- Strengthening the rule of law and activating other security and legal frameworks to improve the security situation while adhering to relevant international standards.
- Engaging in open and transparent dialogue with CSOs and other stakeholders and leveraging their expertise and capacities to improve existing governance systems.
- Facilitating and supporting initiatives and interventions for discussing and designing reparation measures, and actively engaging in those activities.
- Taking concrete and immediate steps to address issues resulting from violations that can be remedied through restitution, such as issues related to displaced persons and HLP.

APPENDIX I: HAJIN, A BRIEF BACKGROUND

The district of Hajin is considered as a major centre in the eastern countryside of Deir ez-Zor, stretching from the town of Al-Sha'fah to the town of Al-Baghuz and encompassing the towns of Abu al-Hasan, Abu al-Khater, Hajin, and Al-Bahra. It is located approximately 30 kilometres from the city of Al-Bukamal. Occupying a vast area, it is situated on the eastern riverbank of the Euphrates, adjacent to the towns of Al-Jalaa, Al-Majawda, Al-Abbas, and At-Tawataha to the west of the Euphrates. Despite the lack of accurate statistics on the population since 2004, estimates suggest that its population is close to 100,000 people.

The inhabitants of Hajin belong to the Zubaidi branch of the Arab tribe of Al-Obeid, which is one of the Arab tribes from which the population of the eastern and western countryside generally descends. The city is characterized by customs and traditions that are in line with Islamic Sharia, and it pledges allegiance to its leaders. The centre of the town is located at the entrance gate of Hajin, near the archaeological site of Tell al-Ja'abi.

Economically, Hajin stands out due to its location in a fertile area surrounded by the Euphrates River from three sides, making it an agricultural region. Most of its population is engaged in agriculture and livestock, and there is significant emphasis on education. It is also considered a commercial hub due to its markets. Its economy relies primarily on remittances from expatriates, as a large number of its residents are located in Gulf countries and the European Union.

From a security standpoint, after the Syrian government lost control of the area in 2012, it witnessed successive battles between conflicting factions, followed by the emergence of ISIS. Currently, the region is under the control of the AANES and is considered relatively stable compared to neighbouring areas.

Individuals rely on the legislation of the AANES in some matters, while most disputes are adjudicated based on tribal Islamic law.

Environmentally, all areas of rural Deir ez-Zor suffer from significant environmental pollution due to oil burning and pollution of the Euphrates River, affecting agriculture and the health of the population.

In terms of services, the residents of the city face continuous power outages and water shortages. Health and education services suffer from neglect and a lack of resources and qualified personnel.

APPENDIX II: AL-KASRAH, A BRIEF BACKGROUND

Al-Kasrah district is considered a hub in the western countryside of Deir ez-Zor, stretching from the town of Al-Hesan to Al-Jazarat, approximately 35 kilometres away from the centre of Deir ez-Zor city on the eastern bank of the Euphrates River, with the town of Al-Shmeitiyah located opposite. Its population is estimated at around 64,000 people according to official statistics in 2004, and the number has significantly increased during the recent years of war due to the influx of displaced individuals from areas in Deir ez-Zor under the control of the Syrian government.

The majority of Al-Kasrah's population belongs to the Bakara tribe, governed by tribal customs, traditions, and tribal elders. A significant proportion of the population consists of displaced individuals, with a growing presence of professional and commercial sectors due to the influx of displaced persons from other areas.

Economically, the residents of Al-Kasrah primarily rely on agriculture and livestock farming, with fewer engaged in trade and industry. Their agriculture revolves around crops such as wheat, cotton, and vegetables, with cultivated fields distributed along the riverbed, both irrigated and non-irrigated. The population in the area faces significant disparities in living standards, with many experiencing poverties.

In terms of security, Al-Kasrah is under the control of the AANES and is considered relatively stable, with some exceptions such as occasional tribal conflicts and the spread of drugs.

The residents follow the laws of the AANES, with significant reliance on local nobles and respected figures in tribal or customary justice to resolve community disputes.

Environmentally, Al-Kasra is affected by pollution resulting from the river and oil burning, posing a threat to the health of the population and agriculture.

In terms of services, the district faces shortages in electricity and water, along with weaknesses in the education and health sectors. This is attributed to a lack of resources and widespread corruption within these sectors.