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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Approach to the mandate and preliminary areas of interest

**Report of the Special Rapporteur on the promotion of truth, justice,
reparation and guarantees of non-recurrence, Bernard Duhaime**

Summary

In the present report, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Bernard Duhaime, outlines the key activities undertaken by the mandate during the reporting period and the trends identified in the communications sent to States and other stakeholders. In addition, he provides an overview of his approach to the mandate and a preliminary outline of areas of interest to be addressed during his tenure.



I. Introduction¹

1. On 29 September 2011, the Human Rights Council adopted resolution 18/7, in which it decided to appoint, for a period of three years, a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. In 2023, the Human Rights Council adopted resolution 54/8, by which it extended the mandate of the Special Rapporteur for a further period of three years. On 5 April 2024, during its fifty-fifth session, the Council appointed Bernard Duhaime as the new Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. The Special Rapporteur took up his functions on 1 May 2024.

2. The Special Rapporteur will focus on situations of transition from conflict or authoritarian rule where there have been gross violations of human rights and serious violations of international humanitarian law. He will assess the measures adopted by the relevant authorities to guarantee truth, justice, reparations, memory and guarantees of non-recurrence, aiming, inter alia, to: ensure accountability and serve justice; promote truth and memory about past violations; provide remedies to victims; reform national institutional and legal frameworks, promote the rule of law in accordance with international human rights law and restore confidence in the institutions of the State; ensure social cohesion, nation-building, ownership and inclusiveness at the national and local levels; promote healing and reconciliation; and prevent the recurrence of crises and future violations of human rights.

3. In the present report, submitted to the Human Rights Council pursuant to resolution 54/8, the Special Rapporteur lists the key activities undertaken by the mandate from June 2023 to April 2024, as well as the activities he conducted after taking up his functions in May 2024, including summaries of communications and completed and requested country visits. He also provides an overview of his approach to the mandate and a preliminary outline of areas of interest.

II. Activities of the mandate

4. During the reporting period, the former Special Rapporteur participated, from 12 to 16 June 2023, in the twenty-ninth annual meeting of special rapporteurs, independent experts and chairs of working groups.

5. On 6 July, he participated in a round table on ensuring adequate remedy to victims of crimes under the Rome Statute, convened by the Presidency of the Assembly of States Parties to the Rome Statute.

6. On 17 July, he participated in the discussions convened by the International Criminal Court's Trust Fund for Victims regarding the provision of remedy to victims of crimes under the Rome Statute.

7. On 6 September, he was keynote speaker at a round table regarding the present situation of access to justice for victims of political repression in Chile under the Pinochet regime convened by Amnesty International.

8. On 14 September, he participated in the fifty-fourth session of the Human Rights Council and held meetings with representatives of States and civil society organizations.

9. Also on 14 September, he participated in a conference on "Transitional justice in the Republic of Korea: coming to terms with Korea's past", organized by SNU Public Interest and Legal Clinic Center and the Jeju 4.3 Peace Foundation; an event on "Making reparations a reality for Kosovo Roma"² organized by the Permanent Mission of Switzerland in collaboration with the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland, Opere Roma Kosovo and the International Human Rights Clinic of Harvard

¹ The academic assistance of Skylar Gleason and Myriam Pigeon in preparing the report is acknowledged with gratitude.

² All references to Kosovo shall be understood to be in full compliance with Security Council resolution 1244 (1999).

Law School; and an event on “Transitional justice in the Republic of Korea: a journey for truth and justice” convened by civil society organizations from the Republic of Korea.

10. From 19 to 29 September, he conducted an official visit to Colombia.
11. On 22 September, he participated virtually in a high-level event on “Reparations are affordable: innovative solutions to finance reparations owed to survivors of conflict-related sexual violence,” convened by the Global Survivors Fund on the margins of the seventy-eighth session of General Assembly.
12. On 16 October, he participated in the seventy-eighth session of the General Assembly.
13. On 17 October, he held discussions with the Special Adviser to the Secretary-General on the Prevention of Genocide to discuss issues of mutual concern, areas of continued collaboration and upcoming and recent country visits and to follow up on country visit reports.
14. On 18 October, he held discussions with the Deputy Head of the Peacebuilding Support Office to discuss issues of mutual concern, areas of continued collaboration and upcoming and recent country visits and to follow up on country visit reports.
15. From 13 October to 10 November, he held an online consultation to gather inputs for his country visit to Armenia.
16. On 3 November, he participated virtually in the high-level national conference to mark the seventy-fifth anniversary of the Universal Declaration of Human Rights convened by the Office of the United Nations High Commissioner for Human Rights (OHCHR) East Africa Regional Office and the Ethiopian Human Rights Commission, in Addis Ababa.
17. From 16 to 24 November, he conducted an official visit to Armenia.
18. On 4 December, he was keynote speaker at the intersessional meeting on the prevention of genocide held by the Human Rights Council, in compliance with resolution 49/9.
19. On 27 February 2024, he participated virtually in informal discussions on reparations for Kosovo Roma victims of lead poisoning, held in New York.
20. From 12 February to 11 March, he held an online consultation to gather inputs for his country visits to Finland and Sweden.
21. On 4 March, he participated virtually in an international workshop on transitional justice to address the nuclear legacy in the Marshall Islands, in accordance with Council resolution 51/35.
22. From 11 to 15 March, he conducted an official visit to Finland, as part of a regional visit to Scandinavia.
23. From 18 to 22 March, he conducted an official visit to Sweden, as part of a regional visit to Scandinavia.
24. Through participation in several other conferences and events organized by partners, the former Special Rapporteur followed up on thematic areas of concern, including prevention of genocide, victims’ participation in transitional justice processes, accountability for gross human rights violations, remedy for victims of international crimes and funding of reparations to victims. He held meetings with State delegates, United Nations entities and agencies, government officials, United Nations and regional human rights mechanisms, non-governmental organizations, victims and academic institutions to discuss issues related to his mandate, including alleged human rights violations, the implementation of recommendations contained in his reports and technical cooperation. The mandate of the Special Rapporteur provided technical assistance to United Nations, State and civil society partners through substantive briefings, legal and policy reviews, technical meetings and training on issues pertaining to the mandate.
25. Since assuming his functions on 1 May 2024, the Special Rapporteur has engaged in and held discussions with Governments, civil society organizations, representatives of victims and other stakeholders. On 16 May, he intervened during a round table on listening publics, participatory performance and the admission of responsibility by the Special

Jurisdiction for Peace, held at Concordia University in Canada. On 28 May, he held virtual consultations with the Africa Section of the Counter-Terrorism Committee Executive Directorate of the Security Council. He also participated, on 30 May, in a high-level panel on human rights, democracy and transitional justice in Latin America during the annual congress of the Canadian Association for Latin American and Caribbean Studies.

26. During May, the Special Rapporteur was engaged in preparing the present report, as well as his report to the seventy-ninth session of the General Assembly, which will provide information about future areas of engagement.

27. As a result of the liquidity crisis affecting the United Nations, the thirtieth annual meeting of special rapporteurs, independent experts and chairs of working groups could not take place.

III. Issues of concern addressed in communications

28. During the reporting period, the mandate sent 63 communications to 26 Governments and 31 other entities and issued 23 press releases. In 10 of those communications the Special Rapporteur followed up on issues addressed in previous communications sent by the mandate or other special procedure mandate holders. States addressed through the communications included: Angola,³ Argentina,⁴ Bangladesh,⁵ Belarus,⁶ Canada,⁷ Colombia,⁸ Germany,⁹ Indonesia,¹⁰ Italy,¹¹ Mexico,¹² Nepal,¹³ Norway,¹⁴ Peru,¹⁵ Russian Federation,¹⁶ Saudi Arabia,¹⁷ Spain,¹⁸ Sri Lanka,¹⁹ Syrian Arab Republic,²⁰ United Arab Emirates,²¹ United Kingdom of Great Britain and Northern Ireland,²² United States of America,²³ Uruguay²⁴ and Yemen.²⁵

29. The communications sent concerned the issues outlined below, classified in line with the pillars of the mandate.

30. With regard to truth-seeking, the communications included concerns relating to the compatibility of truth-seeking, truth and reconciliation mechanisms and legislation with international standards regarding the investigation and redress of human rights violations. In particular, the communications expressed concern over the acquisition and preservation of evidence, in particular in sensitive sites like mass graves, and the inadequacy of efforts to investigate and document enforced disappearances. The communications also addressed the need for truth and reconciliation mechanisms and legislation to operate with transparency, to clearly communicate their methodology and findings, to verify such findings prior to

³ AL AGO 3/2023. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

⁴ AL ARG 3/2023, AL ARG 5/2023 and AL ARG 6/2024.

⁵ BGD 5/2023.

⁶ UA BLR 9/2023.

⁷ AL CAN 3/2023.

⁸ AI COL 12/2023.

⁹ AL DEU 3/2024.

¹⁰ AL IDN 8/2023.

¹¹ AL ITA 2/2024.

¹² AL MEX 12/2023.

¹³ AI NPL 1/2023 and AL NPL 3/2023.

¹⁴ AL/NOR 3/2024.

¹⁵ AL PER 9/2023 and AL PER 3/2024.

¹⁶ AL RUS 8/2023.

¹⁷ AL SAU 6/2023.

¹⁸ AI ESP 3/2024 and OL ESP 4/2024.

¹⁹ AL LKA 6/2023, AL LKA 7/2023 and AL LKA 1/2024.

²⁰ AL SYR 2/2/2023.

²¹ AL ARE 2/2023.

²² AL GBR 8/2024.

²³ AL USA 9/2024.

²⁴ OL URY 1/2024.

²⁵ AL YEM 1/2023.

publication, to protect human rights defenders that interact with them and to properly consult with and create meaningful opportunities for participation for victims and civil society, including those representing marginalized populations, notably women and girls.

31. Regarding justice, the communications included concerns regarding: general lack of criminal accountability for gross human rights violations; lack of progress in criminal prosecutions; obstacles to the criminal investigation, prosecution and/or sanctioning of perpetrators of such violations through the imposition of amnesties, pardons, reductions of sentences and/or house arrest; failure to clearly communicate information about charges and proceedings to detainees and their families; refusal to prosecute or extradite persons facing charges of crimes against humanity; and the repatriation of refugees at risk of persecution, in the absence of accountability for perpetrators of human rights violations.

32. With regard to reparation, the communications included concerns regarding the insufficiency of reparation programmes and reparation legislation and the failure to provide reparations to the families of victims of enforced disappearances. Communications also included criticism of policies adopted in the context of armed conflicts for lacking transparency, efficiency and adequate reparations for victims seeking official recognition of violations and comprehensive reparative measures like truth, justice and rehabilitation. The communications also contained criticism of the alleged discriminatory effects of certain reparation policies towards Indigenous Peoples.

33. With regard to memorialization, the communications included concerns regarding: inadequacy of memorialization processes and legislation; insufficient preservation of sites that contain evidence of gross human rights violations; glorification of persons convicted of crimes against humanity; dismantling of technical teams in charge of collecting and analysing evidence of gross human rights violations; inadequate consultations with victims and civil society in the design and establishment of memorialization processes; restrictions and obstructions imposed on memorialization efforts of victims and civil society; and arrest and/or detention of participants and organizers of memorialization processes.

34. The communications also addressed the following cross-cutting issues: shortcomings of transitional justice mechanisms and legislation; threats and intimidation against victims, victims' organizations, legal representatives of victims and persons involved in advocating for transitional justice processes; inadequacy of measures adopted to address the legacy of gross human rights violations committed in colonial contexts; failure to provide an effective remedy to Indigenous women victims of gender-based discrimination; inadequacy of mechanisms implemented by States involved in armed conflicts to ensure criminal accountability and reparation for gross violations of human rights and serious violations of international humanitarian law committed by their forces and allies; insufficiency of mechanisms implemented by non-State armed groups to provide remedy and reparation to victims of gross violations of human rights and serious violations of international humanitarian law committed by them and failure to effectively investigate the violations; and the sale of weapons in the context of armed conflicts.

35. The Special Rapporteur thanks the Governments of Angola, Argentina, Belarus, Colombia, Indonesia, Mexico, Nepal,²⁶ Peru, Saudi Arabia, Spain, Sri Lanka, the United Arab Emirates, Uruguay and Yemen for the responses received to the communications sent during the reporting period.

36. The Special Rapporteur regrets not having received responses from the Governments of Bangladesh, Canada, Nepal,²⁷ the Russian Federation and the Syrian Arab Republic and urges the concerned Governments to reply as soon as possible. He recalls the obligation of States to comply in good faith with their obligations under human rights norms and to cooperate with the special procedure mandate holders. In line with those obligations, States are expected to respond promptly to the communications sent by the Special Rapporteur.

²⁶ In relation to communication AL NPL 1/2023.

²⁷ Ibid.

IV. Country visits

37. During the reporting period the Special Rapporteur conducted visits and completed country visit reports regarding: Armenia (16-24 November 2023),²⁸ Colombia (19–29 September 2023),²⁹ Finland (11–15 March 2024)³⁰ and Sweden (18–22 March 2024).³¹

38. Invitations to pursue country visits were received from Brazil and Norway. The Special Rapporteur is grateful to both States for their collaboration and hopes to pursue such visits in the near future.

39. Requests for invitations to pursue country visits are still awaiting responses from Cambodia, Côte d'Ivoire, the Democratic Republic of the Congo, Ethiopia, Guatemala, Guinea, Indonesia, Japan, Kenya, Liberia, Nepal, Peru and Rwanda. The Special Rapporteur invites States to engage with the mandate and provide it with an invitation to carry out a country visit in the coming year.

40. Standing invitations to all special procedure mandate holders have been submitted by 111 States.³² While such standing invitations are encouraging and constitute a sign of goodwill, the Special Rapporteur reiterates that such States should follow up by specific invitations and be proactive in order to ensure that country visits do take place.

41. The Special Rapporteur will repeat requests for invitations and send new invitations to other States in accordance with his established priorities.

42. The Special Rapporteur recalls that the Human Rights Council has mandated him to conduct official visits to States to provide an independent and impartial assessment of the measures taken to address gross violations of human rights and serious violations of international humanitarian law, to identify gaps and challenges and to make recommendations thereon. Country visits are a key mandated activity through which special procedure mandate holders can exercise their human rights monitoring functions and provide technical assistance and recommendations to States on how to implement their human rights obligations and improve their human rights situation. States are expected to respond promptly to the visit requests made by the Special Rapporteur to ensure that such visits are undertaken in a timely manner and can produce effective results.

V. Approach of the current mandate holder

43. The Special Rapporteur is grateful for the work of the previous mandate holder, Fabián Salvioli, and will strive to continue his important work to establish victim-centred and comprehensive approaches to transitional justice that are grounded in international legal principles, responsive to the evolving nature of human rights challenges in contemporary society and rigorously informed by gender perspectives and the input of other historically marginalized populations.

44. The mandate has consistently applied a gender perspective in its thematic reports, communications and country visits. In 2020, a report addressing the multiple aspects of adopting a gender perspective in the conceptualization, design and implementation of the five pillars of the mandate was presented to the General Assembly.³³ The report summarized the mandate's expertise and experience on the subject. The Special Rapporteur will continue to examine the multilayered aspects of a gender perspective in transitional justice processes,

²⁸ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20231124-eom-armenia-sr-truth-en.pdf>.

²⁹ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20230929-eom-stm-colombia-sr-truth.pdf>.

³⁰ See <https://www.ohchr.org/en/press-releases/2024/03/finland-must-address-legacy-human-rights-violations-against-sami-people-says>.

³¹ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20240322-sr-truth-preliminary-observations-sweden.pdf>.

³² See <https://spinternet.ohchr.org/StandingInvitations.aspx>.

³³ A/75/174.

prioritizing it in his thematic interventions, technical assistance and engagement with States and other stakeholders.

45. Building off of the work of the two previous mandate holders, the Special Rapporteur will seek to further develop the mandate by continuing to refine the concepts of truth, justice, reparation, guarantees of non-recurrence and memorialization, as well as by proposing strategies to meet the current challenges in the field of transitional justice. The Special Rapporteur will also pursue the integration of transitional justice policies across the entirety of the relevant goals and work of the United Nations, including on development, peace and security.

46. To achieve the above objectives, in addition to reviewing current transitional justice literature and developments in relevant jurisprudence, legislation, policies, regulations and normative frameworks at the national, regional and international levels, the mandate will also issue calls for input and engage in open dialogue with a range of actors in the field, including Member States; international and regional institutions; treaty bodies and the special procedures of the Human Rights Council; national human rights bodies; civil society organizations; representatives of victims; scholars; and practitioners. When the opportunity arises, the Special Rapporteur intends to open up conversations to a broader audience and to further expand exchanges of ideas in the field of transitional justice through the organization of public events.

47. The Special Rapporteur will analyse the data presented by the above-mentioned actors and address the themes that arise in his annual reports to the Human Rights Council and the General Assembly. In reporting to the Council, he intends to focus on transversal transitional justice issues of a legal, methodological, procedural and technical nature, which can inform States, as well as United Nations experts and bodies. In reporting to the Assembly, he aims to highlight some of the major substantive and policy issues in transitional justice that impact the state of peace and security, human rights, the rule of law and development at the international level.

48. In the following section, the Special Rapporteur identifies numerous transversal and substantive themes that he intends to prioritize in pursuit of the effective implementation of his mandate. However, he will approach the mandate in an open-ended manner. As the understanding of transitional justice and human rights obligations continue to evolve through new research, jurisprudence, international treaties, domestic policies and practice in the field, the Special Rapporteur will monitor such developments, progressively amend the recommended practices across all five pillars of the mandate and adjust the identified priorities, as necessary. Updates will be pursued with the intention of creating approaches to transitional justice that are responsive to modern global crises and inclusive of and accessible to all affected communities.

49. The Special Rapporteur will further aim to expand the perceived relevance and application of transitional justice policies to contexts beyond initiated transitions, promoting the use of transitional justice strategies and mechanisms in emerging transitional contexts, such as negotiations for a possible transition in ongoing conflicts or authoritarian regimes. Further, he will aim to incorporate those perspectives early on in the processes, to ensure timely documentation of ongoing human rights and humanitarian law violations and to assist in the prevention of future abuses. He will also explore the ways in which transitional justice approaches and tools can be utilized to meet major contemporary human rights challenges relevant to the mandate, in addition to those traditionally arising in the contexts of armed conflict and authoritarian rule. Implementing a more temporally and substantively comprehensive approach will better align transitional justice efforts with the pillars and the agenda of the United Nations.

VI. Preliminary outline of areas of interest to the current mandate holder

50. In conducting the general duties described above and in his mandate, the Special Rapporteur intends to support the three core objectives of transitional justice identified by the Secretary-General in 2023: (a) promoting transitional justice as a pragmatic human

rights-based policy tool at the disposal of national stakeholders that is relevant to enhancing peace and security, human rights and accountability, and sustainable development, and therefore as a strategically important and cross-cutting policy area relevant to the entire Organization; (b) achieving greater innovation in the design and implementation of the Organization's transitional justice work in support of national stakeholders; and (c) contributing to a tangible and transformational impact for people and communities.³⁴ To advance those objectives, the Special Rapporteur has identified and intends to prioritize some of the following preliminary areas of interest. While they are described as either cross-cutting transitional justice issues of legal, methodological, procedural and technical nature or substantive and policy issues in transitional justice that impact the state of peace and security, human rights, the rule of law, development at the international level, the mandate may later address some of those topics under alternative categories.

A. Transversal transitional justice issues of a legal, methodological, procedural and technical nature

51. In recent years, many important innovations have occurred within transitional justice. The mandate has had the chance to rely on landmark contributions in the field³⁵ in order to establish and consolidate important standards,³⁶ including the recent report on international legal norms underpinning the pillars of transitional justice.³⁷ During his tenure, the Special Rapporteur intends to explore the following transversal transitional justice issues of a legal, methodological, procedural and technical nature: (a) documentation of gross violations of human rights and serious violations of international humanitarian law occurring in conflicts or authoritarian rule; (b) transdisciplinary approaches to transitional justice; (c) transitional justice responses to intergenerational and other long-term impacts of gross human rights violations; (d) emerging technologies in the context of transitional justice; and (e) bottom-up, global South-North approaches to transitional justice.

1. Documentation in the context of transitional justice processes

52. As underlined in mission reports of previous mandate holders, many obstacles have been noted in relation to the documentation of gross violations of human rights and serious violations of international humanitarian law, including: insufficient mapping or registration of such violations committed in authoritarian or conflict settings; inadequate efforts to gather testimonies from victims and witnesses who wish to come forward; absence or obstruction in accessing official archives documenting the violations suffered by victims; lack of transparency of documentation processes; inadequate preservation and archiving of documentary and testimonial evidence; and lack of support to civil society initiatives aimed at gathering testimonies from victims and documenting violations. The existence of amnesty laws also limits access to justice in the investigation of gross human rights violations.

53. The right to truth and memory creates not only an obligation on States to present facts related to gross violations of human rights and serious violations of international humanitarian law during conflicts or authoritarian rule, but also a legal duty to ensure the thorough documentation and review of all alleged violations, the gathering of all relevant testimonial and documentary evidence, the undertaking of all relevant scientific analysis and the establishment and preservation of adequate archival resources, as well as to ensure access to such information for victims, civil society and the general public. Such processes not only support the rights to truth, memory and justice, but also serve as guarantees of non-recurrence. As indicated in previous reports, States must ensure that such documentation processes are

³⁴ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf, p. 3.

³⁵ E/CN.4/2005/102/Add.1; E/CN.4/2004/88; E/CN.4/Sub.2/1997/20/Rev.1; 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, General Assembly resolution 60/147.

³⁶ A/HRC/21/46, A/HRC/36/50 and A/HRC/37/65.

³⁷ A/HRC/54/24.

done with the greatest levels of transparency and impartiality, including towards all relevant groups and peoples concerned.³⁸

54. During his visit to El Salvador, for instance, the previous mandate holder raised this issue, noting the number of crimes and massacres that still had not been mapped, recorded or documented, despite the information provided by victims to judicial officials, and the testimony from numerous witnesses and survivors that had yet to be collected.³⁹ Similar concerns were brought up following his visit to the Republic of Korea as there was no legislation stipulating the obligation of the State to disclose records of serious human rights violations and, therefore, a significant number of records remained classified as confidential.⁴⁰

55. Furthermore, as pointed out in a previous report,⁴¹ and discussed further below, the Special Rapporteur intends to examine the possible dangerous manipulation of information, memory and documentation of gross violations of human rights and serious violations of international humanitarian law during conflicts or authoritarian rule as it can lead to the detriment of human rights and reinforce negationism or relativism.

56. Moreover, documentation processes can sometimes exclude the suffering of marginalized groups. As previously noted, the victimization of minorities and marginalized groups is often made invisible in society and left out of documentation efforts, which may undermine victims' chances to be recognized in transitional justice processes and other transitional justice outcomes. For example, selectivity in the documentation of violations based on the ethnicity, nationality, political affiliation or other characteristics of victims or perpetrators can and has led to incomplete truth and accountability processes, non-recognition of victims and the spread of misinformation in society.⁴² In addition, documentation efforts often disregard information about structural violence, including harm of a socioeconomic nature suffered by minorities and marginalized groups. Transitional justice processes emerging from incomplete documentation exercises are ill-equipped to provide adequate solutions and redress to these groups. In the absence of adequate action on the part of the State, the burden of documenting such violations often falls to civil society and victims' organizations, who painstakingly – and sometimes at great personal risk – map, collect and preserve evidence and testimonies for present and future transitional justice processes.⁴³

57. Adequate documentation of gross violations of human rights and serious violations of international humanitarian law during conflicts or authoritarian rule is essential for several transitional justice processes, including truth-seeking initiatives, accountability processes, memorialization efforts and guarantees of non-recurrence, including measures adopted in the fields of education and history.

58. The Special Rapporteur hopes to gain a better understanding of the scope of the obligations of States in order to ensure adequate documentation as reflected in national, regional and international norms and jurisprudence. He will also assess existing practices and challenges through the review of the work of national and international mechanisms and civil society organizations undertaking or supporting such processes.

2. Transdisciplinary approaches to transitional justice

59. As noted by the Secretary-General, the demand for transitional justice covers “increasingly diverse and complex contexts”,⁴⁴ in which gross human rights violations and serious violations of international humanitarian law affect individuals and groups in a far-

³⁸ A/HRC/51/34/Add.1, para. 22; A/HRC/51/34/Add.2, para. 32; A/HRC/54/24/Add.2, paras. 100 and 117.

³⁹ A/HRC/45/45/Add.2, para. 44.

⁴⁰ A/HRC/54/24/Add.1, para. 21.

⁴¹ A/HRC/45/45, para. 78.

⁴² A/HRC/51/34/Add.1; A/HRC/51/34/Add.2 and A/HRC/54/24/Add.2.

⁴³ A/77/162.

⁴⁴ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

reaching manner – often on a massive scale. Such contexts require comprehensive transitional justice approaches that look beyond a strict legal perspective,⁴⁵ drawing on disciplines across the social, natural and applied sciences, the arts and humanities. Such a transdisciplinary approach – defined as translating academic interdisciplinarity into the development of real-world knowledge and practice to generate societal change⁴⁶ – allows practitioners to better fulfil the aspirations of transitional justice, such as centring it on victims and addressing the root causes of conflict and authoritarianism. It can also assist in identifying and avoiding strategies that pose a risk to the achievement of those goals.⁴⁷

60. The mandate of the Special Rapporteur explicitly stresses the importance of pursuing the “full range of judicial and non-judicial measures” in transitional justice efforts.⁴⁸ Implementation of that guidance consequently requires the engagement of numerous fields of expertise beyond the law, which has historically been perceived and critiqued as the dominant discipline that guides transitional justice.⁴⁹ Through the pillars of transitional justice and the contexts in which it is pursued, it is evident that other fields may be useful. Relevant social sciences could include anthropology, archaeology, archival and museum studies, behavioural science, communication and media studies, demography, economics, education, environmental social science, gender studies, geography, journalism, political economy, political science, psychology, public administration, public diplomacy, public health, social work and sociology. Relevant natural and applied sciences could include biology, chemistry, engineering, forensic sciences, mapping, medicine, psychiatry, statistics, and broader technologies, while relevant areas of the arts and humanities could include history, linguistics, literature, the performing arts, photography and religious studies.

61. In addition, as discussed below, the development of new technologies, in particular those related to the use of artificial intelligence, have and will have a tremendous impact on transitional justice-related initiatives. These technologies often operate in the realm of different disciplines, including computer science, engineering, robotics, mathematics and statistics, as well as philosophy and ethics, which are again linked to other disciplines, depending on the specific use of such technologies, including those common within transitional justice contexts (including mapping and forensic science).

62. The list of relevant disciplines expands when one considers the array of harms that arise in situations of conflict and under authoritarian rule. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has highlighted how conflict and other forms of violence, especially the weaponization of sexual violence, have widespread physical and psychological health implications, recognizing that the physical and psychological effects of violence are experienced differently and must thus be treated differently across various populations, such as women, children, persons with disabilities and non-binary individuals.⁵⁰ Effective, victim-centred transitional justice mechanisms must therefore be responsive to the different forms of harm and should be designed to utilize expertise from across medical and psychological disciplines, as well as from critical studies of gender, sexuality, disability and other protected identities. The same logic applies to the response to large-scale collective harms such as environmental destruction, organized crime, widespread health crises, terrorism and migration, as discussed below as well as in the upcoming report of the Special Rapporteur to the General Assembly.

⁴⁵ On the criticism of transitional justice as being disproportionately focused on law, see <https://www.jstor.org/stable/20109761>.

⁴⁶ See <https://sustainabledevelopment.un.org/content/documents/612558-Inter-%20and%20Trans-disciplinary%20Research%20-%20A%20Critical%20Perspective.pdf>. This definition of transdisciplinary is distinguished from both interdisciplinary and multidisciplinary approaches. As indicated in <https://pubmed.ncbi.nlm.nih.gov/17330451/>: “Multidisciplinarity draws on knowledge from different disciplines but stays within their boundaries. Interdisciplinarity analyses, synthesizes and harmonizes links between disciplines into a coordinated and coherent whole”.

⁴⁷ See <http://reviewsinculture.com/wp-content/uploads/legacy/reviews/31-RCT122010ScottRadzikQuinnMcGonegal.pdf>.

⁴⁸ Human Rights Council resolutions 18/7 as reiterated in Council resolution 54/8.

⁴⁹ See <https://durham-repository.worktribe.com/output/1621141/transitional-justice-an-interdisciplinary-landscape>.

⁵⁰ A/HRC/50/28.

Adequately responding to the different forms of harm requires the involvement of experts in all of the above fields.

63. Addressing harms in a transdisciplinary manner also promotes guarantees of non-recurrence. Approaching transitional justice holistically, as continuously advocated by former mandate holders, rather than focusing on the legal discipline of pursuing criminal accountability, can more effectively identify and combat the root causes of conflict and repression, reducing the likelihood of a return to violence. In particular, former mandate holders have underscored the role of education and culture in the prevention of the recurrence of gross human rights violations.⁵¹ Interventions in those fields are often required in transitional justice settings to ensure long-lasting transformation and prevent the resurgence of violence. Because of its formative potential and wide reach, education can contribute to: nurturing a culture of dialogue, mutual understanding and social cohesion; fostering democratic and pluralistic values; shaping new social norms in line with transitional requirements; mediating between contending narratives of the past; providing perspectives of victimhood and conflict in divided societies; fostering critical thinking; providing tools to analyse history and conflict through a plural lens; and limiting the effectiveness of divisive, negationist or manipulative narratives. Similarly, owing to their diversity, appeal and reach across generations and social strata, cultural and media-based interventions (such as museums, exhibitions, theatre performances, television shows, films, news and social media) can have a powerful impact on public perception of past violence and current social challenges. Such interventions must therefore be prioritized as tools that complement the legal and institutional reforms pursued by transitional justice processes. However, if misused or unaddressed as part of the transitional justice agenda, the potential of educational, cultural and media-based interventions could lead to detrimental outcomes, foster hatred or division or engender new forms of violence. For those reasons, expertise in the fields of education, culture and the media must be involved in the design and implementation of transitional justice processes.⁵² This area of work requires further assessment and research.

64. Other key contributions to the conversation on strengthening non-recurrence include theories from neurology on rebuilding social connections to improve long-term, post-conflict resilience, revealing the diversity of the fields that can inform transitional justice work.⁵³

65. In addition, transdisciplinary approaches are critical in order to ensure the effectiveness of transitional justice measures owing to the range of actors involved both in experiencing and in perpetrating abuses. As emphasized throughout the report, transitional justice can only truly be victim-centred when the range of different identities that have been affected by such violations are acknowledged. Doing so requires specialized knowledge of the various identities and close analysis of their intersectionality,⁵⁴ as is offered by critical studies on, *inter alia*, race, ethnicity, gender, sexuality and Indigenous Peoples. A transdisciplinary lens is also helpful in transitional justice processes that grapple with the nuance between categories of identities such as victims and perpetrators, for example in the case of child soldiers.⁵⁵ Additionally, as the previous mandate holder detailed in his 2022 report to the Human Rights Council, transitional justice processes must grapple with the role of non-traditional actors in the context of grave human rights and humanitarian law violations – namely non-State armed actors and corporations.⁵⁶ Gaining an understanding of these actors demands the use of additional disciplines, including in areas such as business and human rights-compliant counter-terrorism.

66. As shown above, given the complex, wide-ranging and interrelated nature of issues that shape the design of transitional justice responses, it is impossible to effectively engage in transitional justice without implementing a transdisciplinary approach. According to

⁵¹ A/HRC/30/42, paras. 92–95; A/HRC/51/34/Add.2, paras. 81–89; A/HRC/51/34/Add.1, paras. 65–79, A/HRC/54/24/Add.2, paras. 30–33 and 84–87.

⁵² A/HRC/30/42.

⁵³ See <https://www.routledge.com/Resilience-Conflict-Related-Sexual-Violence-and-Transitional-Justice-A-Social-Ecological-Framing/Clark/p/book/9781032347271>.

⁵⁴ See <https://academic.oup.com/ijtj/article-abstract/12/1/64/4731644?redirectedFrom=fulltext>.

⁵⁵ See <https://bmcinthealthumrights.biomedcentral.com/articles/10.1186/s12914-015-0068-5>.

⁵⁶ A/HRC/51/34.

experts, there is widespread scholarship on transitional justice across a broad range of disciplines; the primary issue is that such scholarship is not being effectively and genuinely integrated into transitional justice practice and policy.⁵⁷ Consequently, the Special Rapporteur intends to complete a review of the existing literature and speak with a broad range of United Nations bodies, regional and government experts, civil society actors and scholars to better understand how to effectuate the existing knowledge to create a truly transdisciplinary approach to transitional justice.

3. Transitional justice responses to intergenerational and other long-term impacts of gross human rights violations

67. As outlined in the 2023 guidance note of the Secretary-General on the United Nations approach to transitional justice, the Special Rapporteur urges the integration of a transgenerational perspective into transitional justice policies and mechanisms.⁵⁸

68. Intergenerational trauma can emerge from different contexts of gross human rights violations and serious violations of international humanitarian law. The legacy of long-term violent conflicts or authoritarian rule often leads to differentiated types of trauma. The mandate holder recognizes that specific traumatic events may be transformed or embellished when transmitted to new generations in order to incite revenge or to justify efforts to restore the dignity of the victimized group. The former mandate holder has, for instance, raised this issue following his visit to Bosnia and Herzegovina in 2022. He expressed “grave concern at the continued use of the education system to manipulate wartime facts and shape historical and cultural narratives favourable to political agendas, which has the noxious effect of perpetuating divisions and hatred into new generations”.⁵⁹

69. Historical trauma, which is caused by historical oppression of collective groups, is another type of trauma that is passed down through generations. The Special Rapporteur takes note of specific contexts in which it is displayed, such as genocide, colonialism, forced relocation and other historically traumatic events. In such cases, reconciliation demands deeper psychosocial adjustments.⁶⁰

70. In past reports of the mandate dealing with transitional justice measures and the legacy of gross violations of human rights and serious violations of international humanitarian law committed in the colonial context, the transgenerational damage that has been done in such environments and the urgency for medical and psychosocial rehabilitation have been highlighted.⁶¹ Following his country visit to Sweden, the former Special Rapporteur noted the transgenerational trauma endured by Indigenous Peoples affected by past assimilation policies and called for comprehensive reparation measures to redress it.⁶² Similarly, the Special Rapporteur on the rights of Indigenous Peoples noted in his 2023 report on his visit to Canada that, in order to tackle the challenges faced by Indigenous Peoples, the Canadian Government must address the structural racism and intergenerational trauma caused by the residential schools.⁶³

71. The Special Rapporteur is aware that transgenerational trauma is a form of second-hand memory, transmitted either directly by relatives or implicitly by unspoken grief, anger and sorrow. Memories of atrocities can create a temporal disruption, which not only distorts chronological time but also manifests itself physically and psychologically within new generations.⁶⁴

⁵⁷ See <https://durham-repository.worktribe.com/output/1621141/transitional-justice-an-interdisciplinary-landscape>; see also <https://www.tandfonline.com/doi/abs/10.1080/17502977.2017.1291142>.

⁵⁸ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

⁵⁹ A/HRC/51/34/Add.2, para. 83.

⁶⁰ See <https://www.usip.org/sites/default/files/resources/sr135.pdf>.

⁶¹ A/76/180, paras. 64 and 93.

⁶² See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20240322-sr-truth-preliminary-observations-sweden.pdf>; see also A/HRC/57/50/Add.3.

⁶³ A/HRC/54/31/Add.2, para. 22.

⁶⁴ See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3652559.

72. Transgenerational trauma also involves a continuum of human rights violations. As noted in previous country reports, past abuses have continued effects on new generations.⁶⁵ For example, the former mandate holder noted, following his visit to Sweden, that discrimination, racism and hatred against the Sámi people and national minorities was still prevalent in society and that it must be urgently addressed in compliance with international standards on freedom of expression and on the prevention and combat of ethnic hatred and discrimination.⁶⁶ In Finland, he further observed that contemporary society had little knowledge and information at their disposal regarding the history, culture and status of the Sámi people, which had contributed to their exclusion and discrimination, and called for changes in education, culture and the media to redress it.⁶⁷

73. Building on the call of previous mandate holders for the integration of a gender perspective⁶⁸ and victim-centred approach,⁶⁹ the Special Rapporteur intends to further examine the potential of children and youth's participation in building a transgenerational perspective to transitional justice,⁷⁰ taking into consideration the intersectionality of victims' identities and characteristics.

74. As recipients of historical trauma and structural forms of exclusion and as the future of societies worldwide, the status and involvement of youth and children should be at the centre of transitional justice responses and prevention strategies. However, the mandate has identified a gap in integrating youth-centric approaches to transitional justice. The former Special Rapporteur underscored the important role that youth can play as agents of change and key prevention actors, in particular when their engagement is coupled with better recognition within transitional justice processes and comprehensive psychosocial support mechanisms that go beyond individual trauma work and include action on the structural causes of violence and exclusion.⁷¹ The Special Rapporteur also intends to study how to better incorporate psychological recovery into transitional justice mechanisms, including a transgenerational perspective.⁷²

75. When youth is informed, guided and involved in a manner that honours their agency, they can have a significant impact on transitional justice processes and peacebuilding.⁷³ As key actors in the transmission of memory and trauma, their participation is indispensable and essential for proactive prevention processes.⁷⁴

76. Examples of the potential of intergenerational activism in transitional justice contexts have also been identified by the mandate. In Argentina, collective action across three generations of victims of enforced disappearances led to many positive transitional justice outcomes. In Nepal, victims of past and present crimes against women joined efforts through the Conflict-affected Women's Network.⁷⁵ This kind of collaborative approach is not only effective in bringing about change but also in preventing intergenerational conflict, as has been the case before.⁷⁶ The Special Rapporteur will consider other examples of best practices.

⁶⁵ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20240322-sr-truth-preliminary-observations-sweden.pdf>. See also A/HRC/51/34/Add.2, para. 83.

⁶⁶ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20240322-sr-truth-preliminary-observations-sweden.pdf>.

⁶⁷ See [preliminary-observations-finlandf.docx](https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20240322-sr-truth-preliminary-observations-finlandf.docx) (live.com); see also A/HRC/57/50/Add.3.

⁶⁸ A/75/174.

⁶⁹ See A/HRC/34/62, paras. 31–32, and A/77/162, para. 24.

⁷⁰ See also A/HRC/WGEID/98/2, A/HRC/WGEID/98/1 and A/HRC/WGEID/98/1/Corr.1.

⁷¹ A/77/162, paras. 24 and 81.

⁷² *Ibid.*, para. 42. See also <https://www.routledge.com/Psychoanalytic-Psychosocial-and-Human-Rights-Perspectives-on-Enforced-Disappearance/Bianchi-Luci/p/book/9781032320571>.

⁷³ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

⁷⁴ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/cfi-achieving-sdgs/2022-10-10/submission-NSAs-hrc51-academia-Interpeace-2.pdf>.

⁷⁵ A/77/162, para. 24.

⁷⁶ *Ibid.*, see also <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session55/list-reports>.

77. The Special Rapporteur intends to explore additional manifestations of the long-term impact of gross human rights violations and serious violations of international humanitarian law in transitional justice contexts.

4. Emerging technologies in the context of transitional justice

78. Technology has evolved rapidly since the establishment of the mandate; current technological capacity far exceeds that in which transitional justice was first envisioned. Advancements carry both positive and negative potential for human rights and transitional justice.

79. In the context of international armed conflicts, technological advances have increased the efficiency and brutality in the perpetration of gross human rights abuses and serious violations of international humanitarian law. In point of fact, developments in weaponry have permitted more military action to be conducted remotely. Artificial intelligence has widened the door for the use of autonomous weapons, in which an algorithm, rather than a human being, monitors conflict situations and initiates both defensive and offensive use of force,⁷⁷ raising concerns among mandate holders and experts that such algorithms may be unable to make effective assessments of when lethal use of force is necessary and therefore justified under international human rights and humanitarian law.⁷⁸ Cyberoperations have also become more sophisticated and threaten civilian rights and infrastructure; without a high level of specificity in a malware's code regarding intended targets, cyberattacks can be indiscriminate.⁷⁹

80. Cyberattacks can also cause destruction in peacetime, as can artificial intelligence. The United Nations High Commissioner for Human Rights and others have raised concerns about the human rights challenges posed by artificial intelligence, for example, through increased surveillance and censorship that strengthen authoritarian governance and restrict civic space.⁸⁰ In a debate before the Human Rights Council, experts also noted that new technologies have allowed the proliferation of harmful forms of expression, such as extreme nationalism, which can encourage grave violations of international law, as well as denialism and revisionism in the aftermath of such violations.⁸¹ The former Special Rapporteur on the rights to freedom of peaceful assembly and of association reiterated concerns about reduced civil society space and the transmission of harmful content in the digital age and elaborated on how those trends interact, such as through States using claims of incitement to violence and the distribution of misinformation to curb legitimate activity on the part of civil society.⁸² The former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence noted with concern the rise of hate speech and incitement to national, racial and religious hatred through new information technologies and social media in transitional justice contexts, introducing the risk of sowing division in societies and fuelling conflict and the repetition of gross human rights violations.⁸³ Balancing the benefits and responsibilities brought about by new technologies has become paramount for the promotion of freedom of expression and information and the protection from discrimination and hatred. Regulating the use of new technologies in compliance with human rights standards, ensuring due diligence by new technology companies and promoting media and information literacy to

⁷⁷ A/65/321 and A/HRC/23/47; see also <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session56/list-reports>.

⁷⁸ See https://geneva-academy.ch/joomlatools-files/docman-files/Briefing9_interactif.pdf.

⁷⁹ See <https://geneva-academy.ch/joomlatools-files/docman-files/working-papers/Societal%20Risks%20and%20Potential.pdf>.

⁸⁰ See <https://www.ohchr.org/en/statements/2023/07/artificial-intelligence-must-be-grounded-human-rights-says-high-commissioner>. The Working Group on Enforced Disappearances has made similar observations, see A/HRC/54/22/Add.5, para. 4.

⁸¹ OHCHR, Human Rights Council holds debate on the mitigation and countering of rising nationalist populism and extreme supremacist ideologies, 2019, see <https://www.ohchr.org/en/news/2019/03/human-rights-council-holds-debate-mitigation-and-countering-rising-nationalist>.

⁸² A/HRC/41/41, para. 39.

⁸³ A/HRC/51/34/Add.1, paras. 59 and 76.

mitigate misinformation are therefore becoming focus areas for transitional justice processes.⁸⁴

81. International and domestic laws, regulations and oversight of such new technologies are often weak or non-existent,⁸⁵ impeding accountability efforts, including in transitional justice contexts. Accountability challenges are heightened by the difficulty of attributing certain harms, such as decisions made entirely by artificial intelligence, which can be difficult to trace and can involve a wide variety of State and non-State actors.⁸⁶

82. However, just as improved DNA analysis technology supported advancements in the field of transitional justice, including the identification of victims and the reunification of families,⁸⁷ current technological innovations also have the potential to support transitional justice efforts. Experts have highlighted the increased amount of open-source information – including satellite imagery, online government publications and social media content, assisted by the proliferation of cellular devices – as being useful for purposes of accountability.⁸⁸ Relatedly, as noted by the Working Group on Enforced or Involuntary Disappearances, open-source intelligence that is able to quickly analyse large quantities of publicly available data can “play a crucial role” in the investigation of human rights violations, including by helping locate victims and identify perpetrators in cases of enforced disappearances.⁸⁹ New mapping and imaging technologies have also eased the process for identifying and assessing sites of human rights violations, such as mass graves.⁹⁰ In addition to aiding in the documentation, verification and investigation of violations, as well as the preservation of evidence, technology can assist in making transitional justice more accessible for affected communities.

83. Since transitional justice must be responsive to the negative and positive consequences of evolving global technology, the Special Rapporteur intends to undertake a study on how technology can serve the promotion of transitional justice and prevention of atrocity crimes. He also intends to examine how emerging technologies can facilitate grave human rights violations, where there are gaps in existing regulatory frameworks that promote impunity for such violations and what role transitional justice can play in responding to such abuses and gaps.

5. Bottom-up, global South-North approaches to transitional justice

84. Bottom-up approaches rely heavily on the meaningful participation of victims. The first mandate holder asserted that both epistemic and legitimacy arguments support victim participation as it better tailors transitional justice to the needs and preferences of victims and serves as a form of empowerment and recognition. He highlighted that ensuring victim participation in such contexts is an obligation States have under international law and jurisprudence.⁹¹ The Secretary-General has reaffirmed the importance of centring victims in transitional justice, emphasizing, in particular, the need to create processes that are accessible and responsive to traditionally marginalized populations.⁹²

85. The former Special Rapporteur also underscored the influential role of social movements in the negotiation and design of transitional justice processes. Measures adopted

⁸⁴ A/HRC/45/45, A/HRC/51/34/Add.2, A/HRC/51/34/Add.1 and A/HRC/54/24/Add.2.

⁸⁵ See <https://www.nytimes.com/2023/12/06/technology/ai-regulation-policies.html>.

⁸⁶ See https://geneva-academy.ch/joomlatools-files/docman-files/Briefing9_interactif.pdf; <https://geneva-academy.ch/joomlatools-files/docman-files/working-papers/Societal%20Risks%20and%20Potential>; and <https://geneva-academy.ch/news/detail/650-rising-civilian-involvement-in-cyber-warfare-legal-implications-and-solutions-explored-during-expert-meeting>.

⁸⁷ See <https://journals.sagepub.com/doi/pdf/10.1177/13540661221127700>.

⁸⁸ See <https://www.geneva-academy.ch/news/detail/593-experts-discuss-the-use-of-open-source-information-to-document-ihl-and-human-rights-violations>.

⁸⁹ A/HRC/54/22/Add.5, para. 29.

⁹⁰ *Ibid.*, paras. 30–34.

⁹¹ A/HRC/34/62.

⁹² See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

in the fields of truth, justice, reparation, memorialization and guarantees of non-recurrence have often been the result of lobbying by civil society organizations, especially victims' groups.⁹³ These movements gather victims' demands at the grass-roots level, help insert them into the transitional justice agenda and galvanize support for policy and normative action at the domestic and international levels. In his 2022 report on the Sustainable Development Goals and transitional justice, the former Special Rapporteur recalled numerous relevant examples, such as the victims' organizations in the Syrian Arab Republic that drafted the Truth and Justice Charter as well as the lobbying by civil society organizations in Africa that led to the adoption of the African Union Transitional Justice Policy Framework in 2019.⁹⁴

86. The role of women in mobilization and activism and their participation in transitional justice through bottom-up approaches must be underlined in this context. Women's groups, particularly associations of women who are either victims or relatives of victims, have been especially active and have become prominent actors in transitional justice processes.⁹⁵ Examples of their leadership and influence in shaping transitional mechanisms can be drawn from countries in Latin America, Europe, Africa and Asia. In Argentina, Abuelas of Plaza de Mayo have led legal and scientific work, which crystallized in the pioneering use of DNA technology and judicial litigation to establish the identity of child victims of enforced disappearances. In virtually all of the visits undertaken by the mandate, the catalytic role of women's agency was observed and highlighted. However, the lack of official support for their efforts has resulted, on many occasions, in an uphill battle that they must face alone. Because women often face multiple forms of exclusion and discrimination in society and the household, their work to advance transitional justice processes that respond to their needs is particularly strenuous and must be adequately recognized and supported.

87. Despite the importance of the work carried out by victims' and women's groups, their efforts are regularly undermined by insufficient State action in response to their demands and the unavailability of effective participation mechanisms.⁹⁶ Moreover, their agency is greatly diminished and the potential for recurrence of the harm they endured is augmented when the structural drivers of the exclusion and discrimination they face are not addressed as part of the transitional justice agenda through measures such as the changing of gender roles and the redistribution of socioeconomic resources embedded, for example, in transformative reparation measures. The involvement of these groups in the design of transitional justice responses is therefore critical, requiring further attention, funding and study.

88. The Secretary-General has also noted the necessity of a broader, people-centred approach, stating that the "success of transitional justice policies also depends on wider community ownership, including among the public at large".⁹⁷ Such an approach supports legitimacy, social cohesion, long-term stability and the realization of the right to participate in public affairs.⁹⁸ The Secretary-General's 2023 guidance note specifically called for transitional justice efforts that match the target population's "actual needs, conditions, circumstances and capacities" – frequently ignored socioeconomic requirements and inequalities included⁹⁹ – in order to create a "tangible difference in the lives of the broader population, while showing that peace and justice positively concern everyone".¹⁰⁰ These strategies involve assessing and responding to the needs of perpetrators, including through

⁹³ A/77/162, para. 37.

⁹⁴ Ibid.

⁹⁵ A/HRC/WGEID/98/2, paras. 33–36.

⁹⁶ A/77/162, para. 38.

⁹⁷ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

⁹⁸ See

https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf.

⁹⁹ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

¹⁰⁰ Ibid.

strong disarmament, demobilization and reintegration programmes that support non-recurrence.¹⁰¹

89. Effective implementation of victim-centred and people-centred approaches requires working closely with civil society actors and utilizing participatory methods, such as national consultations on the design of transitional justice mechanisms, truth commissions and opportunities to testify in criminal justice proceedings. However, States or other actors pursuing such participatory methods must also create the conditions necessary for victims and the broader population to genuinely engage with them, including societal security, psychosocial support and technical capacity.¹⁰² Further, transitional justice should take into consideration not only the needs, objectives and voices of groups traditionally excluded from political processes, such as Indigenous Peoples and nomadic populations, but also the normative systems for dealing with transitional justice issues, including practices, rules and procedures. Such methods have the potential to increase the resonance of transitional justice efforts with their target populations and overcome criticisms of the field as elitist and overly legalistic.¹⁰³

90. In addition, previous mandate holders and the Secretary-General have repeatedly emphasized the need for transitional justice to be specifically designed around the historical, political, cultural and social context of affected communities.¹⁰⁴ The importance of this idea has also been emphasized at the regional level. For example, the African Union Transitional Justice Policy Framework highlighted that over a decade of work went into creating a policy that is “home-grown, unique to Africa, rich in its progressive methodologies and approaches, and rooted in African shared values, traditional justice systems and experiences”.¹⁰⁵ As implied by the African Union, those working in transitional justice should strive to ensure the inclusion of practices and philosophies from the global South rather than relying solely on systems perceived to be imported from the global North.

91. The lessons learned from transitional justice contexts in the global South should also inform the global North. In this regard, the Special Rapporteur intends to encourage the two-way exchange of ideas. As noted in his previous research independent of the mandate, the global North can learn from the extensive experience of the global South with transitional justice and incorporate many innovations into its reckoning with its own past.¹⁰⁶ And, as emphasized by the previous mandate holder, creating more equivalence between the global North and South in the field of transitional justice also requires applying greater scrutiny to largely unchallenged colonial harms by global North powers.¹⁰⁷

92. The Special Rapporteur intends to study best practices and develop recommendations regarding bottom-up, context-specific approaches to transitional justice that draw on systems from the global South. These recommendations will include strategies for the United Nations and other international actors to identify relevant civil society partners and to engage affected communities in a meaningful and safe way.

B. Substantive areas of interest

93. In addition to the transversal issues of a legal, procedural, methodological and technical nature that are more intrinsically linked to the functioning of the mandate, and thus of greater relevance for the interactive dialogue undertaken annually with members of the Human Rights Council, the Special Rapporteur also intends to address broader substantive and policy-related issues that concern a larger scope of States and stakeholders and are thus of greater use and interest for the report presented annually at the General Assembly. Notably,

¹⁰¹ See <https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/SG-GuidanceNote-TJ-DDRindd-digital.pdf>.

¹⁰² See A/HRC/34/62.

¹⁰³ See <https://academic.oup.com/ijtj/article/12/1/1/4828188>).

¹⁰⁴ A/71/567; see also https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

¹⁰⁵ See https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf.

¹⁰⁶ See for example <https://puq.ca/catalogue/livres/ouvrir-aux-ameriques-5015.html> (in French).

¹⁰⁷ A/76/180.

for the five coming reporting cycles, the following preliminary areas of interest have been identified and will be further detailed in the annual report submitted to the Assembly: economic, social and cultural rights in the context of transitional justice; transitional justice responses to mass human rights violations (including terrorism and counter-terrorism, mass displacement and migration, climate change and environmental harms and corruption and organized crime); challenges of negationism, revisionism and politicization in transitional justice contexts; transnational transitional justice, including following international armed conflicts; and implementation of transitional justice in early stages of transition.

1. Economic, social and cultural rights in the context of transitional justice

94. Economic, social and cultural rights are recognized by international law as universal and essential to the inherent dignity of every person.¹⁰⁸ Relatedly, social and economic inequalities are a primary driver of conflict.¹⁰⁹ However, historically, transitional justice mechanisms such as truth commissions have mainly focused on abuses of civil and political rights.¹¹⁰ In line with the Secretary-General's guidance on more comprehensively incorporating economic, social and cultural rights into transitional justice responses,¹¹¹ the Special Rapporteur intends to study how structural inequalities and violations of such rights fuel cycles of violence in conflict or authoritarian settings and to examine which transitional justice tools and approaches are best suited to redress and prevent them. Building on the work of the previous mandate holder on the links between the Sustainable Development Goals and transitional justice,¹¹² the Special Rapporteur aims to develop best practices on how transitional justice can better address violations of economic, social and cultural rights, with a view to creating a more sustainable peace.

2. Transitional justice responses to mass human rights violations

95. The mandate of the Special Rapporteur focuses strongly on addressing gross violations of international human rights and serious violations of international humanitarian law in societies that have transitioned from armed conflict and authoritarian rule. However, within those contexts, there are several major sources of human rights violations that transitional justice has traditionally failed to properly account for, including: the role of terrorism and counter-terrorism; forced displacement and mass migration; climate change and environmental crimes; and corruption and organized crime. Addressing those issues would create a more holistic transitional justice process that could more effectively resolve the root causes of violence and prevent its recurrence in the future. Additionally, the Special Rapporteur recognizes that such phenomena create massive and grave violations of human rights in contexts that are not of armed conflict or authoritarian rule and believes that transitional justice has important tools, policies and lessons to offer to comprehensively address them. The Special Rapporteur therefore intends to examine how courts and tribunals, truth-seeking commissions, reparations programmes, institutional reforms and other transitional justice mechanisms could be implemented to respond to some of the above phenomena, in both traditional transition settings and non-traditional contexts.

3. Challenges of negationism, revisionism and politicization in transitional justice contexts

96. Previous mandate holders and other United Nations entities have expressed deep concern over the growing global challenges of negationism (also referred to as denialism), revisionism and politicization with regard to gross violations of human rights and serious

¹⁰⁸ International Covenant on Economic, Social and Cultural Rights, preamble.

¹⁰⁹ See

https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/2._ohchr_thematic_paper_on_escrs_and_sdgs.pdf.

¹¹⁰ See <https://www.ohchr.org/sites/default/files/Documents/Publications/HR-PUB-13-05.pdf>.

¹¹¹ See https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

¹¹² [A/77/162](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/2._ohchr_thematic_paper_on_escrs_and_sdgs.pdf).

violations of international humanitarian law.¹¹³ These trends have been exacerbated by the prevalence of social media, artificial intelligence and the ease with which misinformation can be shared. Experts have identified negationism, revisionism and politicization that incites hatred or discrimination as both active violations of human rights and strong indicators of future violence.¹¹⁴ Responses to the above concerns must duly consider the rights to be free from discrimination, violence and misinformation as well as the rights to freedom of expression and opinion. In this regard, State action has been varied, and in some cases controversial, especially concerning relevant legal frameworks.¹¹⁵ The Special Rapporteur therefore intends to study applicable legal standards, assess existing practices and publish recommendations for responses to negationism, revisionism and politicization that are compatible with international standards and transitional justice aims, including strategies for addressing false narratives and the manipulation of memorialization, as well as approaches for countering those trends through the teaching of history, cultural and mediatic interventions, societal reflection exercises and the transmission of accurate accounts of past harms.

4. Transnational transitional justice, including in the context of international armed conflicts

97. Previous mandate holders have addressed situations of international armed conflict, including through country visits¹¹⁶ and communications.¹¹⁷ However, limitations on the conduct of special procedures of the Human Rights Council have restricted their capacity to holistically address inter-State situations during visits, unless they are conducted simultaneously to all parties to the conflict. The Special Rapporteur therefore intends to examine how the transitional justice response to international armed conflicts and other forms of serious cross-boundary human rights violations can be improved to reach all of the actors and harms involved, as is done in intra-State situations. As a part of this assessment, the Special Rapporteur aims to study the various transnational transitional justice strategies, policies and mechanisms that have already been implemented and to create recommendations on how to strengthen and replicate those approaches in other contexts.

5. Transitional justice in early stages of transition

98. Transitional justice measures are generally designed to address serious violations of human rights and humanitarian law after a society has transitioned from armed conflict or authoritarian rule. However, in some instances, designing or implementing transitional justice mechanisms at an earlier stage could increase its efficacy, including by embedding such mechanisms in peace negotiations, ensuring comprehensive documentation while human rights violations are ongoing and leveraging the potential of transitional justice processes to stop ongoing abuses and prevent further violence. The Special Rapporteur intends to develop recommendations on when, how and what types of mechanisms should be incorporated prior to and during transitions in order to achieve the aims of transitional justice.

VII. Conclusions and recommendations

99. **The Special Rapporteur will seek to build on the work of the two previous mandate holders to further develop the mandate by continuing to refine the concepts of truth, justice, reparation, guarantees of non-recurrence and memorialization, as well as by proposing strategies to meet the current challenges in the field of transitional justice. The Special Rapporteur will also pursue the integration of transitional justice**

¹¹³ General Assembly resolution 76/250, [A/HRC/26/50](#), [A/HRC/27/56/Add.2](#), [A/HRC/45/45/Add.1](#), [A/HRC/51/34/Add.1](#), [A/HRC/51/34/Add.2](#), [A/HRC/54/24/Add.2](#), [CERD/C/GC/35](#) and [CERD/C/GC/35/Corr.1](#).

¹¹⁴ See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4344252.

¹¹⁵ *Ibid.*

¹¹⁶ See <https://www.ohchr.org/sites/default/files/documents/issues/truth/statements/20231124-eom-armenia-sr-truth-en.pdf>; see also [A/HRC/51/34/Add.2](#) and [A/HRC/54/24/Add.2](#).

¹¹⁷ See [AL RUS 8/2023](#) and [BIH 2/2014](#).

policies across the entirety of the relevant goals and work of the United Nations, including on development and peace and security.

100. The Special Rapporteur intends to establish victim-centred and comprehensive approaches to transitional justice that are grounded in international legal principles, responsive to the evolving nature of human rights challenges in contemporary society and rigorously informed by a victim-centred approach, gender perspectives and the input of historically marginalized populations.

101. In his annual reports to the Human Rights Council and General Assembly, the Special Rapporteur will analyse inputs from various actors, monitor current trends and practices and assess their compliance with international standards on transitional justice. In reporting to the Council, he intends to focus on transversal transitional justice issues of a legal, methodological, procedural and technical nature, which can inform States, as well as United Nations experts and bodies. These will include: documentation of gross violations of human rights and serious violations of international humanitarian law occurring during conflicts or authoritarian rule; transdisciplinary approaches to transitional justice; transitional justice responses to intergenerational and other long-term impacts of gross human rights violations; emerging technologies in the context of transitional justice; and bottom-up, global South-North approaches to transitional justice.

102. In reporting to the General Assembly, he aims to highlight some of the major substantive and policy issues in transitional justice that impact the state of peace and security, human rights, the rule of law and development at the international level. These will include: economic, social and cultural rights in the context of transitional justice; transitional justice responses to mass human rights violations (including terrorism and counter-terrorism; mass displacement and migration; climate change and environmental harms; and corruption and organized crime); challenges of negationism, revisionism and politicization in transitional justice contexts; transnational transitional justice, including following contexts of international armed conflicts; and implementation of transitional justice in early stages of transitions.

103. In closing, the Special Rapporteur reiterates his request for invitations to conduct country visits to the States approached by the mandate and hopes that all communications sent to States will be answered promptly.
