

Best Practices for Leading Justice Movements

Advice by Victim Groups, For Victim Groups

This report documents experiences, strategies and advice for groups of victims of serious international crimes in leading their own justice movements. It is compiled from the experiences of VAI Rohingya member organisations Arakan Society for Peace and Human Rights (ARSPH) and Voice of Rohingya (VOR); the Shanti Mohila, a group which is not a member of VAI, but who has previously provided VAI staff with input on how to be champions for justice as members of a marginalised community; and Justice International, a Georgian civil society group who has been working with victims of crimes committed in the conflict in Georgia in relation to the case of the Georgia situation at the International Criminal Court (ICC).

1. General advice

The following messages are the overall, general pieces of advice that the groups we spoke to have for other victim groups wanting to pursue justice for the serious international crimes committed against them.

Be yourself. Do not let others tell you what your priorities area.

ARSPH and Justice International have clear advice for victim groups: be yourself. Often, the international justice space is crowded with actors, many of whom have their own agendas; lawyers, activists, civil society groups, international non-governmental organisations, and international courts, forums and institutions.

As victims, you have insight into and understanding of the crimes committed against you that no-one else has. You know what justice would look like to you and your community. Different people and organisations operating in the space may have their own ideas about what is best for you- but only you really know. Think deeply about what you want. Do not let other people speak for you.

Think about what you want to dedicate your time and energy to

Leading justice movements requires time and energy. The more of this you dedicate to key, specific goals, the more progress you will likely to be able to make on achieving those objectives. If you divide your energies between many different goals, your progress may be slower on achieving each one. Think about what is most important to you, and spend most of your time and energy on those objectives.

2. Participation in criminal justice processes

Know that criminal justice processes take a long time

International criminal justice takes a long time. Look up how long cases in the forum your case is in usually take. You may decide this process is too long, and you do not want to engage with it. If you do want to engage with it, you may be able to find ways to try to quicken the process, such as collecting your own evidence and sharing it with the court, or advocating for it to move faster- or you may use the threat of an international criminal justice process to try to make justice processes at the local level go faster.

It is important to know, however, that generally, international criminal cases take a frustratingly long time.

Think about how to use a criminal case to push other interests

Justice International advises that victim groups should try to think about how to use criminal justice processes, such as cases at the ICC, to help them push forward other agendas- such as accountability at the local level. You can say, “if you start some criminal processes that can bring justice locally, then these cases might not have to go to an international court”- and then you might find another justice process, which could be faster.

Be realistic

Find out what the outcome of a successful conviction against a perpetrator will be for your community. This will be different in different courts, depending on who the perpetrator is and who he or she perpetrated crimes against. It may result in a prison sentence for the perpetrator; freezing of their assets; or travel bans. Certain courts and cases will result in compensation for victims- but usually, not all victims. Victims are generally eligible for individual compensation only if they were the direct victim of the perpetrator’s crime. Find out the answers to these questions for the criminal case/s that are relevant to your community, so that you know what to expect.

Collect information from your community to be used as evidence

ARSPH and the Shanti Mohila have both had positive experiences in gathering information from victims in their community to be shared with international courts and forums as potential evidence. When victim groups dedicate their time and energy to collecting evidence to be used in justice processes, it can give them a sense to reclaiming control over their situation, and doing something proactive and productive to move the justice process forward.

However, it is important that evidence is collected about the right things, and in the right way- unless this is done carefully, it will not be able to be used in justice processes. More advice from ARSPH on how to collect useful evidence in in section 4, below.

3. Participation in other types of justice processes

Decide what your justice priorities are

Different avenues for access justice exist outside of the international criminal court and other criminal courts and tribunals. Some avenues are intended- like the criminal process- to punish individual perpetrators, for example by freezing their assets, so that they cannot access their money. Some avenues are intended to hold corporations accountable. Some, like the International Court of Justice, and UN complaints receiving mechanisms, receive complaints against an entire country. First, decide what kind of justice outcome is important to you, so that you can focus on that as you move forward.

Find out what avenues can help you achieve those priorities

Once you have decided which justice outcomes are important, find out who you can speak to about how to achieve those outcomes. Victim Advocates International (VAI) can provide you with this advice. The groups in Myanmar,

for example, are not only interested in the criminal investigations underway at the ICC. They are also interested in the case at the International Court of Justice (ICJ) against Myanmar, initiated by the Gambia; a genocide case in Argentina; and in making requests and complaints to other relevant bodies, including Facebook- who was complicit in violence against the Rohingya- and the State Department of the United States.

ARSPH's advice is to try to get people and organisations to help filing cases and complaints who are influential international actors. Certain powerful actors will be on your side. For the Rohingya, the Gambia, Maldives, Netherlands and Canada have all become involved in the case against Myanmar at the ICJ; and Argentina has taken a case against Myanmar's Head of State, and senior members of the Myanmar military. Find out what powerful actors- whether states, organisations or individuals- are on your side, and ask how they can help you get justice.

4. Documenting evidence of crimes to share with justice mechanisms

This section includes both advice from ARSPH and from VAI's Senior Counsel, Kate Gibson, who provided advice to ARSPH on how to collect evidence in a way that was able to be shared with international mechanisms such as the ICC and the ICJ.

The strongest evidence is within your community

ARSPH reminds you that of all the people in the world, victim communities have the most evidence about the crimes committed against them. You know things that nobody else knows. International lawyers need you and the information you have to be able to build strong cases.

The evidence collection process

This three-step process followed by ARSPH produced evidence in a format which is shareable with international justice mechanisms:

1. Creating lists of victims, witnesses and perpetrators

After fleeing from Myanmar to Bangladesh, ARSPH volunteers went door to door in the camp and put together lists of the number of people who had been killed, injured, raped and whose houses had been burnt down by the Myanmar military. The lists contain identifying details of the victims, including parents' names and the village they lived in; the date, time and location that the crime was committed; details of the crime (including, for example, how victims were killed); and the names of witnesses.

2. Finding witnesses

Some evidence is better than other evidence. A person who witnessed a crime, and who can give a clear and detailed statement about what they saw and what they experienced, is very strong evidence. Lists like the ones collected by ARSPH, which were written up by people who were not present when the events occurred, are not strong evidence before a court. However, they are excellent in giving a picture of what happened, on what dates, and to how many people.

The next step for ARSPH was therefore to find witnesses to the events described in the list, to be able to give their own personal accounts of what happened.

3. Getting statements

The reason that details are important is that the court often won't accept a story that comes from just one person; they're looking for what's called 'corroboration', so many people giving the same story. And if the people give these stories in a detailed way and the details all match up as between the different witnesses, then the court can really

accept that this is how the events themselves unfolded and that what these witnesses are saying is the truth. So, the best course of action is to collect more detailed statements from multiple witnesses about a single event- rather than just lists of what occurred.

ARSPH collected statements, which consisted of a detailed account of what occurred on the day when the crimes were committed: what time it happened, where, who was there, who perpetrated the crimes, what the crimes involved, what was said as they were committed, what happened after they were committed, etc.

Unsigned statements

The purpose of these statements is to share with lawyers working on the case, so they can decide which evidence to use, and then can take long, official testimonies from the witnesses. The statement collected by the victim organisations should not, in itself, be this official testimony. Collecting official testimonies is very difficult and should be done by lawyers.

To ensure the statement you collect is a statement to be used by lawyers, and not a testimony to be shared with the court, make sure the statements are not signed by the person telling their story.

The best type of evidence

It's also important to remember that the best evidence is always 'direct' evidence; which means the person who's giving the information is talking about things that they themselves experienced, that they themselves saw and witnessed. That is much stronger than 'indirect' evidence, where someone is saying what someone else told them. You should always focus on trying to find witnesses who can talk about what happened to them, and limiting the witnesses to discussing what they have experienced, rather than what they've heard about.

5. Other options for speaking out for the rights of your community

As victim groups, you may consider brainstorming the many big and small ways that your communities can take action to advocate for justice.

Think about the different advocacy activities you could undertake

ARSPH is prolific in undertaking different activities and interventions, which range from submission to the International Criminal Court to public statements on individual events. Here are some examples of what they have one to advocate for the rights of their community:

- Collected information about the crimes committed against the Rohingya to use in advocacy materials and public statements;
- Collected 13,000 signatures for a petition to the ICC, asking it to move to Bangladesh;
- Open letter to the US State Department asking it to make a genocide determination;
- Sent a letter requesting the Bangladesh government to cooperate with the ICC;
- Democracy building through women's groups in camps;
- Open letter to the Myanmar government asking it to allow them to return with dignity and safety;
- Meet with government missions when they visit the camp;
- Meet with international media when they come to the camp;
- Brief the UN Human Rights Council in Geneva;

- Joined a delegation meeting the President of the United States;
- Wrote a complaint to the Head of Human Rights at Facebook;
- Wrote a joint letter with other refugee groups around the world for International Refugee Day;
- Advocate for the adoption of an anti-discrimination law in Myanmar.

The Shanti Mohila has also done a lot:

- Made an application which described the crimes experienced by women in their community, had 400 of the women in their community attach their fingerprint to the application, and sent it to the ICC.
- Represented the Shanti Mohila when briefing the UN Human Rights Council in Geneva;
- Go block to block, door to door, to encourage women in the camp to support our demand for justice.

6. Getting the attention of the international community.

ARSPH have had a lot of success in getting the attention of the international community. Mohib has been interviewed by national and international news outlets, he has addressed the UN, and met the President of the United States.

Ask for meetings with high-level decision makers

ARSPH's advice is that when high profile delegations come to the refugee camp in which they are based, they request a meeting with them, and then send them follow up emails or messages. ARSPH then becomes the eyes and ears on the ground for different high-level actors, who want to understand what is happening in the camp without always needing to travel there. These high-profile actors now go to ARSPH for their information about what is happening in the camp, which makes them important, and puts them in a good position to request meetings and ask for assistance in various areas.

Collect information and share it with the international media

ARSPH and VOR both regularly collect information about what is happening in the camp and share it with their contacts in the national and international media. They take care to ensure the information they collect is accurate. They have members in different camp across Cox's Bazar, who routinely collect information, quotes, photos and videos and share it with the centralised committees of these organisations, who have contacts with journalists and are able to provide them with the insider's perspective about the facts on the ground.

These groups suggest that by carefully collecting accurate information and sharing it with media groups, your organisation will become a reliable source of information for journalists, who are then more likely to give you a platform for your own advocacy messages.

7. Women's groups

Sometimes, it can be harder for women to stand up and demand their rights, or even, really, to know what their rights are. Rohingya men are traditionally the ones to speak on behalf of their communities. But the Shanti Mohila, as a woman's group, have been training themselves and other women to demand rights for themselves.

Encourage women to speak up for themselves

The Shanti Mohila encourage the women who join their group to speak up on behalf of themselves, rather than relying on men to do it for them. They have become powerful voices within their community. They want to ensure the confidence they have built since being in the camp will remain with them when they return to Myanmar. They do this by spreading the message to the women they work with that their priorities, needs and opinions are important and should be listened to.

Speak up on behalf of everyone in the community

The Shanti Mohila have gained the respect of both women and men in their community because they have been speaking up for the rights of all people. In their work in the camp, they focus on building the confidence of women to speak up about their rights. But when they conduct international advocacy about the rights of the Rohingya, they speak about all people- Rohingya men, women, gender non-binary people, and children. They report that:

Before starting our activities, most of the people didn't respect us. People used to leave us. "What do women know about justice?" Men used to dismiss us by saying that. But now, after Sister Hamida went to Geneva, they say that what we're doing is great work. That our work is admirable. They want to support us as well. So what do our men do? They support us, they help us. So, men respect us more, because of our work as a group.