

MADRE



HUMAN RIGHTS DOCUMENTATION



A Manual for Advocates of
Human Rights in Afghanistan

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Founded in 1985, MADRE is an international human rights organization that transcends geographies and generations to deliver sustainable gender, racial, climate, and disability justice. We foster a world where women and people who are marginalized fully participate in shaping policies and decision making, their expertise and leadership is recognized and upheld, and they equitably hold power and resources within their communities.

This manual draws and builds on MADRE's existing manuals on human rights documentation and gender persecution, MADRE & UN Women's "Identifying gender persecution in conflict and atrocities: A toolkit for documenters, investigators, and adjudicators of crimes against humanity," the International Criminal Court's Office of the Prosecutor (ICC OTP) & Eurojust's "Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organizations," and policies and guidelines by United Nations entities and the ICC OTP, as well as resources by the Institute for International Criminal Investigation, Frontline Defenders, and World Organization Against Torture.

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I. Introduction- What is this manual for?

This manual aims to introduce best practices for human rights documentation, including documentation of sexual and gender-based crimes that may amount to gender persecution. In Afghanistan and its diaspora, many civil society organizations and human rights defenders are actively documenting rights violations. The purpose of this manual is to help those actors produce quality documentation for both advocacy purposes and for accountability mechanisms. While this manual includes links and references for additional resources and mechanisms that are Afghanistan-focused, the best practices it presents can apply in any conflict or atrocity setting. Readers will learn about safety and credibility techniques and standards and strategies to avoid re-traumatizing survivors or witnesses. This manual provides tips for collecting only minimally necessary information in order to reduce risks to survivors and victims and avoid compromising their access to justice in potential future legal cases. This manual integrates a gender perspective as well as a victim/ survivor-centered approach, and includes information about how to recognize the crime against humanity of gender persecution.

II. What is human rights documentation?

Documentation is a process of recording a violation, or getting a “snapshot picture” of human rights violations. To secure quality human rights documentation, it is helpful to get the “who, what, where, when, and how” of an incident, as well as the “why.” As noted in below sections, documenters should, however, limit information they gather to that most necessary for later use in accountability processes.

Documentation consists of several activities, namely:

- ▶ Determining what information is needed and establishing means for acquiring it;

- ▶ Collecting information through interviews or through active witnessing; or collecting existing documents or other media containing relevant information;
- ▶ Organizing information to make it useful for advocacy purposes and accountability mechanisms, while also protecting sensitive information, and
- ▶ Safely providing documentation to accountability mechanisms, human rights monitors, and other advocates.

Sources of documentation can include an array of physical material as well as interviews.

Relevant individuals to interview may include:

- ▶ Survivors/victims¹
- ▶ Eye witnesses
- ▶ Relatives
- ▶ Community leaders
- ▶ Lawyers
- ▶ Journalists
- ▶ Medical personnel
- ▶ Members and officials of the police force
- ▶ Prosecutors

Material evidence that may be relevant includes:

- ▶ Hospital and/or autopsy records
- ▶ Court records
- ▶ Police reports
- ▶ Photographs and/or videos

Keep in mind that relevant available documentation will vary from case to case.

Importance of human rights documentation

As advocates, we want to promote human rights, ensure justice for victims of human rights violations, and understand how human rights abuses fit into larger systems and patterns of abuse and discrimination. The voices of ethnic or religious

¹ This training manual uses the term “victim” as defined in Rule 85(a) of the Rules of Procedure and Evidence, and acknowledges that persons who experience crimes or harms may identify with the term “victim” or with the term “survivor.” The Rules of Procedure and Evidence are an instrument for the application of the Rome Statute of the International Criminal Court.

minorities, women, LGBTIQ+² persons, people with disabilities, and members of other groups that face discrimination are often either silenced or condemned in society. This means the discrimination that often underlies the attacks they suffer in times of conflict can go unrecognized in transitional justice processes. To change that pattern, we need facts. Collecting credible documentation of rights violations in databases helps unveil patterns of discrimination and violence, while pointing the way towards reparations and policy changes that can meaningfully transform societies for the better.

Distributing human rights data in advocacy campaigns can support women and other marginalized groups to access justice and end cycles of violence in their communities. Documentation is also essential if an individual wants to exercise any legal rights available to hold perpetrators of human rights violations, including gender-based violence (GBV), accountable. Individuals living through armed conflicts or atrocities often cannot rely on the state to conduct an adequate investigation of a crime. Therefore, documentation collected by civil society organizations can be invaluable.

III. Documenting gender persecution

What is gender-based violence?

Gender-based violence (GBV) is violence directed at an individual based on gender. For example, a perpetrator may force a woman to marry because he believes marriage is women's role and the victim should have no say in the matter because of her gender. Perpetrators of gender violence may also target victims based on the extent to which they are perceived to adhere to socially defined norms of masculinity and femininity. GBV perpetrators may, for example, commit violence against people they perceive as lesbian, gay, bisexual, transgender,

intersection or queer (LGBTIQ+), against women for not adhering to the perpetrators' gendered dress codes, or against men or boys for not having beards. GBV takes many forms and can occur in any stage of a person's life. It includes physical, sexual, and psychological abuse, and can occur at home or in the community. GBV can negatively impact victims' physical and mental health, access to education, ability to participate in public life, employment and economic well-being. GBV also harms families and communities.

Gender-based violence can include:

- ▶ Sexual violence, including coercion and threats
- ▶ Murder and other physical violence
- ▶ Neglect
- ▶ Incest
- ▶ Forced marriage and other forms of domestic violence
- ▶ Elder abuse
- ▶ Sex trafficking and forced labor
- ▶ Economic deprivation
- ▶ Reproductive violence, such as forced pregnancy and forced abortion or contraception

What is gender persecution?

Gender persecution, a crime against humanity, is gender-based violence that occurs amid a conflict or atrocity. Persecution on the grounds of gender – referred to commonly as gender persecution – was first written into treaty law in the 1998 Rome Statute, which created and governs the International Criminal Court (ICC). Under international law, gender persecution happens when a perpetrator deprives a victim of their fundamental human rights on the basis of gender, in tandem with any crime within the ICC's jurisdiction, such as murder, rape, torture and inhumane acts, among others. Gender persecution involves multiple fundamental

² This stands for Lesbian, Gay, Bisexual, Transgender, Intersex and Queer. The plus sign represents people who identify with the broader LGBTIQI community, but use other terms for self-identification.

rights deprivations. For example, a perpetrator may kill students and teachers to prevent girls from attending school, thereby depriving them of the fundamental rights to education, to life, and to freedom from discrimination—deprivations that occur in tandem with the crime of murder. Documenting and identifying all fundamental rights violations connected to a crime can help expose the gender-based discrimination that fuels individual crimes as well as entire atrocities. The Office of the Prosecutor of the International Criminal Court’s Policy on the Crime of Gender Persecution (Policy on Gender Persecution) is a useful source for understanding gender persecution.

Gender persecution is committed against persons because of sex characteristics and/ or social constructs and criteria used to define maleness and femaleness, including roles, behaviors, activities and attributes. Gender persecution can involve discrimination against a member or members of a group who are targeted because they do not conform to a perpetrator’s ideas of what constitutes “maleness” or “femaleness” or how gender should be expressed. For example, perpetrators may commit violence against those they believe defy the dress code the perpetrators impose on the basis of gender. Gender discrimination can be so normalized that perpetrators may not believe they are exhibiting bias or prejudice. A perpetrator may believe, for example, that the role of women and girls of a specific ethnicity is to be enslaved and/ or forcibly married, or that the role of men and boys is to fight.

In order to qualify as a crime against humanity under the Rome Statute, gender persecution must meet six elements (listed below).

Legal elements of gender persecution

Crimes of persecution as a crime against humanity have six elements:

1. **The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights;**
2. **The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such;**
3. **Such targeting was based on gender;**
4. **The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Rome Statute (Crimes against Humanity) or any crime within the jurisdiction of the Court.**
5. **The conduct was committed as part of a widespread or systematic attack directed against a civilian population, and**
6. **The perpetrator knew that the conduct was part of, or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. These two elements are known as the “chapeau” elements and are required for every crime against humanity.**

How are gender-based crimes and gender persecution connected?

Gender persecution crimes are gender-based crimes that rise to the level of crimes against humanity and meet the legal elements. By definition, gender-based crimes target women, men, girls, boys and LGBTQI+ persons,³ on the basis of gender. Gender-based violence can manifest in the form of sexual violence, physical violence, psychosocial or emotional violence, socio-economic violence, domestic violence, and other harmful acts such as female genital cutting, honor killings, and forced and child marriage.

Gender-based crimes can be used as punishments against those who “are perceived to transgress gender criteria that define ‘accepted’ forms of gender expression manifest in, for example, roles,

³ While the acronym LGBTQI+ is inclusive of a broad range of persons, it is not exhaustive, nor is it the universally standard acronym. Note that while LGBTQI+ persons can belong to women, girls, men and boys groups, they can also be targeted for belonging to LGBTQI+ groups. ICC OTP Policy on the Crime of Gender Persecution, (7 Dec. 2022), note 12, <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>.



behaviors, activities, or attributes.”⁴ These narratives often regulate every aspect of life, determining the extent of individuals’ freedom of movement, their reproductive options, whom they can marry, if and where they can study and/ or work, how they can dress and whether they are simply allowed to exist.

Sometimes gender-based crimes are in themselves the roles that perpetrators assign people based on gender, as in the case of sexual slavery. The Policy on Gender Persecution provides some additional examples: “Men and boys may be forced to fight. Women and girls may be forced into servitude to perform domestic labor such as cooking, washing clothes or treating the sick, based on the assignment of these activities to women and girls’ gender roles.”⁵ (Note that boys may be subjected to enslavement and girls may also be forced into fighting, e.g., serving as suicide bombers. These acts may also amount to gender persecution).

How are sexual violence crimes and gender persecution connected?

The World Health Organization (WHO) defines sexual violence as following:

“Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.”⁶

There is a large overlap between sexual violence and gender-based violence. Nearly all sexual violence also constitutes gender-based violence, and can amount to gender persecution in conflict and atrocity contexts. On the other hand, there are forms of gender-based violence that do not constitute sexual violence, and can also amount to gender persecution.

4 ICC OTP Policy on the Crime of Gender Persecution, (7 Dec. 2022), p. 4, <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>

5 *Id.*, para. 91(ii).

6 WHO, Understanding and addressing violence against women, (2012), https://apps.who.int/iris/bitstream/handle/10665/77434/WHO_RHR_12.37_eng.pdf.

As with other underlying crimes committed as gender persecution, sexual violence crimes are not inevitable or opportunistic—they are rooted in gender discrimination. Discriminatory gender narratives historically rationalized sexual violence as a normal “consequence of war”—essentially as entertainment or a reward for soldiers. Such framing greatly downplayed the gravity of sexual violence and portrayed rape as an inevitable byproduct of war, instead of as an act that may amount to gender persecution.⁷ By using a gender persecution lens when analyzing acts of sexual violence, the discriminatory nature of sexual violence becomes clear, and we can better understand how to dismantle cycles of violence.

Why is documenting gender persecution important?

Documenting gender persecution helps to tell the full story of a conflict or other atrocity and is the first step on the path to ensuring accountability. Holding perpetrators accountable for gender persecution shows that targeting someone based on gender can amount to a crime against humanity. It can also help visibilize longstanding historical discrimination and fundamental rights deprivations that impact particularly vulnerable groups, such as women, girls and LGBTQI+ persons.

Recognizing gender persecution crimes not only encourages survivor participation; it also offers a path for international and local communities to stand in solidarity with survivors, their families and their communities who deserve justice. This recognition can make clear to perpetrators that these are crimes of international concern for which impunity is not tolerated, while contributing towards a more sustainable peace.

Robust documentation of gender persecution enables us to not only show that a crime happened, but to explain why the perpetrator committed the

crime. By recognizing gender persecution, we can help to change attitudes that fuel these cycles of violence and ensure meaningful healing and reparations for victims. Documenting such crimes helps to dismantle oppressive, discriminatory gender narratives and build sustainable peace.

Documenting gender persecution also helps bring to light acts of gender-based crimes that may have been invisible or ignored. It also encourages recognition of intersecting forms of discrimination that can occur alongside gender-based discrimination and violence. As explained in the Policy on the Crime of Gender Persecution: “Recognition of gender persecution not only helps to unearth the discriminatory intent that can drive such crimes or entire conflicts, it can also shed light on victims who are vulnerable because of multiple and intersecting forms of discrimination.”⁸

Examples of gender persecution crimes

Gender persecution may be carried out in a variety of ways. These can include punishments against victims who do not conform to gender regulations imposed by perpetrators. For example, documented cases of potential gender persecution crimes have included the murder, rape, or torture of men perceived as behaving “effeminately”, or of women perceived as behaving “manly” or of persons for deviating from mandatory dress regulations or roles based on discriminatory gender regulations imposed by perpetrators. Consider these examples:

1. **A woman is raped and then murdered for working a job not considered appropriate for women.**
2. **A woman is raped or tortured because her skirt is deemed too short or her headscarf too transparent.**
3. **Pregnant women are forced to have abortions because pregnancies are considered to interfere with women’s duties to provide sexual services to men.**

7 MADRE & UN Women, Identifying gender persecution in conflict and atrocities: A toolkit for documenters, investigators, and adjudicators of crimes against humanity, (2021), p. 14, <https://www.unwomen.org/en/digital-library/publications/2022/01/identifying-gender-persecution-in-conflict-and-atrocities>

8 ICC OTP Policy on the Crime of Gender Persecution, (7 Dec. 2022), p. 5, <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>.

4. Men are abused for being unwilling or unable to grow beards.
5. Afro-descendent women are raped because the perpetrators believe them to be innately lustful.
6. Men and women are condemned to death because of suspected homosexual behavior.
7. A group of young men are killed because they are perceived to be “aggressive” and likely to seek revenge.
8. Rape is imposed as a gender-specific sanction against women held in detention centers and forced into marriages.
9. Boys are forced to fight each other in a boxing ring to prove their masculinity.
10. Women and men are separated into two different groups. The women are enslaved and the men are killed.

IV. Important principles for human rights documentation

Do No Harm approach

“Do No Harm” is the key ethical principle at the heart of any documentation process, especially any documentation that involves interviewing victims, survivors, and witnesses of crimes or human rights violations. This approach requires prioritizing interviewees’ needs and safety, and respecting their autonomy. Employing the Do No Harm approach entails:

- being aware of the possible negative impacts of documentation on victims, survivors, and witnesses, as well as the broader community;
- being prepared for these possible negative impacts;
- putting measures in place to prevent or minimize those impacts and the related harm;
- halting or pausing documentation if you cannot mitigate negative impacts.

Important things to think about when deciding if

a documentation effort has the potential to cause harm include:

- how information will be used
- who will see it
- when and how the information will be reported
- for what purposes it will be reported
- who will benefit from the information being reported

Confidentiality

Confidentiality is a key component of the Do No Harm approach and requires documenters to protect information they receive from interviewees, especially identifying information of victims, survivors, and witnesses. Confidentiality not only keeps everyone safe during the documentation process, but it can help build trust with victims, witnesses, and survivors and strengthen the relationship between the documenter and interviewee. Documenting organizations should create procedures to ensure participants always uphold principles of confidentiality. They should frequently review their processes to ensure that all involved are well-equipped to handle sensitive information.

Documentation teams should:

- **Create clear confidentiality procedures and ensure that all documenters are trained to safely collect, store, and access information;**
- **Ensure that information protection procedures are in place for all identifying information, including pseudonyms and coding systems for personal information;**
- **Ensure that all referrals to support services also adhere to confidentiality procedures; and**
- **Clearly explain these procedures to interviewees and receive their informed consent before conducting documentation. Develop procedures for contacting interviewees that ensure that their confidentiality is maintained in their homes and communities.**

To protect all interviewees' confidentiality, it is critical to store information in a secure place and ensure only authorized staff can access it. Information should not be kept in hard copy, and everything should be password protected on a computer. Do not store any information on mobile phones.

It is important to keep survivors and witnesses' identity private and unrecognizable in public documents. Extreme care should be taken to ensure that identifying information, such as a victim or witness' name, address, or identifying physical characteristics, are not shared in public documents. Note that identifying information that should be protected may also include specific details about human rights violations or other incidents that would point to a certain individual. For example, if the village where the violation occurred is small, publicly naming the village might reveal the source's identity.

Documenters should inform victims and witnesses of the types of information that may be shared in public documents, and let them know that they will keep identifying information confidential. In the case of tribunal or judicial investigations, victims may want to identify themselves to a judicial body or court in order to receive redress and reparations. Documenters should establish mechanisms to safely store contact information separate from documentation on rights violations or crimes in case they need to reach the victim.

Informed consent

Obtaining informed consent for interviews, photos, videos or documents is a crucial step in the documentation process.

Obtaining informed consent requires the documenter to provide full information on the nature and purpose of the documentation, how confidentiality will be protected, the potential use of the obtained information, and the possible consequences of sharing the information, including potential security risks. Consent must be voluntary and obtained in a non-coercive environment.

Consent must also be explicit; meaning, when possible, documenters should receive a written signature or video/audio record of the person's agreement to the documentation provisions (nature and purpose of the activity, its intended use and associated risks, measures to protect confidentiality, and voluntary participation).

It is also important not to make any unrealistic promises or guarantees regarding the potential for justice or other services in response to human rights violations.

Note: Guidelines by the International Criminal Court's Office of the Prosecutor (ICC OTP) and Eurojust on documentation for civil society organizations contain a recommended consent form template (see resources in Section IX).

Interviewing vulnerable populations, including survivors of sexual and gender-based violence

Interviewing vulnerable populations, including survivors of sexual and gender-based violence (SGBV), require particular precaution which documenters need to be aware of. According to ICC OTP & Eurojust's documentation guidelines, vulnerable persons may include:

- **"Children (under 18 years of age);**
- **the elderly;**
- **victims of sexual and gender-based crimes,**
- **victims of torture or other violent crimes;**
- **persons with disabilities or showing signs of psychological trauma; and**
- **individuals in detention."**

Documenters should adopt a victim and survivor-centered approach in interviewing vulnerable people. This means documenting activity should only take place when it is in the best interest of the vulnerable person and she/he is fully aware and capable of understanding the implications of their



engagement. Documenters should be aware of the fact that vulnerable persons suffer a higher risk of psychosocial harm, such as re-traumatization, when taking part in documentation activities.

As a general rule, experts suggest evaluating the general physical and mental health of the vulnerable persons prior to their engagement in the documentation process by carrying out a vulnerability assessment.⁹ Furthermore, it is recommended to keep engagement with the vulnerable person for the purpose of documentation of rights violations to the minimum possible.

Victims and survivors of SGBV can be women, children and men. Although SGBV can impact every victim/survivor differently, common impacts include physical and mental injuries, such as shock, anxiety and post-traumatic stress disorder. In addition, survivors of SGBV often suffer from societal stigma and face unique security risks. Such factors can silence survivors and prevent them from speaking out about their experience.

When approaching survivors of SGBV for an interview, in addition to adhering to the general rules

for all interviews, documenters should also keep the following in mind:¹⁰

- 1. It is critical to show empathy and consideration for the interviewee. Involve the interviewee in decisions about the interview (where it will be held, how long it might take, etc.) and respect their contributions and perspectives;**
- 2. Remember that civil society documenters should avoid collecting detailed accounts of human rights violations, including SGBV. (See Section VI). Collecting only a basic, general account when interviewing victims or survivors of SGBV can help not only to preserve the viability of their testimony in later accountability mechanisms; it can also help to avoid re-traumatizing them. As with all interviewees, ask open-ended questions that allow the interviewee to share what they are comfortable sharing;**
- 3. Avoid rushed and interrogative interviews that can make the interviewee feel re-victimized or exploited;**
- 4. Since interviews require victims and witnesses to recall traumatic events, they can be distressing or re-traumatizing for them. However, if conducted properly, interviews can also have the potential to engage and empower victims and witnesses, giving them a sense of agency and control. This means that interviewers should ensure they convey and adhere to confidentiality mechanisms, ensure informed consent, actively listen to interviewees, and allow them time for breaks and for emotional expression;**
- 5. Behave in a calm, patient, and respectful manner. The interviewee will not share information if they do not like or trust the interviewer, interpreter, or other team members.**

⁹ For further information on vulnerability assessments and engaging vulnerable persons for documentation purposes, refer to: International Criminal Court (ICC) Office of the Prosecutor (OTP) & Eurojust, Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organizations, Section 4, pp. 13-15 (2022), <https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-icc-csos-guidelines.pdf>.

¹⁰ For more information, refer to the Murad Code (2022), <https://www.muradcode.com/murad-code>; and Institute for International Criminal Investigation (IICI) source page on documentation of rights violations and crimes, including sexual and gender-based violence, <https://iici.global/publications/>.

V. Safety and security measures in documentation

Human rights violations, including gender-based violence, can be documented in various ways. Documenters can compile first-hand knowledge of incidents, such as their own observations of an incident or violent act. More commonly, documenters gather information through social media posts and online sources shared by survivors, witnesses, or news outlets. Documenters may also obtain documentation through interviews with survivors and witnesses, drawing from the first-hand experience of others.

Documenters, survivors, and witnesses' safety is of the utmost importance to any human rights documentation effort. Measures should be taken to assess and mitigate safety and security concerns before documentation processes begin. Documenters have a crucial responsibility to be aware of the risks which could arise for themselves as well as for survivors, witnesses, and communities in which they reside or operate. A comprehensive approach to safety and security management should consider:

- **Physical security: protecting bodily safety, documentation, offices, supplies, vehicles, homes, etc.**
- **Psychosocial wellbeing: protecting mental health**
- **Digital security: protecting digital information, private communication, and equipment**

Storing information securely

Any information on victims, survivors, witnesses or others supporting the documentation efforts as well as information obtained during interviews or on social media must be protected. Information that is not secured could lead to a breach in confidentiality. It can put documenters, victims, survivors, and witnesses at risk, and jeopardize the goals of documentation.

Risks to information can include:

- **Theft of digital or paper files**
- **Loss or destruction of information**

- **Modification of information**
- **Hacking of digital information**

Security experts recommend that documenters create safety plans for information "in transit" as well as for information "at rest." "In transit" information includes documentation material when it is shared over a phone or video call, email, SMS text message, or other digital communication methods. "At rest" information includes digital files, paper files in a desk or filing cabinet, printed details about victims, survivors and witnesses or others supporting the documentation efforts, and print-outs of digital information such as spreadsheets, etc.

Here are some steps you can take to protect information:

- **Establish information security policies regarding access to and handling of sensitive information, data communication, data storing, use of social media, and information transfer. These documentation policies can require:**
 - the use of a coding system to maintain interviewee confidentiality;
 - limiting the number of people with access to sensitive information;
 - use of a hard drive which can be stored in a fireproof safe or stand-alone computer not connected to any server to store sensitive information (e.g. some organizations store contact information separately on the drive, apart from the details of events and crimes they have witnessed);
 - use of password protected folders and encrypted drives;
 - never leaving sensitive documents or electronic devices unattended in any public spaces such as vehicles, restaurants, hotels, or at home;
 - avoiding carrying sensitive information, particularly any information that could identify interviewees or witnesses, especially when crossing any borders or checkpoints.

- Consider the use of high standard encrypted electronic systems but note that encryption is often regulated by national law and may be illegal in some countries, so consult with a local security expert to see what is allowed in your specific context.
- For digital data, consider the use of encryption technologies. Use up-to-date anti-virus software, protect all digital devices and sensitive folders with strong passwords, make regular back-ups to a remote server, and remove hard drives if necessary.
- Establish an approval procedure for any material posted online, either on an organization's website or through social media (e.g. Facebook, Twitter) to ensure sensitive information has been scrupulously redacted. This can help you avoid posting a document or picture inadvertently revealing a victim/ witness's identity, her/ his whereabouts, location of interviews, workplaces, etc.

Safety and security of victims, survivors, and witnesses

Victims, survivors, and witnesses face various types of risks to their health and well-being. Participating in the documentation process can put them at risk of further harm. Documenters should be aware of common threats so that they can also make victims, survivors, and witnesses aware before participating in the documentation process, and develop strategies to mitigate the threats or risks. Victims, survivors and witnesses must be consulted throughout every step of the documentation process.

Common risks can include:

- Re-traumatization and additional emotional harm
- Intimidation by perpetrators or those connected to perpetrators
- Retaliation and violence by perpetrators or those connected to perpetrators
- Social stigma
- Family or community rejection
- Arrest and detention
- Lack of support from service providers and judicial actors

Documenters must take steps to mitigate these risks:

- Adhere to the principle of Do No Harm.
- Set up information-storage processes with the highest standards of confidentiality.
- Only conduct an interview if it is necessary and avoid collecting a detailed account of an event from a witnesses or victim. (See Section VI).
- When documenting sexual violence, only interview victims, survivors, and witnesses if absolutely necessary, and limit the number of interviews of such individuals.
- Be aware of your surroundings: conduct interviews in safe and private locations that are neutral, comfortable, and easily accessible to victims, survivors and witnesses.
- Do not discuss information obtained in any public space where individuals other than the documenters are present. Do not discuss this information with friends/ family members outside of the documentation team.
- Always ask the interviewee what the safest way is to contact them.
- Share information only on a need-to-know basis.
- Never give interviewees any information about others involved in the documentation process, in particular about other victims, survivors and witnesses.
- Where available, always have referral resources' contact information on hand, so that interviewees have information to obtain health services, psychosocial support, and other necessary services.

Safety and security of documenters

Documenting human rights violations is a powerful tool for making change in communities, but doing so in areas experiencing conflict or disaster comes with risks. Documenters should be aware of potential risks and try to mitigate them as much as possible before, during, and after the documentation process. When mitigating the risks is not possible, documenters should not engage in documentation activities. Documenters can always reassess the situation later on and proceed with documentation once risks can be mitigated.

Common risks can include:

- **Violence or threats of violence against the documenter from armed groups or others in the community**
- **Conflict-related violence and attacks**
- **Arbitrary arrest or detention of interviewees, witnesses or documenters**
- **Retaliation against NGOs involved in documentation**
- **Emotional fatigue and vicarious trauma that harms documenters' psycho-social wellbeing**

Documenters should also be prepared for risks relating to their surrounding area, particularly if they are traveling to and from interviews in a disaster area. These risks can include road traffic accidents and other road barriers, and environmental or climate disasters, such as floods or fires.

To mitigate these risks, documenters should create an individual and organizational security plan. Each person's and organization's security plan differs based on their context, identity, and other factors that impact the type or risks, frequency of threats, etc. Creating a security plan involves:

- **context analysis**
- **risk assessment**
- **threat analysis**
- **security plan production**
- **plan implementation and review**

Front Line Defenders' "Workbook on Security: Practical Steps for Human Rights Defenders at Risk,"¹¹ contains practical tools to develop a robust and comprehensive security plan. In addition, the United Nation's "International Protocol on the Documentation and Investigation of Sexual Violence in Conflict" contains useful information on developing safety and security strategies.¹²

Practical tips for using social media

In recent years, a large part of the publicly available documentation of gender-based violence has been shared via social media platforms, such as Twitter, YouTube, Facebook, and Instagram. Documentation shared on social media helps to show communities and the world what is happening in conflict and crisis and supports calls for redress and support. Social media, however, is open to an array of users and information can end up in the wrong hands if shared incorrectly. Keep these practical tips in mind when posting on social media or online sources:

- **Blur images of victims, survivors, witnesses, and their family members. Original images can be stored in secure locations, but identifying information such as faces and certain locations, for example, should not be shared online.**
- **If possible, use a virtual private network (VPN) when using the internet. VPNs hide your computer or phone's identifying IP address and protect your identity. Note, however, that some countries regulate the use of VPNs and may require users**

11 Frontline Defenders, Workbook on Security: Practical Steps for Human Rights Defenders at Risk (2011), https://www.frontlinedefenders.org/sites/default/files/workbook_eng_master.pdf.

12 UN, International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, 2nd Ed., (2017), https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict/International_Protocol_2017_2nd_Edition.pdf.

to register with the government, so research your country's laws and regulations before using VPNs.

- If sharing information on social media, consider using a profile or account managed by an organization, rather than a personal account. This helps to protect your identity as an individual.
- Many social media posts come directly from mobile phones connected to social media platforms, resulting in sensitive information being stored on mobile phones. When traveling through check points or in areas patrolled by armed groups or government security forces, remember that information on your mobile phone could pose a risk. For example, a guard at a checkpoint could search your phone for photos, recent SMS or email messages, and other information. Consider deleting sensitive information from electronic devices if you are at risk of being searched.

VI. Ensuring viability of documentation for accountability mechanisms

As human rights advocates, we intent for mechanisms that can call for or ensure justice for victims and survivors to be able to make use of our documentation. To ensure data you collect is viable for those mechanisms, adhere to principles of objectivity, impartiality and independence, and only collect the minimum information necessary to help official investigators identify items for further investigation.¹³

Objectivity, Impartiality & Independence

Collecting facts related to human rights violations requires objectivity, impartiality and independence on the part of the documenter.

Objectivity refers to “the tendency to base judgments

and interpretations on external data rather than on subjective factors, such as personal feelings, beliefs, and experiences.”¹⁴ This can be achieved by avoiding undue influence on the person providing information. In interviews, stick to open ended questions and try to avoid leading questions, which “lead” respondents towards an answer, (e.g. How bad do you think the new law is?) Do not apply legal analysis to the factual data. Evaluate sources of information and ensure you include all relevant information, even if it may contradict a narrative that you believe.

Impartiality entails avoiding taking sides, remaining unbiased and unprejudiced and being aware of one's biases (cultural and personal). This can be achieved by using sound working methodology, avoiding “tunnel vision” or “confirmation bias” and avoiding any conflicts of interest. For example, all warring factions may both be committing human rights violations in a particular context, and it is important to ensure that your documentation reflects this, rather than ignoring any particular faction's rights violations.

Independence requires separating the documentation process from any personal or political influence and interference, and being aware of individuals and organizations who may try to manipulate information to undermine documentation efforts.

In addition, always act with professionalism, integrity, respect and empathy, and never offer any form of financial support in exchange for information. Exercise active listening and pay attention in interviews. Be respectful, polite and patient. Try to respond to the person's concerns and needs in the context of an interview. For example, take a break if they appear overwhelmed, and ensure they have access to water, a bathroom, tissues etc. Maintain a non-judgmental attitude and be conscious of your body language, tone, and pitch.

¹³ For further information, see International Criminal Court (ICC) Office of the Prosecutor (OTP) & Eurojust, Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organizations, (2022), <https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-icc-csos-guidelines.pdf>. Much of this section draws on these guidelines.

¹⁴ American Psychological Association (APA) Dictionary of Psychology, <https://dictionary.apa.org/objectivity>.



How much detail to collect

Civil society organizations (CSOs) should refrain from collecting detailed testimonies from individuals who may have information pertinent to possible investigations and prosecutions in accountability mechanisms. This is especially important when it comes to vulnerable people and situations where the competent investigative authorities, such as local law enforcement or the International Criminal Court's Office of the Prosecutor, are already actively looking into the matter. While CSOs may collect a first general account from an individual, documenters should not take detailed incident accounts because a comprehensive formal interview can be conducted by authorized investigators at a later stage. Each account a victim or witness provides may be scrutinized in court later, particularly if details in the accounts slightly vary or contradict each other. This is why an individual should only be interviewed in detail by appropriate investigating authorities one time, and CSOs should only conduct very basic general interviews, if it is even necessary to interview a witness or victim. Avoiding detailed interviews can also help avoid re-traumatizing victims.

CSOs can collect data other than interviews that can also be extremely useful to accountability mechanisms. By locating victims and potential witnesses, or mapping victimization and alleged crimes, as well as the locations where victims and potential witnesses received support or were relocated to, civil society organizations can

effectively support accountability efforts. Any collected material should be kept securely, with the intention of providing it to the appropriate investigative authorities as soon as it is safe and appropriate to do so.

How to conduct interviews

When interviewing a victim or witness, keep in mind the following:

1. Ideally a person's detailed testimony for legal procedures should be collected just once. Investigative authorities with the necessary expertise should conduct these interviews. Civil society documenters should collect only a general account from interviewees, and safely maintain the interviewees' contact information so they can later be interviewed in more detail for accountability mechanisms. This means civil society documenters should avoid conducting a thorough and in-depth discussion of an individual's accounts of a particular event;
2. Civil society organizations (CSOs) can help identify and locate victims and witnesses, as well as map places where crimes occur. This information can be preserved and later passed on to investigative authorities. While collecting this information, avoid taking detailed testimony from individuals with relevant information. Competent authorities can later interview individuals in detail;
3. CSOs should aim to limit themselves to obtaining a first general account from victims, survivors or witnesses if and when they determine that doing so is necessary. For example, if another organization already has collected a general account, CSOs should not carry out another interview;
4. Each interview can potentially impact a witness' credibility in accountability mechanisms. For example, if a traumatized individual provides multiple accounts of an event to different interviewers, judicial actors may attempt to use these slight differences in these accounts to undermine the witness's credibility, which

can potentially deprive victims of justice. This is especially true if documenters use inappropriate questioning methods. To avoid undermining credibility, CSOs should limit interviews and questions to the minimum necessary. During interviews, they should limit the number of individuals in the room to a minimum (ideally, only the person being interviewed, the documenter and, if necessary, a support person such as a lawyer, translator or a legal guardian);

5. Refrain from interviewing vulnerable people, especially traumatized persons and children. Instead try to identify and locate victims and witnesses, and safely store necessary information which can later be shared with competent authorities;
6. Avoid requesting an additional interview with someone who has already been questioned on the same subject by the investigating authorities, another organization, the same organization, or both. Multiple testimonies can and frequently do result in re-traumatization, inconsistent accounts, fatigue and reluctance to participate with official inquiries, as well as increased exposure to risks;
7. Try to keep in touch in a secure way with the people you have interviewed. This way, you will be able to manage their expectations while also remaining aware of their whereabouts and general wellbeing. This helps ensure that the person may be accessible when a justice mechanism seeks their testimony, which can sometimes happen months and even years later;
8. Make sure that trained and experienced interviewers are assigned to conduct interviews. Where possible, ask the interviewee if she/he has any preference regarding gender, ethnicity or language of the person conducting interviews;
9. Remote interviewing should only be considered when in-person interviewing is not an option.

Vulnerable persons should not be interviewed remotely. Prior to the interview, conduct an assessment of the potential risk of exposure for the person being interviewed. Ensure adequate technological access, including phone and internet connection, is available, and make sure local support is available to the individual in question (both psychological and technical);

10. Plan in advance as much as possible, taking into consideration cultural-specific logistical requirements. Allowing time as needed for breaks and prayers, and sufficient time for talking. Make sure security measures are in place. In the planning process, include funding for participants' travel and accommodation. If necessary, prepare a cover story to present to strangers you and the interviewee may encounter while traveling to or from the interview. (A cover story is a fictitious account used to disguise one's real identity and/ or purpose); and
11. During interviews, start with open-ended questions (such as "tell me what happened..." "Can you describe..."). While you should try to stick to open-ended questions as much as possible, if the account is unclear, use questions that start with "where", "who", "when", "what", and "how" to gain clarity. (E.g., When did this happen? How did you know your neighbor was shot?)
12. Avoid asking multiple questions all at once; instead break them into separate questions and ask them individually. Avoid "leading questions"—meaning questions that imply an answer, and that can influence the person's response. (E.g. Avoid asking a question like, "Was the commander ordering soldiers to attack women?" Instead ask, "Did you hear the commander say anything?"¹⁵

15 For further information on documenting for accountability mechanisms, please see: International Criminal Court (ICC) Office of the Prosecutor (OTP) & Eurojust- Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organizations, (2022), <https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-icc-csos-guidelines.pdf>.

VII. Advocacy for accountability

Quality documentation is key in human rights advocacy campaigns. It forms the foundation of human rights reports, which compile details about human rights violations in a specific country or on a specific topic. Civil society and other human rights monitors provide these reports to international mechanisms that monitor implementation of human rights law. Civil society's role in gathering credible, reliable, and independent information is essential. Their reports help hold governments and other actors accountable to their human rights obligations. Below are several international mechanisms that civil society organizations can send information to about human rights violations and crimes in Afghanistan.

UN Special Rapporteurs

Special Rapporteurs are human rights experts with mandates to investigate the situation of human rights either in a specific country or based on a thematic focus in all parts of the world. Special Rapporteurs analyze human rights issues, advise governments on measures they should take to uphold their human rights obligations, alert the UN and international community of the need to address specific situations and issues, advocate on behalf of the victims of violations, and ensure recommendations are followed.

UN Special Rapporteurs have underscored the necessity of upholding the rights of ethnic minorities, women, LGBTQI+ persons, and other groups that face discrimination, including deprivations of the right to work, the right to the highest attainable standard of health, the right to be free from torture or extrajudicial executions, the right to be free from discrimination, and others.

Special Rapporteur on the situation of human rights in Afghanistan

The UN Human Rights Council created a new mandate for a Special Rapporteur on the situation of human rights in Afghanistan, and in April 2022, appointed Mr. Richard Bennett as the first expert to

fill the role. The Special Rapporteur is tasked with reporting on the developing situation of human rights in Afghanistan and making recommendations to improve it. His mandate also includes assisting relevant actors in the fulfilment of the human rights obligations arising from international treaties that Afghanistan has ratified. It also includes offering support and advice to civil society and to seeking, receiving, examining and acting on information from all relevant stakeholders pertaining to the situation of human rights in Afghanistan. He must also integrate a gender perspective and a survivor-centered approach throughout the work of the mandate, and report regularly to the Human Rights Council and to the General Assembly.

Special Rapporteur Bennett has made a concerted effort to engage with women human rights defenders and civil society from Afghanistan and in diaspora to ensure that their priorities and perspectives are included in his statements and reports to the Human Rights Council.

Email: hrc-sr-afghanistan@un.org

Other Special Rapporteurs and Working Groups:

1. **Violence Against Women**
2. **Human Rights Defenders**
3. **Extrajudicial, Summary, or Arbitrary Executions**
4. **Internally Displaced Persons**
5. **Migrants**
6. **Arbitrary Detention**

Violence Against Women

The UN Special Rapporteur on violence against women, its causes and consequences seeks out and receives information on violence against women from governments, human rights treaty bodies, UN agencies and mechanisms, and non-governmental organizations including women's civil society groups. The Special Rapporteur recommends measures to prevent violence against women at the local, national, regional, and international levels. Her work

covers a wide range of gender issues, including sexual and gender-based violence and gender-based discrimination and persecution.

Email: vaw@ohchr.org

Human Rights Defenders

The UN Special Rapporteur on Human Rights Defenders promotes the effective implementation of the UN Declaration on Human Rights Defenders. The Special Rapporteur is tasked to seek, receive and respond to information on the situation of human rights defenders, with particular attention to women human rights defenders.

Email: hrc-sr-defenders@un.org

Extrajudicial, Summary, or Arbitrary Executions

The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions examines the right to life and deprivation of this right in all countries, regardless of the status of a state's ratification of treaties. The Special Rapporteur is tasked with bringing serious violations of the right to life to the attention of the international community. The Special Rapporteur's office has a history of focusing on gender in its reporting.

Email: hrc-sr-eje@un.org

Internally Displaced Persons

The UN Special Rapporteur on the human rights of internally displaced persons focuses on strengthening the international response to internal displacement, which includes the participation of internally displaced persons in these responses and in transitional mechanisms. The Rapporteur also advocates for the respect of human rights of internally displaced persons.

Email: hrc-sr-idp@un.org

Migrants

The UN Special Rapporteur on the human rights of migrants examine ways and means to overcome

obstacles to the full and effective protection of migrants' human rights, recognizing the particular vulnerability of women, children and those undocumented or in an irregular situation. The Special Rapporteur is also mandated to uphold a gender perspective when requesting and analyzing information, and to give special attention to the occurrence of multiple forms of discrimination and violence against migrant women. The Special Rapporteur's mandate covers all countries.

Email: hrc-sr-migrant@un.org

Arbitrary Detention

The UN Working Group on arbitrary detention is mandated to investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with international standards set forth in the Universal Declaration of Human Rights or in relevant international legal instruments accepted by the states concerned. The Working Group on arbitrary detention also formulates deliberations on issues of a general nature in order to assist states to prevent and guard against the practice of arbitrary deprivation of liberty and to facilitate consideration on future cases. The Working Group has condemned the deprivation of liberty of women and LGBTI persons for discriminatory reasons.

Email: hrc-wg-ad@un.org

UN Assistance Mission in Afghanistan

The UN Security Council created the United Nations Assistance Mission in Afghanistan (UNAMA) in 2002, and its current mandate extends to March 2024. The mandate has shifted since its establishment to reflect the changing political climate and urgent needs within Afghanistan. It coordinates UN agencies, funds and programs with offices in Afghanistan. Women's rights and gender justice advocates continually call for UNAMA to give robust attention to gender-based violence and to ensure women's meaningful inclusion in peace efforts. UNAMA is tasked with integrating gender perspectives across all of its work; engaging

with women-led civil society; and monitoring, report and advocate regarding sexual and gender-based violence, including violence against women human rights defenders. Civil society groups can meet with UNAMA staff in Afghanistan and share information, including documentation of human rights violations.

UNAMA can be contacted at this website:

<https://unama.unmissions.org/contact>

UN Office of the High Commissioner for Human Rights

The Human Rights Service (HRS), established in 2002, is an entity integrated with UNAMA and serves as the UN Office of the High Commissioner for Human Rights (OHCHR)'s presence in Afghanistan. Headquartered in Kabul, it has three provincial and eight regional offices throughout Afghanistan. It engages with government actors, conflict parties, civil society, and the international community. The HRS compiles independent data and evidence to report on human rights abuses and strengthen the rule of law. It focuses on five areas: protection of civilians in armed conflict; children and armed conflict; elimination of violence against women and the promotion of women's rights; prevention of torture and respect for procedural safeguards; human rights and peace (including victim-centered justice); and promotion of national human rights institutions, civil society, and human rights defenders. Civil society can share documentation and information with the HRS and advocate for gender-based violence to be a particular focus of their work.

The International Criminal Court

The International Criminal Court (ICC) is a treaty-based, independent criminal court governed by the Rome Statute. The Court seeks to end impunity for perpetrators of the most serious crimes, as defined by the international community. According to the Rome Statute, the Court has jurisdiction with respect

to the following crimes: (1) the crime of genocide; (2) crimes against humanity; (3) war crimes; (4) the crime of aggression.

As of November 2022, the ICC has started investigations of crimes committed in Afghanistan since May 2003, in particular crimes allegedly committed by the Taliban and the Islamic State – Khorasan Province ("IS-K"). Civil society can work directly with investigators from the Court's Office of the Prosecutor (OTP) to provide evidence of crimes, as well as important background and context.

The Committee on the Elimination of Discrimination against Women (the CEDAW Committee)*

The CEDAW Committee is a group of 23 international independent experts on women's rights who oversee the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹⁶ The CEDAW treaty is an important instrument for advancing women's rights and fighting discrimination. States that have ratified the treaty must provide periodic reports (every four years) to the Committee on the status of implementation of the treaty.

Civil society organizations can submit shadow reports (see the next sub-section) on the status of women and girls' human rights to the CEDAW committee. Reports should be sent to OHCHR as a Word document to ohchr-cedaw@un.org. The word limit is 3300 words (including footnotes), or 6600 words for coalition-submitted shadow reports. International Women's Rights Action Watch Asia Pacific (IWRAP)¹⁷ offers instructions for drafting shadow reports, including those concentrating on particular thematic areas.

Afghanistan ratified the CEDAW treaty on 5 March, 2003 without any reservations. Prior to the Taliban taking control in August 2021, the Afghan government submitted three periodic reports. The Committee

¹⁶ Convention on the Elimination of All forms of Discrimination against Women, (18 Dec. 1979), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

¹⁷ International Women's Rights Action Watch Asia Pacific (IWRAP), <https://cedaw.iwrap-ap.org/cedaw86/>

issued Concluding Observations to the third report on 10 March 2020.¹⁸

Much of the international community refers to the Taliban as “de facto authorities.”¹⁹ On 27 January 2022, the CEDAW Committee requested the de facto authorities in Afghanistan to submit a report on the situation of women and girls in Afghanistan since 15 August 2021. On 22 May 2023, the OHCHR published the Taliban’s response to the CEDAW Committee’s request. Afghanistan’s next periodic report to the CEDAW Committee is due in February 2024.

*** How does the UN treaty body review process work when states are controlled by de facto authorities?**

The upcoming periodic review of Afghanistan by CEDAW presents an interesting question of international law. Afghanistan has ratified the CEDAW treaty. As of August 2021, the Afghan government is no longer in control and states do not recognize the Taliban as the government. They instead refer to the Taliban as “de facto authorities,” a term applied to non-state entities, like armed groups, that exercise control over a territory or that exercise a form of sovereignty,²⁰ meaning autonomous, dominant power.

By extending a form of legal “personality” as de facto authorities to non-state armed actors that control territory, international law ensures that victims can seek recourse for crimes and fundamental rights deprivations. In other words, de facto authorities, defined by their control of territory, must abide by the fundamental principles of international law, including upholding fundamental human rights protections, even while remaining unrecognized as a government.²¹

CEDAW was created due to the recognition that longstanding discrimination has prevented the realization of recognized, universal human rights for women and girls on a basis of non-discrimination. The convention is intended to ensure prevention,

investigation and reparations for human rights violations commonly committed against women and girls, including lesbian, bisexual and transgender women and girls. Rights that CEDAW contains are among the fundamental rights protections that de facto authorities must uphold. It will therefore be useful for the CEDAW Committee to receive information regarding human rights violations committed against women and girls, compiled in “shadow reports” from civil society, for consideration in its review of Afghanistan in 2024.

Shadow reports

A shadow report supplements, or “shadows,” a state’s report to a human rights treaty monitoring body. Civil society, including non-governmental organizations (NGOs) submit these reports. NGOs play an essential role in providing credible and reliable independent information regarding the day-to-day human rights situation of reporting countries. Shadow reports address omissions, deficiencies, or inaccuracies in official government reports. They also assess states’ efforts to comply with treaty provisions. The shadow reporting process plays a critical role in holding governments accountable to their obligations under international human rights conventions.

In the context of CEDAW’s review of Afghanistan, shadow reports may supplement documents submitted by de facto authorities, rather than by a recognized government. Civil society shadow reports will play a key role in calling international attention to human rights violations that women and girls, including those with intersecting identities based on ethnicity, sexual orientation or gender identity, are facing under Taliban control.

In addition to providing critical information to UN treaty bodies, civil society shadow reports can

18 CEDAW, Concluding Observations on the third periodic report of Afghanistan, (10 Mar. 2020), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/061/90/PDF/N2006190.pdf?OpenElement>.

19 See, e.g. Special Rapporteur on the situation of human rights in Afghanistan, Report to the Human Rights Council, A/HRC/52/84, (9 Feb. 2023), https://www.ohchr.org/sites/default/files/2023-03/A_HRC_52_84_01.03.23-English.docx.

20 Heintze, Hans-Joachim, Are De Facto Regimes Bound by Human Rights?, pp. 269-272, in: IFSH (ed.), OSCE Yearbook 2009, Baden-Baden 2010, pp. 267-275, (2010), <https://ifsh.de/file-CORE/documents/yearbook/english/09/Heintze-en.pdf>.

21 *Id.*, pp. 269-270.

enhance the advocacy efforts of NGOs. Shadow reports are a tool for:

1. **Mounting political pressure for reform through the publicity and education activities;**
2. **Creating the foundation for broader advocacy efforts within the international system;**
3. **Giving a voice to and empowering victims; and**
4. **Building coalitions and a movement for advocacy.**

Victim-centered and Rights-based approach to advocacy

A rights-based approach to advocacy emphasizes principles of participation, non-discrimination, accountability and human rights. It emphasizes the agency of local communities as actors for change and as rights holders. In situations of violent conflict, a considerable part of the population may suffer harm. Their voices and needs must be amplified and they should be meaningfully engaged in the justice process.

Victims of war, conflict or atrocities are entitled to rights and remedies in international law. The UN 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 Law²² clarifies how states can ensure victims' rights, including by:

- Incorporating norms of international human rights law and humanitarian law into their domestic laws;
- Providing adequate, effective and prompt reparation proportionate to the harm suffered. Reparative measures may be in the form of restitution, compensation, guarantees of non-repetition and rehabilitation, among other measures);
- Ensuring Access to relevant information

concerning violations and reparation mechanisms;

- Investigating violations effectively, promptly, thoroughly and impartially, and taking measures to prevent future violations;
- Taking action against those allegedly responsible in accordance with domestic and international law; and
- Providing those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice.

These guidelines also emphasize that statutes of limitations should not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.

VIII. Psychosocial support for human rights defenders²³

Why is psychosocial support important for documenters of human rights violations

Human rights defenders often experience stress and trauma, directly as a result of the risks they may face, and indirectly as a result of frequent exposure to reports of human rights violations. They regularly learn of rights violations when taking victim or witness statements or when conducting other research for reports. Without due care, this repeated exposure can significantly affect their physical and mental health, and impact their ability to continue working.

At the same time, human rights defenders often develop resilience and use creative strategies to maintain their wellbeing. Resilience is "the capacity of a person or a group to develop positively, to continue to project themselves into the future despite

22 UN, 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, (15 Dec. 2005), <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>.

23 This section draws primarily on the World Organization Against Torture (OMCT) guide on providing psychosocial support and resilience strategies to human rights defenders. OMCT, "Who in their right mind wants to put up with this?" Resilience Strategies for a Sustainable Human Rights Movement, https://www.omct.org/site-resources/files/Resilience-strategies_Guide_EN.pdf.

destabilizing events, difficult living conditions and severe trauma.”²⁴ This, however, does not mean that human rights defenders must permanently endure the trauma they may experience. Along with strategies for safety and security, implementing methods to access psychosocial support and rehabilitation services can help build resiliency.

Understanding stress and trauma

Stress is a common reaction to a physical or emotional difficulty that develops when expectations or circumstances outweigh a person’s ability or available resources to handle them. The World Organization Against Torture (OMCT) guidebook on resilience strategies, (link available in Section IX), identifies five types of stress:

- 1. Burnout:** “a state of physical, emotional, and mental exhaustion characterized by fatigue, feelings of helplessness, hopelessness, and emotional emptiness, which may potentially result in negative attitudes towards work, life, and people. It may occur in response to stressful situations causing an individual to suffer high levels of stress, and loss of capacity to adapt.”
- 2. Traumatic stress:** “Stress becomes traumatic stress (distress) when it lasts too long, occurs too often, or is too severe. It can be defined as the reaction to a difficulty, demand, threat or change that exceeds an individual’s capacity.”
- 3. Critical incident stress/acute stress:** “[s]tress reactions that occur as a result of a traumatic event during which an individual or their environment is exposed to serious threat or grave danger such as receiving threats, being followed, experiencing and/or witnessing assault, bombing or kidnapping, etc.”

4. Cumulative stress: “is the result of everyday stressors that gradually accumulate to the point that they penetrate a person’s life. While the stressors themselves are of lower intensity than critical incidents, their chronic nature can generate extremely high levels of stress. The gradual nature of this process may prevent individuals from being aware they are suffering from stress until the experience becomes all-encompassing and leads to burn out. Some common sources of chronic stress for human rights defenders include:

- A chaotic and reactive work environment
- Feeling overwhelmed by unmet needs
- Tight deadlines and stressed co-workers
- Diffuse threats, constant security risks
- Facing moral and ethical dilemmas
- Chronic sleep deprivation”

5. Organizational stress: “relates to the way work is performed. Sources of organizational stress include organizational issues, internal workload, the time and energy required to keep an organization running, project work, project deadline and funding concerns.”²⁵

Trauma is “[a]n experience that poses a threat to a person’s physical or psychological integrity. It is often associated with experiences of chaos and confusion during the event, fragmentation of memory, absurdity, horror, ambivalence, or bewilderment.”²⁶ Responses to traumatic events can include feelings of loneliness, emotional withdrawal, the need to reconstruct events, looking for meaning, doubting one’s identity and place in the world, feelings of responsibility or guilt, humiliation or shame, and doubting fundamental beliefs about human decency, the predictability of the

²⁴ OMCT, “Who in their right mind wants to put up with this?” Resilience Strategies for a Sustainable Human Rights Movement, p. 14, https://www.omct.org/site-resources/files/Resilience-strategies_Guide_EN.pdf.

²⁵ *Id.*, p. 21.

²⁶ *Id.*, p. 22.

world, and one's capacity to control one's own life. The OMCT guidebook on resilience strategies identifies various types of trauma:²⁷

- 1. Primary trauma:** occurs when an individual directly experiences a traumatic event, such as violence.
- 2. Secondary trauma:** "refers to stress and traumatic reactions to observing, hearing or reading about traumatic events that have happened to others, which triggers the same reactions as if one had personally experienced the trauma. In some cases, the level of traumatization can be almost as great in secondary victims as in primary victims. Symptoms include depression, anxiety, irritability, somatic impacts, etc."
- 3. Compassion fatigue:** "a state of physical and emotional exhaustion resulting from overwhelm[ing] experienc[es] in personal and/or professional caring roles. Its symptoms are fatigue and diminished capacity to empathize with others."
- 4. Counter trauma:** "refers to the impact that a victim's story has on the listener's own problems or experience. For example, hearing about rape or grief relating to the loss of a loved one can cause the listener to dwell on his or her own experiences of abuse or loss"
- 5. Collective trauma:** "is trauma experienced by the members of a group, community or culture. It undermines systems of shared values and beliefs, and can be produced by a) social, economic, or material conditions shared by a significant majority of its members; b) political and social conditions, and c) situations of threat or fear for individuals or group security."²⁸

Strategies and best practices for psychosocial support to human rights defenders

Human rights defenders may resist identifying

themselves as victims, as they often feel the need to set aside their own needs. Stigma attached to psychosocial health crises can also inhibit seeking support. Furthermore, the normalization of stress and trauma in situations of armed conflict and persecution may hinder defenders' attention to self-care. In addition, human rights organizations may institutionalize a culture of sacrifice among members, for example, through nonrecognition of the need for holistic wellbeing or by refraining from providing support.

The following are recommendations to promote psychosocial support for human rights advocates:

- 1) Acknowledge that human rights defenders, as people, suffer and have weaknesses. By overcoming "superhero syndrome" and prioritizing attention to individual and collective self-care, we can build resilient human rights movements.**
- 2) Organizations should create safe spaces for activists to exchange freely about the experiences and challenges they face. Peer support is an important psychosocial wellbeing mechanism.**
- 3) Additional collective approaches to psychosocial support include:**
 - a. Informal forums: where team members interact and share their challenges and difficulties as well as offer mutual support and reinforce a sense of commitment.
 - b. Group counselling sessions: these are sessions supervised by external experts (psychologists) where group members can discuss work-life issues that cause them distress and anxiety.

There is no one-size-fits-all approach to collective psychosocial support for human rights defenders. Nevertheless, the World Organization Against Torture (OMCT) guidance on reliance strategies (link available in Section IX) offers a step-by-step toolbox on how to design a psychosocial support strategy for human rights defenders.

²⁷ *Id.*, p. 23.

²⁸ *Id.*, p. 23.

IX. Sources for more information

Guidelines on interviewing victims and survivors of human rights violations

International Criminal Court (ICC) Office of the Prosecutor (OTP) and Eurojust- Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organizations <https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-icc-csos-guidelines.pdf>

UN Office of the High Commissioner on Human Rights- Manual on Human Rights Monitoring, Chapter 11- Interviewing

<https://www.ohchr.org/sites/default/files/Documents/Publications/Chapter11-MHRM.pdf>

Institute for International Criminal Investigations (IICI)- guidelines on remote interviewing

<https://iici.global/0.5.1/wp-content/uploads/2021/08/IICI-Remote-Interview-Guidelines.pdf>

Guidelines on documentation of sexual and gender-based violence

International Protocol on the Documentation and Investigation of Sexual Violence in Conflict

https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict/International_Protocol_2017_2nd_Edition.pdf

UN Women- Safe consultation with survivors of violence against women and girls

<https://www.unwomen.org/sites/default/files/2022-12/Safe-consultations-with-survivors-of-violence-against-women-and-girls-en.pdf>

Institute for International Criminal Investigation (IICI) source page on documentation of rights violations and crimes, including sexual and gender-based violence

<https://iici.global/publications/>

The Murad Code

<https://www.muradcode.com/murad-code>

Sources for psychosocial support

World Organization Against Torture (OMCT) – Resilience Strategies for a Sustainable Human Rights Movement

https://www.omct.org/site-resources/files/Resilience-strategies_Guide_EN.pdf

FEMENA's Yara Women Human Rights Defender Center

<https://femena.net/yara-resource-center/>

International Psychological Organization (IPSO):

<https://ipsocontext.org/about-us/rethinking-mental-health/>

Key policy documents

ICC OTP Policy on the Crime of Gender Persecution

<https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>

ICC OTP Policy Paper on Sexual and Gender-Based Crimes

https://www.icc-cpi.int/sites/default/files/Policy_Paper_on_Sexual_and_Gender-Based_Crimes-20_June_2014-ENG.pdf

Identifying gender persecution in conflict and atrocities: A toolkit for documenters, investigators, and adjudicators of crimes against humanity

<https://www.unwomen.org/sites/default/files/2022-01/Identifying-gender-persecution-in-conflict-and-atrocities-en.pdf>

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