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## Training Guide

*International Criminal Law  
for Syrian Human Rights Defenders*

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# Introduction



*This guide was prepared by the Euromed Rights, as part of a series of training guides to help Syrian activists and human rights defenders document human rights violations and crimes being committed in Syria.*

*The guides are intended for use by groups and individuals seeking to document incidents taking place where they work and by organisations seeking to conduct trainings. As a result, they include practical tools to help individuals understand theoretical concepts and to help trainers explain these concepts to others.*

*Although the guides are interrelated and sometimes overlap, the three guides cover three different topics, which are (1) Documenting Human Rights Violations, (2) Definitions and Classifications for Casualty Recording according to International Humanitarian Law Principles, and (3) International Criminal law. The process of documentation of violations varies and depends on the intended use of the material. The purposes of documentation can be to advocate for change, to raise awareness about violations, to engage with UN mechanisms, to preserve memory of victims and a historical record, to support the work of other groups or to build media campaigns around an issue. A long term goal of documentation may also be to support prosecutions of those responsible for the crimes. However, these guides are not intended to be used by professional investigators. Instead, they are intended to help Syrian human rights defenders collect reliable and credible information in a secure and safe manner.*

*All three guides set out international standards on each their topic while providing examples from the Syrian context. Although each guide can be used as a stand-alone resource, they are complementary and users are encouraged to familiarise themselves with all three. Where appropriate, a guide will refer a user to another guide, which may have more information or more details on a particular topic.*

**Euromed Rights**

**The goal of this guide** on International Criminal Law is to help Syrian civil society actors and field researchers when collecting information about violations of international criminal law in Syria. It is a practical tool which sets out the basic elements of international criminal law to allow users to apply these elements to their daily work. In addition, the guide provides materials to assist users in training others on this subject.

The guide is intended for use by a wide range of individuals with different backgrounds. It is not aimed at professional investigators. Users of this guide cannot replace professional investigators or human rights monitors but they can assist them by collecting information in a reliable manner. Therefore, the guide is designed to help lay persons who document violations of international criminal law. As such, it aims to be simple, not overly legalistic and easy to use.

International criminal law is a vast topic and this guide cannot cover it in its entirety or even in great details. Instead, the guide includes basic principles of international criminal law and how to use these principles in practice when collecting information.

The guide is split into four sections:

1. An introduction to international criminal law
2. Definitions of international crimes and basic legal concepts, including individual criminal responsibility
3. Common problems with documentation of violations of international criminal law
4. Practical tools for documenting violations of international criminal law

The annexes provide easy to use fact sheets on some of the topics covered in the guide and examples of practical exercises for use by trainers. Further, annex 5 is a list of the sources used in the drafting of this guide, together with other useful resources.

**Morgane Landel**

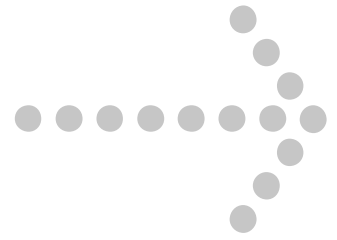








# An Introduction to International Criminal Law



## ① Definition of International Criminal Law

International criminal law is a body of law which creates **individual responsibility** for certain categories of crimes, including mass atrocities and crimes committed during armed conflicts. War crimes, crimes against humanity and genocide are crimes which fall within this body of law.



**International criminal law punishes individuals responsible for committing these crimes.**

International crimes are the subject of international treaties or international custom which outlaw their practices. States recognise that they have an interest in preventing international crimes occurring anywhere in the world, not just within their borders because the commission of international crimes can be a threat to peace and security. For example, forcible transfers of civilians during a civil war may lead to destabilisation of a region if civilians are forced to flee to neighbouring states and those neighbouring states do not have the capacity to accommodate them.

As a result, **under international criminal law, states can agree to subject their own citizens to justice by others.** Therefore, whereas states generally prosecute crimes committed within their borders through their own domestic justice system, international crimes can be dealt with in the international sphere.



## ② Origins of International Criminal law

Modern international criminal law has developed since the end of World War II, although the notion that individuals could be held responsible for violations of the laws of war existed before. In 1945, the main actors in the German and Japanese governments and army were put on trial for international crimes committed during the Second World War. Following on from this, the 1990's saw the creation of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to try those responsible for the crimes committed during the wars in the Balkans and in Rwanda. Since then, other ad hoc courts and tribunals have been created to try individuals responsible for atrocities, including the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia.

Currently, however, the main international forum for prosecuting individuals responsible for committing international crimes is the **international criminal court**.



The **Treaty of Rome**, which creates and provides the structure for the international criminal court was opened for ratification in July 1998. It however did not come into force until April 2002, once 60 states had ratified it.



This treaty, also known as the **statute of the international criminal court**, or the **Rome Statute**, provides the modern framework for international criminal law. It sets out the definition of crimes against humanity, war crimes and genocide and various other legal principles that will be referred to in this guide.

## ③ Difference between international criminal law and International human rights law

The distinction between international criminal law and international human rights law is important. Although an act may be both an international crime and a violation of international human rights law, the documentation required and the forum where violations are dealt with will be different.



**International human rights law is a body of law that imposes obligations on states to provide and safeguard the rights of individuals living within their borders.**

**It imposes three levels of obligations:**

- ▶ A state has a duty to respect and not infringe the rights of individuals.
- ▶ Further, a state has a duty to protect these rights.
- ▶ Finally, a state has a duty to fulfil these rights by taking positive action to ensure that the rights are respected.





Freedom of expression, equality between men and women, or prohibition against torture are international human rights. A state is permitted to restrict some of these rights in certain circumstances, in particular in times of national emergencies. However, certain rights can never be restricted, such as the prohibition against torture.



As such, international human rights law is different to international criminal law which creates individual criminal responsibility and punishes individuals who commit certain crimes.

There is nonetheless some overlap between international criminal law and international human rights law and certain conduct may fall within both. For example, a murder committed by a member of the security force during a civil war can be both a crime under international criminal law and a violation of the right to life under international human rights law.

However, there are important differences in how that conduct is dealt with and the remedy available to the victim.



**In international criminal law, if a crime is committed, the remedy for the victim is that the perpetrator is prosecuted for the conduct.**



**In international human rights law, the state has an obligation to ensure that there is a remedy for the victim and if a state fails to provide a remedy, the victim may seek redress from the state itself.**

This means that there are different forums for seeking redress for crimes committed in international criminal law as opposed to violations of international human rights.



**Crimes under international criminal law are dealt with by domestic or international courts, whereas violations of international human rights law are dealt with in other forums, including United Nations commissions of inquiry, the human rights council and other UN committees.**

This leads to differences in the type of information or evidence required to show that the conduct occurred.



To prove that an **international crime occurred**, a court has to be sure beyond a reasonable doubt that the **individual** committed the crime. This means that **evidence** needs to be **collected** and preserved in a particular way so that the court can be sure of the **reliability** of the evidence.

In contrast, the standard of proof required to show that a violation of international human rights law occurred is lower because international human rights law is not adjudicated within a formal court system. For example, the Commission of Inquiry on Syria includes incidents alleged in its report when it has reasonable grounds to believe that they occurred. This is a lower standard of proof than the one applied by courts.



## ④ Forums for Applying International Criminal Law

There are a number of forums where international criminal law can be applied.

### The International Criminal Court

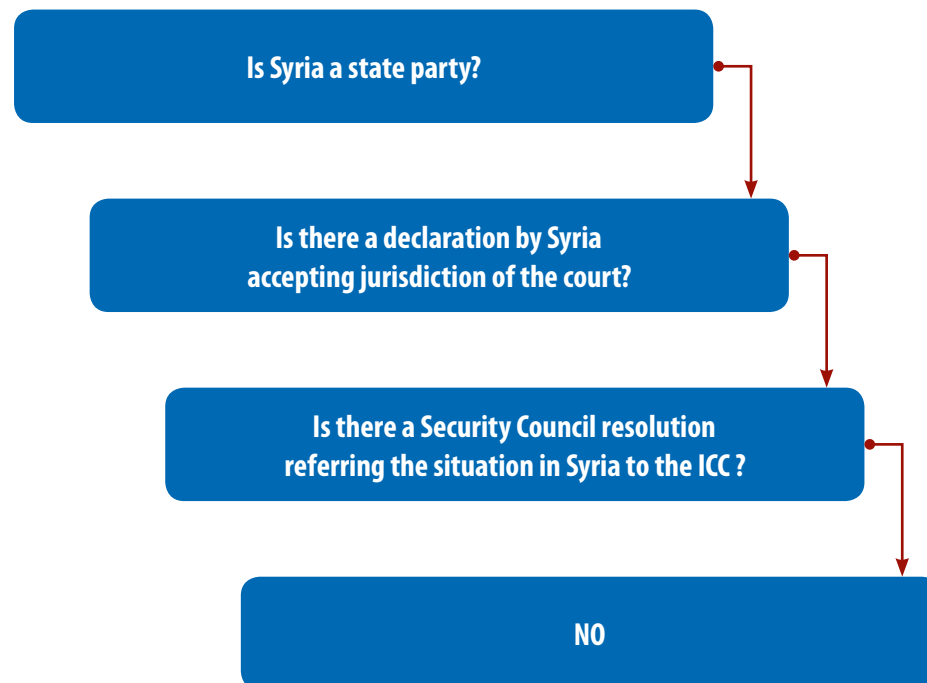
The **international criminal court** has complicated rules that set out whether or not the court can try an individual for a particular crime. This is the concept of jurisdiction. The basic premise is that the international criminal court does not have **jurisdiction** to prosecute every individual who commits an international crime.



Instead, the **court can only exercise jurisdiction over an individual or a crime within the parameters set out by the Rome Statute,** if

- ▶ the accused is a national of a State party to the Rome Statute,
- ▶ the crime took place within the territory of a State that has accepted the jurisdiction of the Court, through signature of the Rome Statute or through ad hoc acceptance of the Court's jurisdiction; or
- ▶ the UN Security Council has referred the situation to the Prosecutor irrespective of the nationality of the accused or location of the crime.

Can the International Criminal Court exercise jurisdiction in Syria?





## International Tribunals



Other international forums for prosecuting international crimes include **special tribunals** created to deal with specific crimes within a particular territory for a certain period of time, such as the International Tribunals for the Former Yugoslavia or Rwanda.

These are generally created under the **auspices of the United Nations.**

## Hybrid courts



**Hybrid courts** are created within a state's criminal justice system and apply both domestic law and international law.

They are generally set up in the **post conflict or transition period** and require the **political will to deal with past crimes.** They include both domestic and international staff. International staff assist domestic staff in conducting complex investigations and applying international criminal law within a domestic legal system. This model was used in Bosnia Herzegovina after the war.

## Domestic Courts



**Domestic courts** can also be used to prosecute international crimes. As above, this is generally done in the post-conflict or transition stage.

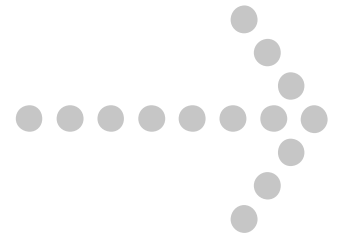
This generally requires new laws to include the **prosecution of international crimes within a domestic system** as well as **training for staff members** in applying international criminal law.







# International Criminal Law



## ① What is a crime?

There are two components to every crime:

(1) the material element and (2) the mental element.

Both of these elements have to come together for a crime to be committed.



The material element of a crime or **Actus Reus** is the conduct itself.

This can be either an act or an omission which is prohibited by law, for example killing someone. There has to be a link between the conduct of the perpetrator and the consequence. So, if person A had not shot person B, person B would not have died.



The mental element of a crime or **Mens Rea** is the knowledge or intention of the perpetrator.

The perpetrator must want to engage in the prohibited conduct and must intend to cause the consequences of the conduct or be aware that they would occur. It is of course difficult to show what a person intended or knew unless they expressly say it. Therefore both intent and knowledge can be proved through circumstances.

In addition, international crimes generally include two distinct elements:

(1) **the underlying crime**, or the actual conduct, and (2) **the context in which this conduct took place**. Both of these aspects need to be present for an international crime to have been committed.



### ***Proving that a crime occurred***

- ▶ *Prove what happened.*
- ▶ *Prove what the perpetrator knew.*



## ② Genocide



The crime of genocide is included in this guide for the sake of completeness as it is one of the three international crimes included in the Rome Statute. However, there is currently a debate as to whether or not genocide is taking place in Syria. Most commentators have stated that the crimes being committed in Syria do not amount to genocide.



**Article 6 of the statute of the international criminal court, defines genocide as any of the following five acts, with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The acts are:**

- ▶ (1) killing members of the group;
- ▶ (2) causing serious bodily or mental harm to members of the group;
- ▶ (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- ▶ (4) Imposing measures intended to prevent births within the group; and
- ▶ (5) forcibly transferring children of the group to another group.

### The underlying crimes

The first issue is whether the **perpetrator conducted any of the five acts set out above**. For example, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction includes not providing the group with enough food or proper hygiene. Measures intended to prevent births within a group include rape, sexual mutilation, separation of males and females or prohibition of marriages.

### The context

The second issue is whether or not the **underlying act was committed with genocidal intent**. This is the intent to destroy, in whole or in part, a national ethnical, racial or religious group, as such. There has to be intent to physically or biologically destroy. It is not enough to destroy a group's culture. The destruction of the group must be in whole or in part. The part must be a significant enough part to impact the whole group. For example, it could be a category of individual within the group such as leaders who are essential to the group's survival or individuals in a significant region. In addition, the group must be a protected group, but only on the basis of nationality, ethnicity, race or religion. No other groups are protected.



It is difficult to obtain evidence of this specific intent but this is the essence of the crime of genocide. It will generally require evidence of a plan or policy, speeches by the perpetrator, scale of atrocities, methodical planning of the underlying crimes, destruction of houses, or systematic manner of killing.



### ③ War Crimes

War crimes are sometimes also referred to as violations of international humanitarian law, or the laws of armed conflict. **The Geneva Conventions of 1949 provide the first comprehensive set of laws in relation to these crimes.**



The purpose of outlawing the type of conduct included in war crimes is to prevent the suffering of civilians and those not engaged in hostilities during armed conflict.

There are therefore a few basic principles relating to war crimes, and most war crimes will involve a violation of one of the following principles:

► **It is lawful for states and armed groups to attack genuine military targets.**

As such, civilians or combatants who are not directly engaged in hostility, because for example, they are wounded, sick or have surrendered should not be attacked. Further, a party to a conflict cannot target civilian buildings, such as houses, places of worship, or hospitals, unless they are being used as military bases.



For a discussion on the difference between civilian and military targets, please refer to the Training Guide on Definitions and Classifications for Casualty Recording according to International Humanitarian Law Principles.

► **An attack on a legitimate target must be proportional** and should not cause collateral damage which exceeds the military advantage gained by the attack.

► **It is prohibited to use weapons** that are likely to cause **unnecessary injuries and suffering to the other party.**

► **Prisoners of war must be protected** by the party in whose control they are.



#### EXAMPLES

*The government bombs a military factory held by non-state armed groups in the middle of the night. The weapons used are precise and the target the factory only. The guard who is on duty that night is the only casualty. Is the government potentially guilty of a war crime? No – the target is a genuine military target and the government targeted the factory. The death of the guard probably does not constitute a war crime as it would be proportionate to the aims.*

*What if the government targeted the factory in broad daylight and used imprecise weapons which also destroyed a school next to the factory? This would probably constitute a war crime. Although the target may be legitimate, the means by which it was attacked were not proportionate to the expected outcome. The collateral damage (the destruction of the school) exceeded and was disproportionate to the military advantage gained.*







## EXAMPLES

### **What makes the underlying crime a war crime?**

*A civil war is going on in a country and a prison guard is on duty at a detention centre where people deemed to be against the government are being held. He rapes one of them. In this case, he is acting within the context of the armed conflict and knows of the circumstances of the armed conflict by virtue of his position at the detention centre. Therefore, he may be guilty of the war crime of rape.*

*The same guard goes home one night and rapes his wife. He is guilty of rape but not as a war crime as he carries out this act not within the context of the armed conflict.*

War crimes can occur in international and non-international armed conflicts. This guide will focus on non-international armed conflict as it is the most relevant to the situation in Syria. However, the elements of the crimes for both international and non-international armed conflict are very similar.



As explained above, in order for individuals to be guilty of a war crime, (1) they have to commit the underlying crime, and (2) the crime is committed within a larger context, of which the person is aware. The definition of war crimes is included in **article 8 of the statute of the international criminal court.**

## The context

The first issue to consider is whether an **international or non-international armed conflict exists.**



An international armed conflict is generally one that takes place between two states. A non-international armed conflict is one that takes place within a state, between the state and other armed groups.

This conflict has to be intense and protracted and would not involve riots or isolated acts of violence. The conflict **in Syria** has been recognised by both the commission of inquiry and the International Committee of the Red Cross as a **non-international armed conflict.**

Secondly, the conduct of the perpetrator must have taken place in the context of and be associated with an armed conflict. The perpetrator must be aware of the factual circumstances that established the existence of an armed conflict. Factors which will show the link between the perpetrator's act and the armed conflict include the perpetrator's membership to the army or an armed group, the civilian status of the victims, or the fact that the perpetrator conducted the act as part of his official duties.

## The underlying crimes

If it can be shown that the above requirements in relation to the context are met, the next issue to consider is whether or not the perpetrator committed **the underlying crime.**

The perpetrator must have **done the act** and had the **required mental element** for that crime.



There are numerous underlying crimes contained in Article 8 of the Rome Statute. This guide will not set out all of them but instead will focus on certain crimes which are more prevalent in the Syrian context.



**Examples of underlying crimes** are murder, mutilation, cruel treatment, torture, sentencing or execution without due process, attacking civilians, attacking protected objects, rape and sexual violence





Users of the guide should refer both to the Rome Statute and the ICC Elements of the Crime for a comprehensive outline of the crimes and their elements.

In this section, only the elements of the underlying crimes will be described. As explained above, however, in order for an individual to be guilty of a war crime, the context elements of the crime will also need to be fulfilled. .



## **Torture, Article 8(2)(c)(i)**

- ▶ 1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
- ▶ 2. The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.
- ▶ 3. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in hostilities.
- ▶ 4. The perpetrator was aware of the factual circumstances that established this status.



### **Examples of acts**

#### **which constitute torture:**

The following acts in detention facilities: severe beatings on head and body, burning by cigarettes, prolonged hanging by the wrists .



## **Cruel Treatment, Article 8(2)(c)(i)**

- ▶ 1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
- ▶ 2. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in hostilities.
- ▶ 3. The perpetrator was aware of the factual circumstances that established this status.



### **Examples of acts**

#### **which constitute cruel treatment:**

Conditions in detention facilities can constitute cruel treatment if they are characterised by lack of food, water, space, sleep, hygiene, sanitary facilities or medical care.



## **Rape, article 8(2)(vi)**

- ▶ 1. The Perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body, and.
- ▶ 2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent..



The crime can be committed not only if the act was committed by force or threat of force (for example, if the perpetrator holds someone down by force or has a gun to their head), but also by coercion or by taking advantage of a coercive environment. Coercion can be inferred from a situation, such as an armed conflict or a military presence, where the circumstances are such that a victim cannot give consent..



## ④ Crimes Against Humanity

Crimes against humanity are intended to cover crimes committed by a state against its own citizens, not necessarily in times of war. There are two major differences between war crimes and crimes against humanity. **Crimes against humanity do not require the existence of an armed conflict.** In addition, whereas war crimes can occur as isolated incidents, crimes against humanity must form part of a **widespread and systematic attack.**



Similarly to war crimes, crimes against humanity have two components; (1) the underlying crime and (2) the context in which that crime was committed. The definition of crimes against humanity is in **article 7 of the statute of the international criminal court.**



### **Attacking civilians, Article 8(2)(e)(i)**

- ▶ 1. The perpetrator directed an attack.
- ▶ 2. The object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities.
- ▶ 3. The perpetrator intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.



### **Examples**

*Dropping bombs indiscriminately in civilian populated areas, targeting markets, schools and public spaces, failing to direct attacks at military objectives, attacking hospitals where opposition fighters are being treated.*





## The context

The underlying crimes become crimes against humanity when they are **"committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."**

As such, a number of components have to be present to show the context in which the **underlying crimes took place:**

- ▶ There must be an attack. This is a course of conduct which involves commission of a large number of the underlying acts.
- ▶ The attack must be directed against any civilian population. This means that the primary target of the attack must be civilians. If there are non civilians within the targeted group, it will not necessarily change the civilian character of the group. Members of armed groups who have surrendered or are injured are considered civilians. The determination of the civilian nature of a group is based on factual issues such as the number of non civilians within the targeted group, the resistance offered by the persons attacked and the nature of the crime committed.
- ▶ The attack must be widespread or systematic. An attack may be considered widespread on the basis of the scale or nature of the attack or the number of targeted persons. An attack is systematic where the underlying acts are organised and not random and there are identifiable patterns of crimes. Other factors which will show that an attack is widespread or systematic include the existence of a policy to carry out such acts, the mobilisation of significant resources or the participation of military and civilian officials.
- ▶ The attack must be pursuant to or in furtherance of a state or organisational policy to commit such an attack. This will be shown through orders issued by the state.
- ▶ The accused must (1) know that there is an attack on the civilian population and (2) know that his acts form part of the attack. The accused does not need to know the full scale of the attack or all the details of the policy but he has to have knowledge of the overall context.
- ▶ There must be a link between the acts of the accused and the attack. His acts must be part of the widespread and systematic attack and must have the possibility of furthering the attack. The perpetrator's conduct can be a single act as long as it is part of the attack.



### EXAMPLES

#### **What makes the underlying crime a crime against humanity?**

*A soldier is assigned to defend a position within a city and ordered not to allow anyone to cross a certain road whether they are civilians or armed fighters. As such, he positions himself on a building and shoots at anyone who crosses the street. This soldier may be guilty of the crime against humanity of murder if it can be shown that his action forms part of a widespread and systematic attack on a civilian population.*

*This same soldier returns home after a night at the pub. He has an argument with his neighbour and shoots him. He is guilty of murder but not as a crime against humanity, as the murder was not committed as part of a widespread and systematic attack.*



## Underlying crimes

Similar to war crimes, the perpetrator must commit the underlying crime within the context described above.



There are a number of underlying crimes, some of which are the same as the underlying crimes for war crimes. They include: **murder, torture, rape, sexual violence, deportation or forcible transfers and enforced disappearances.**



### **Sexual violence, Article 7(1)(g)**

- ▶ 1. The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
- ▶ 2. Such conduct was of gravity comparable to other offences in article 7(1)(g) (for example rape, sexual slavery, or forced pregnancy).
- ▶ 3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.



### **Examples**

forcing someone to strip at a checkpoint or electrocuting someone's genitals.



### **Enforced disappearances, Article 7(1)(i):**

- ▶ 1. The perpetrator arrested, detained or abducted one or more persons, or refused to acknowledge the arrest, detention or abduction, or to give information on the fact or whereabouts of such person or persons.
- ▶ 2. Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or such refusal was preceded or accompanied by that deprivation of freedom.
- ▶ 3. The perpetrator was aware that: such an arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons, or such refusal was preceded or accompanied by that deprivation of freedom.
- ▶ 4. Such arrest, detention, or abduction was carried out by, or with the authorization, support or acquiescence of, a state or a political organisation.
- ▶ 5. Such refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorization, support or acquiescence of, a state or a political organisation.
- ▶ 6. The perpetrator intended to remove such person or persons from the protection of the law for a prolonged period of time.



### **Examples:**

An individual is arrested by security forces at a checkpoint. When his wife goes to the police station to find out where he is being held, she is told by the officer on duty that there is no record of her husband in detention. She makes similar enquiries with other government officials and is told the same thing.

A wife is informed of her husband's death without any other information as to the reason for his death. She tries to obtain his death certificate but is told by the authorities that they have no information about his death.



## ⑤ Individual criminal responsibility

The previous section sets out some of the factual elements that need to be proved to show that certain conduct occurred. This section will explain how to show that an individual is responsible for that conduct.



For the purpose of criminal prosecutions, it is not enough to show that a crime was committed. It must also be proved that an **individual committed the crime**. Without this, no prosecutions can take place as no one can be held accountable for the commission of the crime.



**Mode of liability** is a term used to describe the manner in which someone commits or is responsible for a crime. In domestic criminal law, mode of liability is generally less complicated than in international criminal law.

For example, if a person steals an apple from a fruit stand, it is clear that they have committed the crime because they have done the illegal act of taking the apple without paying for it.

However, international crimes, by their very nature, require special forms of liability. This means that there are specific ways in which people who commit these crimes can be held accountable. The purpose of developing different modes of liability for international crimes is that often the persons who are most responsible for the crime are far removed from the acts that make up the crime, and rarely carry out the act themselves.



For example, political and military leaders are not usually the ones carrying out the physical act, for example, the rape of detainees. Instead, they are in charge of others carrying out the act. It would be wrong for these leaders not to be held accountable for these crimes on the basis that they did not carry out the physical act.



**There are a number of different modes of liability, some of which are included in articles 25 and 28 of the statute of the international criminal court:**

- ▶ A person can commit a crime, as an **individual**, because he carries out the prohibited conduct.
- ▶ A person can **aid, abet or assist** in the commission of a crime.  
For example, if person A gives arms to individuals so that they can go and commit a crime, person A may be guilty of the crimes those individuals commit because of the assistance provided, despite the fact that person A did not actually carry out the prohibited conduct.







## Example of Joint Criminal Enterprise

*A group of four militia men enter a private home. Three of them rape a woman inside the home while the fourth one guards the door to make sure that no one comes in. All four are guilty of the rape, even the one who was guarding the door, because he participated in the execution of the common plan of raping the woman, even if he did not personally rape her.*

*All four could also be guilty if one of them decides to torture the victim before raping her, if they could foresee that this fourth person would torture the victim before raping her..*

- ▶ A person can **order, solicit or induce another person** to commit a crime. For example, a politician who orders a battalion in the army to go house to house in a village and rape women would be guilty despite the fact that the politician did not rape the victims.
- ▶ A person can **commit a crime by omission** if that person has a duty or ability to act and fails to do so. For example, the commander of a detention centre uses the money for food for detainees to go on holiday, as a result of which detainees die of starvation. The commander is guilty of an offence because his failure to act, or buy food for the detainees, has led to their death.
- ▶ A person can also commit a **crime jointly with other persons.**
  - **Co-perpetration** is an agreement between two people that if implemented will result in the commission of a crime. The perpetrator must provide an essential contribution to this plan which results in the commission of the crime.
  - **Joint Criminal enterprise** is a mode of liability whereby an individual can be guilty of a crime by contributing to the commission of a crime by a group of persons acting with a common purpose. A number of elements have to be present for this mode of liability to be shown. There must be a **group of individuals.** Secondly, the group must have a **common plan, design or purpose** which amounts to or involves the commission of a crime. Thirdly, the perpetrator must know about the **intention of the group.** Finally, the perpetrator must **participate in the common plan.** The perpetrator does not need to commit a specific crime, but must participate in the execution of the common plan or purpose. Further, a perpetrator could be guilty under this mode of liability, if a member of the group does something not strictly within the common plan, but the perpetrator could foresee that the crime would be committed by another person when carrying out the common plan.
- ▶ **Command responsibility** is based on the notion that except in certain circumstances, superiors are responsible for the acts of their subordinates. Superiors are also responsible for their failure to prevent or punish the crimes committed by their subordinates.

**There are three aspects to this mode of liability :**

  - There has to be a superior – subordinate relationship and the superior has to be in effective control of his subordinates. This is generally proved through military organisation charts.
  - The superior has to know or should have known that the subordinates were committing the crime or about to commit the crime. This will be proved, for example, through evidence of widespread and available information about the crimes that are being committed.
  - The superior failed to take all necessary and reasonable measures to prevent or stop the commission of the crimes. For example, the superior did not discipline his subordinates or refer them for prosecution.
- ▶ A person can also be guilty of a crime if he **followed orders that were manifestly unlawful.** This person will not be able to claim subsequently that he should be exonerated on the basis that he was merely following orders.



# Common problems with Documenting Violations of International Criminal Law

Documenting violations of international criminal law can serve a variety of purposes. At the very basic level, the purpose of documentation is both to have a record of what happened and to use the information collected. The information can be used for different purposes, including to stop or deter future violations, to create an accurate historical record, to advocate for change through international forums or the media, to preserve evidence and to ensure accountability. The purpose for which the information is gathered will impact on how that information should be collected and preserved.



This manual is not intended for use by professional investigators. Instead, it is intended for use by **individuals on the ground who are able to collect information.**

The current situation in Syria prevents the prosecution of perpetrators either domestically or internationally. As such, no official criminal investigations are currently taking place within the country.

This guide will address the type of information that individuals on the ground can collect at this stage to assist criminal investigations and professional investigators in the future. As such, everything contained in this section is tailored to this purpose.



Please refer to the Training Guide on Documenting Human Rights Violations for broader concepts of documentation and how to document crimes for other purposes.

As explained above, there are different ways of collecting information based partly on the purpose and use that the individual intends to make of that information. Collecting information for a media campaign is different to collecting information for the purpose of future prosecutions.

Before going into some of the practical issues relating to documentation, the guide will set out some of the issues relating to evidence during criminal trials, as a lot of the issues encountered during these trials start with the documentation and collection of information.



## ① Evidence and information

Evidence in the context of criminal proceedings is something very specific. It is not just information, but **information which is packaged and collected in such a way that it can be used for court.** Information can be used for a variety of purposes, including media or advocacy campaigns, but it cannot be used in court.



This guide uses the word “evidence” to discuss information which can be used in court. The word “evidence” is used differently in the Training Guide on Documenting Human Rights Violations, in particular it is not used exclusively to discuss evidence in court.



### TYPE OF EVIDENCE



#### Oral evidence

*this is usually in the form of witnesses who provide an account of what happened, either to them or others.*



#### Documentary evidence

*these are usually documents, including medical reports, military orders, lists of detainees or videos.*



#### Physical evidence

*These will include DNA tests or weapons.*

This guide will not explain how to collect evidence but it is important to understand some of the issues that arise with evidence in court. Reliability of evidence is one of the major problems during domestic and international trials. These problems are often caused by the manner in which information was initially collected. As such, the next section of this guide provides practical ideas on minimizing some of these problems.

**The prosecution of individuals in court requires evidence, not merely information,** because to find someone guilty of a crime the prosecution has to **prove beyond a reasonable doubt** that the person committed the crime alleged. As such, the court must be sure that the person **committed the crime.**



If the court has a doubt, then the person will not be convicted. Usually, doubt exists where the **evidence** provided before the court is **not of a high enough quality.**

As a result, all evidence needs to be **accurate, credible, relevant and reliable.**



The accuracy and credibility of the evidence will depend on a number of factors, including whether a witness says something which seems to be completely different to what other witnesses are saying. Further, evidence is relevant if it assists in showing what the prosecution is trying to prove.

As such, evidence of a massacre in one part of the country may not be relevant to proving that rapes occurred in a detention facility.



Finally, evidence has to be collected in a way which ensures its reliability, to prove that it has not been tampered with.

For a witness, this means that the investigator should not coach them to say certain things. For a document or physical evidence, this requires the prosecution to be able to show what has happened to the document since it was created. Reliability of the evidence is crucial, because the evidence can be excellent (accurate, credible and relevant) but if it cannot be proved that it is reliable, it will be rendered useless. The court will be entitled to say that it cannot make any findings on the basis of this evidence because it cannot be sure of its provenance.

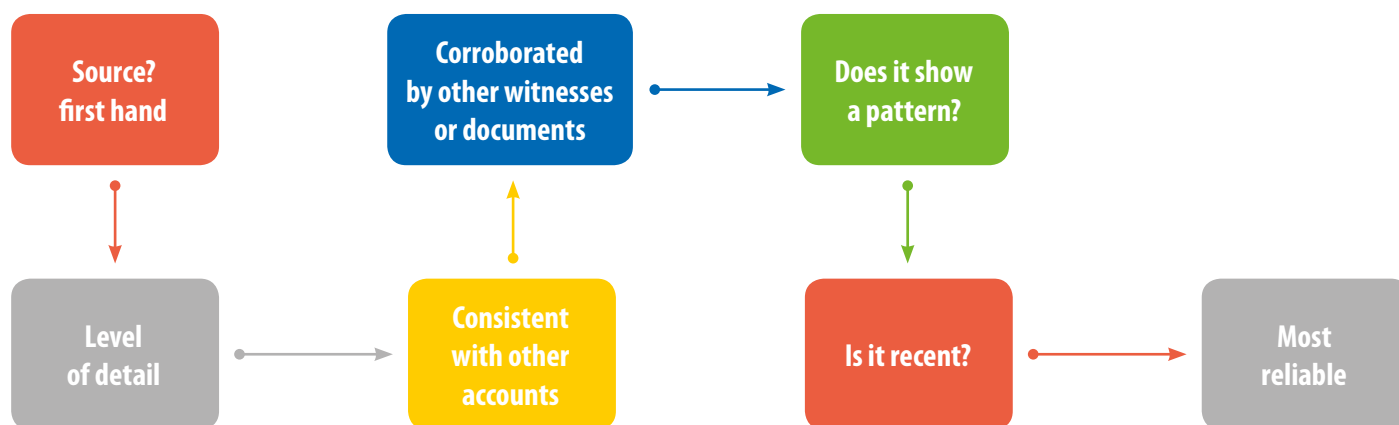




Although users of this guide will be collecting information not evidence, certain steps should still be taken to ensure that the information collected now can be used at a later stage.



## WHAT IS THE MOST RELIABLE EVIDENCE TO BE USED IN COURT?:



*"Investigators also sometimes find it difficult to corroborate information provided by human rights groups who are eager to call international attention to crises. The gap between the assessment of the human rights groups and the evidence was sort of a surprise" Investigator at the ICC, as quoted in the Lubanga Judgment, para. 130, 14 March 2012.*

## ② Problems with evidence during prosecutions

There are a number of problems which arise with evidence during prosecutions at the domestic or international levels, including inconsistencies of witnesses and problems with documentary evidence. These problems are sometimes linked to the **way in which the information was gathered in the first place.**

### Witnesses

One of the common problems in prosecutions of international crimes is inconsistencies in **witness evidence.** This is very important because witnesses are often the only source of evidence on a particular crime.



Inconsistencies within witness evidence arise for a number of reasons. Witness intimidation or threats sometimes cause witnesses to change their account of what happened, as they fear for their safety and that of their family if they implicate certain individuals. In addition, prosecutions of international crimes often take years to come to court.



As a result, witnesses often provide statements to a number of individuals and organisations over the years. These statements are sometimes **inconsistent**, as witnesses' memories fade over the years.



This is one of the main reasons it is important for those documenting international crimes to comply with certain basic requirements when collecting information which may later be used in investigations of international crimes.

### Documents and physical evidence

Another common problem relates to the **authentication of documents or physical evidence** recovered during the investigation phase. As trials for international crimes often take years to come to court and investigations often take place some time after the crimes occurred, authenticating documents and physical evidence can be a difficult task. This is because the document in question may have changed hands repeatedly, its author may no longer be around to explain how it was created, or the memory of its author may have faded with time and they may not be able to explain in details how and for what purpose the document was created.



As a result, it is very important for those collecting information that they have a clear record of how they received documents and physical evidence, how it was created and who has handled it since it came into their possession.

Without clear information indicating what has happened to documents and physical evidence since their creation, the court is unlikely to find that these are reliable and is therefore unlikely to use them in determining the case which it is adjudicating.



# Practical Tools for Documenting Violations of International Criminal Law

## ① Witnesses

In light of the above mentioned problems associated with evidence at trial, you should not be attempting to conduct full witness interviews when collecting information from individuals. In order to be used in criminal prosecutions, a number of requirements and safeguards must be included in witness interviews. This is not something that you would be able to do and it should be left to professional investigators.

✓ You could assist professional investigators by **collecting what is sometimes referred to as lead evidence or information.** This is minimal information from a witness which allows professional investigators in the future to know in brief what incident they witnessed and how to contact them.



### Sexual Violence as a Weapon of War

Security council resolution 1820 recognises "that women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group."

### Problems and type of risks associated with documenting sexual violence

- ▶ Re-victimization
- ▶ Stigmatization or rejection from the victim's families or communities which can lead to loss of livelihood or lack of access to health care and education for the victim's children
- ▶ Punishment by the victim's family, such as being forced to marry or live with the perpetrator
- ▶ Threats and intimidation against the victim or their families by the perpetrator
- ▶ Arrest, if the conduct was prohibited.



In Syria, there are some reports of rape and sexual assault by government forces and non-government forces. However, it is underreported. Women are likely to fear some of the above if they report the crime. In addition, fear of sexual violence is often cited as a reason to leave Syria.

As a result, **documenting sexual violence is very important**, to ensure that the crimes victims have suffered are recorded in an appropriate and timely manner







## HOW TO APPLY THE DO NO HARM PRINCIPLE

- ▶ *What is the purpose of collecting the information? Do you need the information and what are you hoping to achieve?*
- ▶ *Are other groups/persons collecting the same information? If so, can you coordinate with them?*
- ▶ *What are the risks associated with collecting the information, to you and to the witness?*
- ▶ *Once you decide that you need to collect the information, consider the following:*
  - *How will you collect to ensure minimum risk to you and the witness? Can you ensure the safety and security of all the participants?*
  - *Confidentiality*
  - *Informed consent of the witness*
  - *Do you need specialised training to collect the information you want, for instance, documenting sexual violence or crimes against children?*
  - *Can you refer the witness to specialised services if needed?*

## Principles of documentation



The principles of documentation included in this guide are similar to those set out in the Training Guide on Documenting Human Rights Violations and the Training Guide on Definitions and Classifications for Casualty Recorders according to International Humanitarian Law Principles. Please refer to these guides for further information on documenting violations by obtaining information from witnesses and collecting documents.

## DO NO HARM

The golden rule of collecting information and documenting international crimes is to DO NO HARM. What this means in practice is that you should not collect information or document crimes if doing so would harm either yourself or the person you intend to speak to. For example, victims or witnesses may sometimes be harmed by having to relive a painful incident. They may also be targeted for reprisals if it is known that they have spoken to someone about what happened or what they saw.

## Confidentiality and informed consent

Many witnesses do not want others to know that they are providing information about crimes for the reasons listed above including potential threat to them from perpetrators. However, **guaranteeing confidentiality** is very difficult once a witness agrees to talk to you because there are circumstances beyond your control which may mean that the information becomes public. For example, the witness may be seen coming into your office to speak to you, as a result of which others may know that they reported a crime because they know what you do.



As such, you should never promise or guarantee a witness that information they give you will remain confidential. Instead, you can assure the witness that you will do what you can to keep the information confidential, including not sharing the information they give you without their prior consent, and keeping all records safe.

You should also discuss the witness' concerns and how to minimise risks that their name or the information they are providing will become public knowledge. It is important that you are upfront about the risks. Further, if the purpose of gathering the information is eventual use in criminal investigations, the information they provide may be disclosed in the future to professional investigators.



It is good practice to discuss and obtain the witness' agreement to passing on their details to professional investigators in the future, if the need arises.

The witness must therefore provide informed **consent** in relation to the process of giving information. This means that they agree to give information with a full understanding of the possible consequences and of the fact that the information may not remain confidential.





There are nonetheless, a few things that can be done to try to **minimize the risks** relating to **confidentiality**. This includes: keeping contact with witnesses to a minimum; carrying out interviews and meetings with the witness outside of their usual place of residence or work or in places that they would attend in any event and for other reasons, such as a doctor's office; not sharing confidential information with one witness from another witness; and not interviewing witnesses together.



In terms of **records**, you should try to keep confidential records by assigning pseudonyms to individuals so that you do not use their names repeatedly. Further, you need to be careful as to what information is stored electronically, as this is often not secure.

## Impartiality

You must remain **impartial** when collecting information and documenting crimes. This means that you must be open to what the witness or victim is telling you and record it accurately, even if it does not correspond to what you believe happened or what other witnesses have told you. Further, you must not coach the witness or suggest to them what they should be saying.



This means, that you **must ask open questions**, such as "what happened?" and not "Did you see person X at the scene?"

In addition, witnesses should never be paid for the information they are providing. They may be reimbursed for their expenses, for instance, for coming to a meeting but this should be done on the basis of receipts.



## Record keeping

It is important to keep a **timely and accurate record of information received**. It obviously allows you to remember what happened but also enables the emergence of patterns to be seen within the record.

The emergence of patterns are very important for international crimes because it can help to show that certain victims were targeted, that certain crimes were committed within specific institutions, detention centres or by particular agencies, or that crimes were committed in a particular way.

## Training

Speaking to victims and witnesses is a difficult skill which can be developed. **Training should be considered if it is appropriate**. In particular, training can be useful to help you ask the right questions, develop the ability to understand symbols or turns of phrases within a particular cultural context and show empathy. It may also be useful when dealing with certain categories of victims, like children or victims of sexual violence.



## What information should you be collecting?

You will not be collecting evidence or full witness statements for international or domestic prosecutions. These will be collected later by professional investigators on the basis of the information you can provide to them. Instead, you are collecting **basic information** which may be used by professional investigators to investigate international crimes in the future.



As such, it is important to collect information which is **clear, precise and accurate**. The information collected should include a brief incident summary and contact details. It should include essential details only.



## What information should you gather from a witness or victim?

### **WITNESS INFORMATION**

- ▶ Name
- ▶ Contact details
- ▶ Date of report

### **BASIC INCIDENT INFORMATION**

- ▶ What did you see?
- ▶ Where did you see it?
- ▶ When did you see it?
- ▶ Who was victim?
- ▶ Who was perpetrator?
- ▶ Who else was there?  
Contact details?

### **MORE DETAILED INCIDENT INFORMATION, IF APPROPRIATE**

- ▶ Can you describe what the people involved were wearing?
- ▶ What language did they speak?
- ▶ What types of weapons or vehicles did they have?

## ② Documents and physical objects



You are likely to either be given documents or physical objects by someone or to collect them yourself.

As before, you should **never accept or collect documents or physical objects** if you cannot ensure their **safety** or if they pose a **threat** to your **security**.

The same general guidelines apply when dealing with documents and objects as when dealing with witnesses. They will not be repeated in detail here. Briefly, you should be upfront with the person who is giving you the documents as to what you can and



cannot do. You should never promise to do anything with a document that is unlikely to be possible. Further, you cannot guarantee confidentiality and you should not promise that you can keep the document confidential.

As explained above, how you store a document or an object is of vital importance. If its origin and authenticity cannot be guaranteed, then a court is unlikely to allow the prosecution to use it and to rely on it.



**The chain of custody** is a record of how and what documents are collected and who handles them from the moment of collection. The chain of custody starts at the time a document is collected and ends when it is presented in court. For a document to be used in court, the court will need to be satisfied of the way in which it was created, collected and preserved before it arrived in court. If there are gaps in the information concerning a document, and for instance, there is no information about who kept a document for a certain period of time, the validity of that document is greatly diminished because the court cannot be sure that the document was not tampered with.

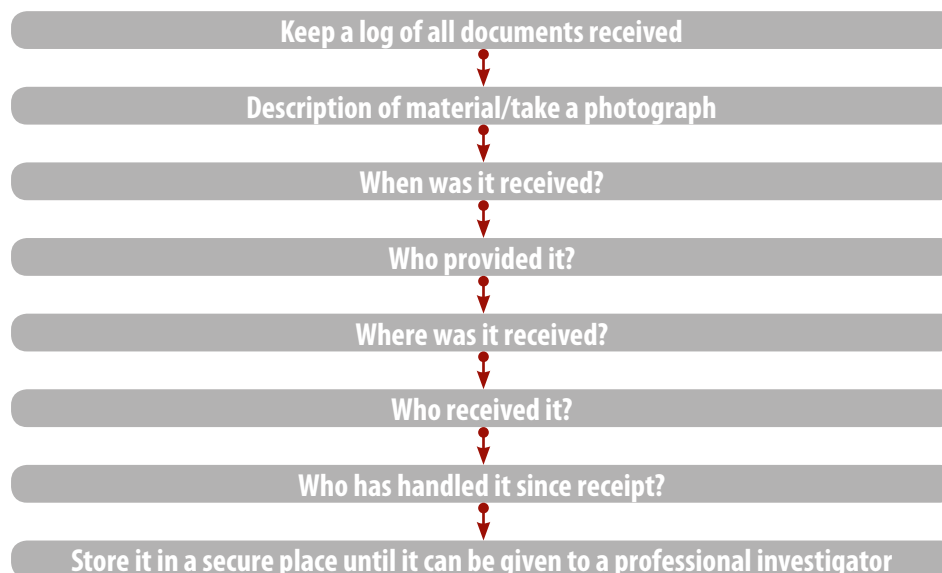


As a general rule, the lesser number of people who handle the information the better as it is easier to keep track of what happens to a document when it does not change hands too often.



In practice, this means that if you are given a document, you need to keep a clear record of what you received, how and from whom, including their contact details. You then need to keep a record of every time you use it, move it, or give it to someone.

## How to record the chain of custody?









# Annexes

PART 01

PART 02

PART 03

PART 04

## Annex 1 Fact Sheets



### USEFUL DEFINITIONS

- ▶ **Actus Reus of a crime**  
*material element of the crime or the conduct itself.*
- ▶ **Chain of custody**  
*record of the document collected, including how they were collected and who handled them.*
- ▶ **Evidence to be used in criminal proceedings**  
*information which is collected and packaged in a way that can be used in court.*
- ▶ **International criminal law**  
*Body of law which creates individual criminal responsibility for certain crimes, known as international crimes, including genocide, war crimes and crimes against humanity.*
- ▶ **International humanitarian law**  
*Body of law which regulates how wars are conducted and seeks to limit the effect of armed conflict on civilians.*
- ▶ **International human rights law**  
*Body of law which imposes obligations on states to protect and promote the fundamental rights of individuals and groups.*
- ▶ **Mens rea of a crime**  
*mental element of the crime or the knowledge or intention of the perpetrator.*
- ▶ **Mode of liability**  
*manner in which someone commits or is responsible for a crime.*



### CRIMES AGAINST HUMANITY

**CAH have two components, article 7 of the Rome Statute**

- ▶ *The underlying crime, for example: Murder, Torture, rape, sexual violence, deportation or forcible transfers, enforced disappearance.*
- ▶ *The context in which the crime was committed. The underlying crimes become crimes against humanity when they are committed "as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack"*
  - *Attack – multiple underlying acts*
  - *Directed against a civilian population – non civilians within the group may not necessarily change the civilian nature of the group*
  - *Widespread or systematic – scale of the attack, acts are not random, significant resources are mobilised for the attack, participation of civilian and military officials.*
  - *Attack is pursuant to a state policy*
  - *Accused knows (1) that there is an attack, and (2) that his acts form part of the attack*
  - *Link between the acts of the accused and the attack*

NB –

- Crimes against Humanity do not require the existence of an armed conflict.
- Crimes against Humanity are not isolated incidents and must be part of the widespread or systematic attack.





### **MODE OF LIABILITY**

*Articles 25 and 28 of the Rome statute*

- ▶ *Individual*
- ▶ *Aid, abet or assist*
- ▶ *Order, solicit or induce*
- ▶ *By omission*
- ▶ *Jointly with others – co-perpetration or joint criminal enterprise*
- ▶ *Command responsibility*
- ▶ *Following orders which are manifestly unlawful*



### **WAR CRIMES**

*War crimes have two components, article 8 of the Rome Statute*

- ▶ *The underlying crime, for example: murder, torture or cruel treatment, taking hostages, rape, sexual violence, attacking civilians.*
- ▶ *The context in which the crime was committed:*
  - *Is there an international or non-international armed conflict?*
  - *The accused's conduct took place in the context of and be associated with the armed conflict*
  - *The accused must be aware of that context.*





# Annex 2

## Sample case study with relevant questions / discussion points

### Scenario

The government of Abbas is engaged in a war with various armed groups in different parts of the country. As part of an offensive to regain hold of the city of Zoran, the government decides to bomb various parts of the city, including an area where ammunitions are stored by the opposition groups and a hospital where members of the opposition armed groups are being treated. General Amir is in charge of the offensive on behalf of the government and he is the one who orders the strikes against the targets in Zoran. Soldiers Karim and Hamid are on duty when the order from General Amir comes through and they execute it, knowing what the targets are.

Once the government has regained control of Zoran, it sets up various checkpoints manned by the army to enter and leave Zoran. Armed groups fighting the government have decided to try to regain control of checkpoint A. They attack it. The army fights back and kills 3 members of the armed group, including a woman.

Meanwhile, at checkpoint B, a family has been stopped leaving the city to go and work their land. They are accused of belonging to opposition armed groups. All family members, the father (Abdul), the mother (Badra), the son (Wajid) and the daughter (Chafika), are taken out of their car. Abdul is taken away by the soldier Karim and has not been seen since. Badra has tried to obtain information as to his whereabouts but has not been successful. Wajid is taken to a detention centre in a nearby city. He is initially put into 2 by 2 meter cell with 15 other detainees. He is given one meal every 2 days. He cannot sleep because there is no space for him to lie down in the cell and in any event, the guards play loud rock music for 12 hours at a time during the night. He is then interviewed by General Amir and during the interview his genitals are tied. Meanwhile, back at the checkpoint, Chafika is stripped naked by Soldier Hamid and required to stand in front of the checkpoint for 2 hours. Badra is taken away by the soldier Karim to a house with other women. She is required to have sex three times a day with various government officials while the soldier Karim guards the house in which the women are held.



At checkpoint C, the opposition armed groups, led by General Djamel, have been more successful and have regained control of the checkpoint. They have captured and disarmed 2 of the soldiers who were manning the check point. In light of the fact that they are soldiers, the leader of the opposition group, has decided to make an example of them and ordered a public execution of both soldiers. Opposition member Fouad volunteers to carry out the execution and decides to torture the two soldiers before killing them.

The opposition armed groups are being given arms and satellite phones by Gibril, a rich businessman, who lives outside of the country but who is against the government. Gibril has been funding and supporting the armed groups since the beginning of the war.

### Discussion points

This scenario can be used to illustrate and work through a number of points during the training. Provide the participants with the relevant excerpts from the Rome Statute and the Elements of the Crime. Split them into small groups. Ask them to answer the following questions, for reporting back to the group:

- ▶ What crimes are being committed?
- ▶ Who is guilty of those crimes and under which mode of liability?
- ▶ Documenting what has happened to the victims – how would you approach them, what issues are likely to arise, how would you deal with these issues, what types of questions would you ask?



## Annex 3



# Sample multiple choice questions

answers 1.b; 2.d; 3.d; 4.c; 5.d

**1. Amir takes a TV from a shop without paying for it or intending to pay for it. He has committed the crime of theft.**

**What is the conduct or Actus Reus which constitutes this crime?**

- a. The fact that he took the TV from a shop
- b. The act of taking the TV
- c. The fact that he had no money to pay for the TV
- d. His intention not to pay for the TV.

**2. What is the mental element or the Mens Rea for this crime?**

- a. The fact that he took the TV from a shop
- b. The act of taking the TV
- c. The fact that he had no money to pay for the TV
- d. His intention not to pay for the TV.

**3. Soldiers in battalion A doing house searches in a village rape all the women in that village. Their commander was not present.**

**What evidence might show that he was not in effective control of his battalion?**

- a. Army organisational charts
- b. Military orders
- c. Evidence from his second in command about the chain of command
- d. Documents showing that he was on long term sick leave at the time of the incident

**4. What factor would not show that an attack is widespread or systematic, within the meaning of crimes against humanity?**

- a. High number of victims
- b. Multiple attacks
- c. Condemnation and non-participation in the attack by state officials
- d. Use of significant state resources for the attack

**5. Which type of evidence from the list below is unlikely to be allowed in a court?**

- a. Oral evidence given by a witness under oath
- b. Photographs produced by the photographer
- c. Witness statement taken by an investigator with a declaration of truth
- d. Undated video footage of a massacre



# Annex 4

## Sample Agendas

### ONE DAY

#### FIRST SESSION

##### What is international Criminal law?

- Definition of ICL
- Forums where ICL can be applied
- Elements of a crime
- War Crimes
- Crimes against Humanity

#### SECOND SESSION

##### Criminal liability

- Modes of liability
- Practical exercise: scenario to cover both substantive ICL and modes of liability

#### THIRD SESSION

##### Documenting international crimes

- What is evidence?
- Purpose of documentation
- Collecting information from witnesses/victims
- Collecting documents

### TWO DAYS

#### FIRST DAY

##### FIRST SESSION

##### Introduction to International Criminal Law

- Definition of international criminal law
- Origins of international criminal law
- Difference between international criminal law and international human rights law
- Forums where international criminal law can be applied
- Discussion: where should the current violations of international criminal law be tried and why?

##### SECOND SESSION

##### Substantive crimes in International Criminal Law

- Elements of a crime
- War Crimes
- Crimes Against Humanity
- Practical exercise: scenario

##### THIRD SESSION

##### Criminal liability

- Ordering, instigating, Aiding and abetting, etc
- Command responsibility
- JCE
- Superior orders
- Practical exercise: scenario

#### SECOND DAY

##### FIRST SESSION

##### Evidence

- Information v evidence
- Type of evidence
- Witnesses
- Documents

##### SECOND SESSION

##### Documenting international crimes

- Purpose of documentation
- Manner in which documentation is collected will impact on its use Practical issues:
  - Collecting information from witnesses/victims
  - Collecting documents
- Practical exercise: Scenario





## Annex 5 Sources

### Websites

**The international criminal court website**

[www.icc-cpi.int/Pages/default.aspx](http://www.icc-cpi.int/Pages/default.aspx)

**The international criminal tribunal for the former Yugoslavia Case law database**

[www.unmict.org/en/cases/ict-icty-case-law-database](http://www.unmict.org/en/cases/ict-icty-case-law-database)

**International Committee of the Red Cross, war and law website**

[www.icrc.org/en/war-and-law](http://www.icrc.org/en/war-and-law)

**The international committee of the red cross, women and war website**

[www.icrc.org/en/war-and-law/protected-persons/women](http://www.icrc.org/en/war-and-law/protected-persons/women)

**Syrian Commission of Inquiry website**

[www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx](http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx)

**Peace Palace library, online guide on international criminal law**

[www.peacepalacelibrary.nl/research-guides/international-criminal-law/international-criminal-law](http://www.peacepalacelibrary.nl/research-guides/international-criminal-law/international-criminal-law)



## Documents/publications

### **The Rome Statute of the International Criminal Court, available at**

[www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf](http://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf) (English)

**and**

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