Workshop on Documentation Protocols and Best Practices
Gaziantep, Turkey 24 - 26 August 2016

Supported by:
Background

On 24-26 August 2016, No Peace Without Justice (NPWJ) organised a workshop on ‘Documentation Protocols and Best Practices’, which was held in Gaziantep, Turkey with the financial support of the European Commission and Open Society Foundation. The workshop’s main objectives were to examine three documentation protocols and best practices, to see how and if they would be useful for Syrian documentation organisations.

The conflict in Syria has claimed a staggering numbers of lives; human rights abuses are widespread, in particular Sexual and Gender Based Violence (SGBV) against women and men, girls and boys, as well as a range of violations against or affecting children, for which there is no accountability. Important documentation work is being done by Syrian organisations, but they have identified a need for improved knowledge, capacity and improved coordination. On 26-28 March 2016, NPWJ organised a roundtable on “Accountability, Sexual and Gender Based Violence, Women’s Rights and Children’s Rights in Syria”, at which many organisations working on documentation indicated a need to improve their knowledge on a range of issues including best practices for the collection of information; for conducting their work so it causes no further harm to anyone involved in the process; and for collecting and storing information in such a way that it has the potential to be used as evidence in future prosecutions and other accountability processes.

There are several tools available to assist those working on documentation, which offer various approaches and guidance on basic principles. There are three recent tools offering specialised assistance on SGBV, including SGBV against men and boys, and on violations against children. The three tools, which were the focus of the workshop are: the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, published by the UK in June 2014; the Anti-Impunity Tool: Guidance for Investigating and Prosecuting Serious Violations against Children in Armed Conflict, published by Conflict Dynamics International in December 2015; and the Guidelines on investigation of conflict-related SGBV against Men and Boys, published by the Institute for International Criminal Investigations in February 2016. However, most Syrian organisations were neither aware of nor using these tools, which deprives them of support in conducting credible, quality work that is sensitive and considerate to victims and to their staff, and these tools remain largely untested by practitioners in the field. Therefore the aim of the workshop was to introduce these protocols to the group and see how well they fit with and how they can be used to help documenters in the Syrian context.

Structure of the Workshop

NPWJ conducted a small scoping assessment with key SGBV, Child Rights and documentation actors to understand their knowledge of, experiences with and needs concerning the three protocols to assess interest in the training. The results of the assessment indicated that most of the groups contacted were not aware of the protocols but were very interested in learning about them. Therefore NPWJ designed and organised the workshop with the aim of raising awareness and understanding of the protocols, in order for them to develop skills for best practice, while at the same time exploring the strengths and weaknesses of each tool and testing their utility for Syrian activists, thereby benefiting the experts who worked on the protocols from their insight and experience on the ground.

All the protocols were translated and send to the participants prior to the workshop to give them the opportunity to read and familiarise themselves with the documents first.
Experts

The workshop was led by three international experts on criminal investigations and prosecutions at the highest level and those involved in drafting the tools under discussion, who led the workshop. Facilitators and experts during the 3-day workshop included Maxine Marcus, an international criminal prosecutor and investigator with around 20 years’ international criminal practice experience, both in field based investigation and in trial advocacy; Alison Smith, Legal Counsel and Director of the International Criminal Justice Program for No Peace Without Justice; and Mike Dixon a practitioner specialising in the management and investigation of grave crimes against international law. The experts were joined by the NPWJ Syria team; Rami Nakhla, Nicola West, Alaa Abed, Muge Eraslan and Mustafa Ghashim, in facilitating the workshop.

Participants

The workshop participants consisted of representatives from fourteen Syrian CSOs and NGOs who work on documentation, SGBV and other crimes against men, women, boys and girls, with a focus on smaller organisations who could particularly benefit from this workshop. By developing the documentation skills of these organisations, the workshop was also designed to strengthen assistance to victims of violations on the ground while also helping to challenge abuses and address the denial of justice to survivors.

These organisations who attended the workshop were: Syria Justice and Accountability Center (SJAC), Physicians and Lawyers for Human Rights (PLHR), Alkawakbi Center/ the Transitional Justice Coordination Group (TJCG)/ Free Syrian Lawyers Aggregation, Start Point, Monitoring Center of Human Rights, Badael, Free Syrian Lawyers Association, Syrian Institute for Justice and Accountability (SIJA), Amal Center for Healing and Advocacy, Human Rights Guardians (HRG), Violation Documentation Center (VDC), Syrian Network for Human Rights (SNHR) and Urnammu. Three participants from Hurras Network joined the workshop over Skype. Eight women and nine men participated in the workshop.

Day 1 – 23 August

NPWJ Syria Project Coordinator, Rami Nakhla, opened the workshop by welcoming all the participants and thanking them for taking the time to attend. He highlighted the importance of the work they are all doing, explained the background of the workshop and laid out its key objectives. He also provided a short brief about NPWJ’s experience and Syria work, highlighting that our projects aims to respond to the needs of Syrian organisations.

The experts introduced themselves and explained their experiences in the documentation field and how they hoped to support the participants. The participants then introduced their organisations briefly and the work they do on documentation, SGBV against women, girls, boys and men, interviewing survivors, advocacy, women’s rights and various other sectors.
Presentation of aims of workshop and identification of expectations

Mr Nakhla again briefly went over the objectives of the workshop; for the participants to learn about the protocols in order to benefit from them to improve their work and for the experts to obtain feedback, advice and comments about how the protocols suit the Syrian context for them to be able to strengthen these tools from learning from experiences on the ground. While these are the goals of the organisers, the objectives should come from the expectations of the participants.

The participants then discussed their expectations for the workshop. They raised many issues and expectations such as conducting advocacy towards the international community about the violations happening in Syria, as well as trying to improve the documentation tools that their staff are using inside Syria and outside on the topics of SGBV and child recruitment.

Some participants were keen to share experiences from the Syrian situation, highlighting the cultural and societal effects. Other participants felt that as Syrians are a closed and conservative society, it was a good chance and very useful to have a space to talk about and work on these sensitive issues, and keep working on reducing the culture of shame. Some were especially keen to learn more specifically about violations against men as fear and stigma against male victims is very high.

Another area that participants hoped that the experts could advise them on was how to convince victims to share information and experiences, by making them understand that there evidence is key to the possibility of holding people accountable in the future. Finally, many participants shared their frustration and despair that many of their staff are losing motivation as the death toll simply continues to rise in Syria while there is no justice in sight.

Although the participants expressed their disappointment on the lack of accountability for crimes in Syria and their frustration at the international community for not doing more, the experts emphasised the need to be hopeful that justice will come one day and the work that they are doing now is critical to that.

The experts listened to their expectations and explained that they were there as a resource to the participants to share some experiences and technical expertise in order to strengthen the participants’ great work.

Documenting violations – overview and challenges on documenting SGBV and crimes against children

After sharing the expectations, Ms Smith asked the participants to share some of their practical and technical challenges on documenting violations in general and on SGBV against women and men and violations against children. The experts were keen to understand what might be preventing the participants from doing their work, how they manage due to limited resources and how the participants prioritise what they are going to work on so as to shape subsequent discussions.

Challenges:

Culturally there are strong feelings of shame associated with rape for the victims and their family, therefore one major challenge is that people do not want to share and speak about these violations.
Some other survivors are wary of sharing their experiences as they do not see that there will be any outcome from doing so.

Challenges to the documentation organisations themselves included fear for the safety of their staff when they work in the field collecting evidence from armed groups and the regime officials, as well as to not wanting to put survivors and their families under threat.

Another challenge mentioned by the participants is the lack of expertise of those who are working in the documentation field. Many documenters come from other non-legal backgrounds and have not received proper training. The difficulty and danger of crossing the Turkish-Syrian border means that even when there is training available, many people in Syria cannot access it. Furthermore funding and resources are hard to come by for documentation organisations, as other lifesaving aid is prioritised.

Despite the challenges, participants are trying to build trust between the investigator and survivor and make them aware about the importance of documentation and the need not to lose hope. They continue their work without giving any promise during the interviews with the survivors.

Priorities:

Some participants explained that their focus is on documenting sexual violence, rape, killing under torture, while others focus on documenting violations against children because they consider them as very vulnerable. The experts clarified that they were not necessarily referring to ‘themes’ of focus such as SGBV or children but more questions about who to decide to interview? Whether to follow up on interviews or conduct new ones? Whether to look at one violation but not focus on a specific time or place, or to look at one location and document all the crimes in that one place for a period of time, or to look at one perpetrator group and the crimes they commit in one area? It is not possible to do all of this at the same time, so the experts were keen to know how the participants choose these things. The experts gave examples of their own experiences where they did documentation in different ways for example Ms Smith had worked on documenting crimes in one specific area in Kosovo for a short period of time, enabling a complete and detailed picture for that geographic area, while the 9-year investigation in Afghanistan that NPWJ supported looked at a broader picture across the whole country, which also took considerable resources.

Some participants said at this time they do not use a system of prioritisation but interview everyone, for every crime, as they felt everyone has the right to share their experiences. Others select one type of violation such as SGBV and develop a comprehensive working plan from A to Z – where they process all information they receive on the topic. Others deal with victims of SGBV in the refugee community in Turkey, so their focus is already much reduced. Another group explained how they focus on a few themes and collect information or complete missing information to be sent to Special Rapporteurs for advocacy. This reflected the focus of another point by Ms Marcus about whether the evidence collected was aimed at being analysed and used for prosecution in a court or for advocacy.

One participant said that he was not sure what the best way to prioritise was and asked for advice. He explained that their previous work had been very reactive to specific events but not more thought out than that and they were now trying to organize themselves better and prioritise their
work. Ms Marcus explained that there are many ways to prioritise work and that they do not all have to be the same. She highlighted previous work that she had done, with NPWJ, in supporting one of the organisations present who did a very in depth study of one incident, collecting as much evidence as possible on this case in order to have a court ready case, as a positive example. Her session in the afternoon would be used to go over the key elements needed to have to bring a case to international courts, which would help some of the organisations to think about how to prioritise their work.

Ms Smith picked up on the point one participant made about not disregarding anything that the interviewee wants to say and highlighted how important this is, as extra information they give could be important for providing leads for other things. It is important not to be too rigid when asking questions so people do not leave information out, but to guide them through the conversation and let them tell their story. Leading on from this point, the experts also tried to understand how much sharing of information is taking place between different organisations. One organisation stated that they do not share any information as they tell their interviewees they will not, while other organisations do cooperate with each other somewhat.

Mr Dixon finished the session commenting on the importance of Security Risk Management and highlighting the need of organisational staff to take care of themselves so that they are able to continue their work in the best way possible.


This session introduced participants to the purpose of the Protocol, how it came into being, its use and some of its main elements.

Ms Marcus began the session by clarifying the difference between Human Rights Law and International Criminal Law. Human Rights courts adjudicate Human Rights violations by the State, which are civil cases where no one goes to jail. International Criminal Law serves three specific crimes, 1) War Crimes, 2) Crimes Against Humanity and 3) Genocide. These are criminal cases where an individual is held accountable. Ms Marcus clarified that of course in Syria the acts committed by Regime are also Human Rights violations, however the focus of this workshop is on International Criminal Law and crimes by individuals, as this is the focus of the documentation work conducted by the participant’s organisations.

Ms Marcus proceeded to present a three part framework for International Crimes. An International Crime has 3 categories of evidence, any international case needs to have evidence for all 3 categories otherwise the case is not good for court.

Category 1) states what happened - clearly identifying what acts took place.
Category 2) focuses on what makes it an international crime and identifies which category the crime is; a war crime, a crime against humanity, genocide.
Category 3) focuses on identifying the perpetrator and identifying how the act was committed. For example it is important to identify whether the perpetrator decided to do it on their own, as a group, or did they instigate someone else? Or was there someone in a position of authority who knew what was happening but did not prevent or punish it?
It does not matter how much information you obtain from an interview if you do not have information from each category. Ms Marcus emphasised the need to try and get all of this information the first time round as it is hard on the victim to interview them again. It also does not look as good in court, having a full case serves to protect interviewees so they are not questioned over and over in court because of gaps the documenter left out. Ms Marcus distributed an evidence check list and expressed that this and the protocol tool being reviewed aimed to help ensure that documenters collected all the key evidence and avoid gaps.

The participants reviewed the document developed by Ms Marcus; ‘Evidence Checklist – for Investigation of SGBV as International Criminal Law Violations’. This useful document provides information for the three necessary categories that evidence is needed for to prove the following crimes:
- Rape, as a War Crime and/or Crime Against Humanity
- Sexual Slavery as a War Crime and/or a Crime Against Humanity
- Enforced Sterilisation as a War Crime, and/or a Crime Against Humanity
- Forced Pregnancy as a War Crime, and/or a Crime Against Humanity
- Sexual violence as a War Crime
- Rape as an act of Genocide
- Torture/Cruel Treatment as a War Crime, and/or a Crime Against Humanity
- Persecution as a Crime Against Humanity
- Outrages on personal dignity as a War Crime

Once you have defined the action (category 1) it is fundamental to identify what kind of crime it is (category 2) as this will determine the different things you need to prove. Ms Marcus explained that to prove a War Crime, you need to prove that it is an armed conflict (therefore the crimes committed by the regime before the conflict began could not be counted as a War Crime). Even though it may feel very obvious to everyone that there is a conflict in Syria, for the case to be tried as a War Crime it is necessary to use evidence to prove when the hostility started. The crimes committed by the Syrian regime before the violence in Syria could be classified as a ‘conflict’, such as targeting of protestors, mass arrests and rape in targeted communities by government militias, are not likely to be counted as War Crimes, but they can almost certainly be counted as Crimes Against Humanity, as it is possible to show lots of crimes, over time and in patterns and targeting civilians. One difficulty that arises once the armed conflict began is how to prove crimes committed were against civilians not combatants. In regards to rape in the current Syrian context, many cases will be considered as War Crimes and Crimes Against Humanity (once the war started).

When looking at the third crime – Genocide, Ms Marcus highlighted how Genocide is a very emotive subject. Often people try to prove Genocide, they focus on this crime as they feel it ‘means more’ than any other crime and therefore they feel it is the best way to represent the pain and suffering that they or their people have endured. However people are often very disappointed by following this route as Genocide is extremely difficult to prove. You need to prove intent to destroy a group in whole or in part. For example they were not removed from their land because someone else wanted that land or for a war tactic but it was done with the intent to destroy that group. You cannot have genocide of gender or group affiliation, only ethnic, religious, national and racial groups and without the evidence to destroy you cannot prove it. Several participants then pointed to events
that have taken place in the Syrian context such as the Sieges, asking they would count as Genocide. However Ms Marcus advised the group not to limit themselves to only focusing on genocide as it is much less likely to get to court, but to also focus their attention on Crimes Against Humanity and War Crimes as a prosecution under one of these titles is extremely significant.

The conversation went on to focus on the topic of ‘responsibility’ (Category 3). There are three types of responsibility, a) Direct Responsibility, b) Command Responsibility – Military, c) Command Responsibility – Civilian. Ms Marcus highlighted that it is often difficult to prove direct orders as people, especially the Regime, are careful not to give written orders or even clear verbal orders. The Regime is careful with the language they use because they know it can be used against them, so they often use the language of ‘targeting combatants’. For superior authority it is necessary to prove they had control over the direct perpetrators, it is also their duty to prevent and to punish. This is also very difficult to prove as commanders will claim they had no knowledge of, and did not approve, the action of their troops. For example, they may even claim to have distributed the Geneva Convention to all forces to try and prove prevention.

In conclusion to the session on the Evidence checklist, Ms Marcus reiterated that you only have a court worthy case if you have evidence and proof for all three categories. The evidence checklist is useful to refer to at every stage of documenting a case; at the beginning – to be able to plan and prioritise your work, in the middle – to review where you are, and at the end to double check nothing is missing.

After the break Ms Marcus explained how the protocol was developed and her involvement in the process and highlighted that the protocol was designed to help people exactly like the present organisations – civil society who may or may not have a background in documentation, not highly trained people, but who are doing the work nonetheless.

She then went on to refer to useful parts of the document. Part 1 of the document referred to her evidence checklist, specifically section 2.3 matching Category 1, 2.4 matching Category 2, and 2.5 matching Category 3. Ms Marcus also highlighted Annex 1- an ‘Evidence Workbook’ which she wrote. This section is divided up into categories and has example questions that can be asked in order to try and obtain the correct evidence for the type of case you are working on. Examples are heavily based on witness evidence, as this is often the case. She encouraged the group not to be disheartened by this as it is possible to prove cases on witness evidence alone.

Ms Marcus emphasised the importance of focusing on details all the way through the process and that many points in the protocol document are small things you can do from the start of your investigation that will have a big impact in court later. For example when you are interviewing someone, you may not think much of writing your own comments in the interview notes, however this should never be done as it may cause problems later. The original interview notes will be used in court and if you have commented or analysed the interviewer’s comments on the same document, it will look as if you were questioning the witness statement. So a simple thing is to remember to always write your own notes on a separate paper.

Interviewing is covered in Section 7, which also includes a checklist and advice for interviewing techniques such as refraining from giving answers yourself, never assume any fact and not forcing your interviewee to remember things they cannot remember – as you will risk them making
something up just to give you an answer. Other advice included: always behave in a way which respects and empowers the witness, prioritise the witness over the evidence, do not make assumptions, understand that trauma and credibility do not affect each other.

After pointing out several other key parts of the document, Ms Marcus explained that a revised version on the document is currently being worked on and will come out next year. There is still time to edit it so she encouraged the participants to review the protocol critically and in particular highlight; ‘What doesn’t work for the Syrian scenario and why?’ or ‘What is missing that would benefit the Syrian scenario?’

The discussion then led onto the topic of credibility, witness testimonies as the only evidence and specifically the topic of rape. While discussing the issue of rape in the Syrian context and how to prove it is part of widespread violence to classify it under International Criminal Law, some of the participants expressed their concern that having witness testimony for rape was not credible enough to use for a case. Ms Marcus challenged this assumption and clarified that testimony alone is enough to make a case, and she has experienced this many times herself through her work in the field. She acknowledged that this is a lot of discrimination in the justice system and that sadly, more conservative or sexist people are quick to challenge the credibility of a woman when she says she has been raped. This tendency to disbelieve women on this issue more than other crimes, or male witnesses, is part of a larger patriarchal structure, not only in this region but globally. She again reiterated to the group that unless they have a good reason not to believe someone, then they should not assume someone’s testimony is not true. It is incredibly rare that someone would fabricate such a thing. Of course if there is other evidence available, such as a medical report, then definitely use it, but do not think that you do not have a case if you only have a testimony.

A witness testimony is evidence, however you still have to prove it. This can be done through corroboration for example. Ms Marcus drew a diagram to show how you can build a case of a survivor of sexual violence with no eye or ear witnesses. For example they started in one place (A), then went to another (B), and were finally arrested where the sexual crime took place (C). Therefore you get witnesses in place A to say what happened there- which matched the witness evidence, then you do the same in place B – then the victim’s evidence becomes more credible even if you do not have visual/audio evidence of the sexual act, you still improve the credibility of the survivor, which helps to build their case.

Ms Marcus also mentioned the importance of storing documents, other physical information, digital information and storing medical legal/forensic information in the appropriate way so that it remains credible.

At the end of the day participants were asked to write down the answers to four questions asked by the experts: What was useful today? What was not useful today? What do you need further explanation on? What else do you want in the workshop? The answers were reviewed by the experts and NPWJ team who discussed them after the session and decided how to address the points raised in the following days of the workshop.
Day 2 – 24 August

The next day focused on the Anti-Impunity Toolkit and the Guidelines on SGBV against Men and Boys. The Participants identified their main challenges documenting violations against children in small groups and then presented them for discussion. The discussion focused on how the Toolkit and the guidelines could address their challenges and identified gaps that could be brought to the attention of the drafters.

Anti-Impunity Tool: Guidance for Investigating and Prosecuting Serious Violations against Children in Armed Conflict – Alison Smith

Participants were asked to talk about their priorities in documenting violations against children. Many points were raised including: physical safety of children, their mental health, the recruitment of children, their lack of access to education and healthcare. The group highlighted their commitment to supporting children and documenting violations against them as they are the future of Syria.

Monitoring and reporting mechanisms were discussed, and Ms Smith explained that the Secretary General of the UN makes an annual report to the Security Council on the six grave violations against children and UNICEF provides a lot of information to the Secretary General for this report. She highlighted that the information collected by the participating organizations of violations against children could be very useful to give to UNICEF to help them form their reports. If any organizations are interested Ms Smith offered to put them in touch with her contact from UNICEF. She also highlighted that other avenues for their information are the Special Representative on violence against children and the Special Representative on children in armed conflict, who make regular reports, as well as the Committee on the Rights of the Child (CRC). When asked by a participant if the many reports written by NGOs which put statistics about the number of children injured, out of school etc could be used as evidence for cases on crimes against children, the experts responded that they may be used as part of the background information but it is highly unlikely that could be used as direct evidence. Ms Marcus explained that regular reports by NGOs will probably not be considered by a court as direct evidence. Statistical analyses of data is only usable in court if it was done by a highly trained person – it will be highly scrutinised and it is likely the court will want to look at the underlying data.

Ms Smith then highlighted the two crimes orientated around children in the Rome Statute; 1) Crimes committed directly against children, 2) Crimes which disproportionately affect children. Ms Smith also explained the three parts of recruitment. 1) The conscription of children to forcibly join an armed group. 2) Enlistment, the voluntary joining of an armed group – even if the child wants to join or they have parental consent, it is not allowed for children to enlist in an armed group, consent is not a defence. 3) Using children to participate actively in hostilities, i.e. make a direct contribution to the war effort. The most of obvious involvement of children is through fighting but it is not the only way they are used, it could also include going on scouting missions to see where the enemy is, using a child at checkpoints, and using them to carry arms.

Under the Rome Statute it is prohibited to recruit anyone to fight below the age of fifteen, however Syria signed the Optional Protocol which states that no one below the age of eighteen can be recruited, therefore in the Syrian context a recruiter can be prosecuted if they have anyone under the
age of 18 in their ranks, even if the child joined willingly. However, if the child is recruited willingly or forced, even if they are under eighteen - they become a combatant and now they can be a valid target and targeting them is not considered a war crime. A discussion then ensued on the different ways children can be considered to be part of an armed group. For activities such as cooking and cleaning for troops, it depends on the context. If it is in quarters far from fighting it may not be considered a war crime but if it is in a conflict zone and for the whole battalion, it may be. If children are wearing a uniform or hold a membership card this is often representative of enlistment but not always conclusive, it depends on the context. Some participants raised personal experiences of relatives being forcibly recruited and the experts shared their thoughts and advice on the situation.

Another interesting case was discussed regarding the recent action that civilians of Aleppo had taken in response to being under siege from the Regime forces. One participant asked if children burning tires in Aleppo to try and create smoke so that the regime planes could not identify targets to bomb made them a valid target. Ms Marcus responded that it would be necessary to prove that it was part of an armed strategy, not just children doing it on their own. It was clarified that an armed group had asked civilians to take this action as a defensive measure. Which meant that in this situation, the children in question would probably have lost their civilian status, allowing the regime to argue that they are legitimately targeting combatants. This example highlights the complications and importance of status and how sometimes people may unintentionally facilitate the loss of civilian status of some people, especially children, when they ask them to do something.

One person asked about whether schools have a protective status from shelling. Ms Smith clarified that the targeting of the schools and hospitals is considered as a war crime if it is functioning as such and only hosting civilians, however if armed groups are sheltering there, storing weapons, or using the place as part of an armed strategy then targeting them is not considered as a war crime.

The experts continued answering questions and clarifying specific cases asked by participants, especially in relation to the distinctions between combatants and civilians and what may constitute a legitimate military target, drawing on experiences from Syria.

**Guidelines on investigation of conflict-related SGBV against Men and Boys – Mike Dixon**

Mr Dixon began the session by asking the participants if any of their organisations prioritise or have SGBV against men and boy as their main focus. They responded that it was not the main focus for any of them but that they do deal with such cases as part of their work. Participants admitted that this is partially the case because it is such a difficult topic in Syria, both for people to want to work on it and for victims to come forward. In response to the comments about the difficulties of cultural norms, Mr Dixon highlighted that on this topic, the feelings and experience in Syria is typical of the world. There is a very slow public acceptance that things like this exist, it remains very sensitive and controversial all around the world. There are lawyers and practitioners who do focus on this topic more now, but there is a need to approach it more effectively and to do so there is a need to hear about it much more.
Sexual based violence is not about sex, it is about violence. It is always a horrendous act, however due to our masculine society SGBV against men often takes on a specific role to humiliate and degrade them, which makes their ability to come forward often much harder. However there is good work being done, such as the development of these guidelines, which came into existence due to a lack of useful existing material. The purpose of these guidelines is to assist documenters and investigators. It is meant to compliment as a guide to best practices as well as to raise awareness and sensitivity. Mr Dixon highlighted that the Guidelines should be used in a practical way but if it needs adapting to your particular situation that is fine. It should be made useful for your context, it is not a step by step rule book but guidelines. Furthermore, these guidelines are not enough on their own but they are complementary to existing Standard Operating Procedures and existing investigation frameworks & practices focused on Conflict Related Sexual and Gender Based Violence (CRSGBV) against Women & Girls or Children. Mr Dixon pointed to the need to continue to develop sound principles and best practice for the investigation of CRSGBV against Men & Boys.

Mr Dixon recommended the whole of section 2 of the document as helpful guidance for the planning and conduct of investigations and highlighted that there are similarities with other protocols. He emphasised that the majority of work should go into preparation and planning. This includes developing a formalised Security Risk Management plan. When asked, the participants revealed that very few of their organisations had any kind of risk management strategy. Mr Dixon emphasised the need of having a formalised policy to ensure there is enough support and training for staff and that you are not putting the interviewee or interviewer at more risk. It is important to go through all of the ‘what ifs’ and security risks before having an interview or field mission.

Other areas touched on in the guidelines for investigation needs are; preliminary research, planning, analysis, pre-deployment and post-deployment plans, information & evidence collection plan, team composition, threat & risk assessment and referral avenues. Mr Dixon provided some advice on the importance of having two interviewers in the room so one can take notes and the other can talk. One can be a backup with meanings of words or remember things you forget. It is part of your initial planning to decide who will play what role before.

After the break the participants were divided into four groups to discuss practical challenges in investigating crimes of this nature in relation to the guidelines. Some of the challenges shared with the group included: a lack of training for staff and a need to build their capacity, a lack of human and other resources, especially trying to have male and female staff, doctors and psychological experts in each governorate. Other risks included the physical safety of staff and the risk of interviewers being arrested, or injured/killed from shelling as they move around opposition areas. Other challenges included the difficulty in getting people to come forward to share experiences due the conservative nature of the society and therefore the need to build trust with victims.

After each group shared their challenges, the experts responded. Mr Dixon was pleased to hear that some organisations were very conscious about and making efforts to support their staff’s physical and mental well-being but reiterated the importance of staff support and preparedness so that they do not do more harm than good to themselves of the survivor. To have a formal security risk management strategy and document is not only important to protect your staff, conduct your documentation in the best way possible, it can support you in the future as you can explain why you
did things a certain way at that time in court. Ms Marcus also reiterated the point it is not essential to a rape case to have a medical examination, as some participants were still not clear or convinced that they could have a believable case without this evidence. If you have a medical report or access to a doctor then certainly use it but you can still have a case based only on the testimony of the survivor. Ms Marcus gave the example of a recent case in Guatemala about women who were used as sex slaves 30 years ago - they did not have medical reports yet the case was successful in prosecuting the perpetrator.

Other areas discussed were: cold cases, interview techniques, and confidentiality. Ms Marcus expressed that often documenters are the only route of justice that victims would ever have, it may take creative methods to do that, but keep working on it as you have the potential to bring them justice.

At the end of the day, participants were asked again to write down the answers of the same four questions of the previous day which were reviewed by the experts and NPWJ and considered for the final day of the workshop.

**Day 3- 26 August**

The third day was dedicated to practical exercises done in groups.

The participants were divided in to 4 groups, three in the room and one on Skype, and provided with the scenario for the practical exercise, which they had also received in advance of the workshop. The scenario consisted of initial briefings on acts that have taken place in Syria, with respect to children, women and sexual and gender-based violence. The first one focused on children and included the recruitment or use of children by armed forces, arrest of children and their treatment in detention, death and injury, sexual violence and use of schools. The second focused on women and contained many cases of violations and abuses which had committed against women by groups such as Isis, Government forces and other armed groups. The third focused on sexual and gender-based violence and included cases of violations which had been committed by Government forces and non-State armed groups.

Using the three tools discussed during the Protocols Workshop the participants had a specific amount of time to focus on answering questions related to;

a) Planning – including looking at areas such as weaknesses of initial briefing paper, deciding on acts to priorities, identifying category on international crimes, and what type of witnesses would be needed to speak with,

b) Information-collection – including deciding how to obtain evidence, criteria for the collection of non-testimony information etc,

c) Probative value assessments – including how you will assess the credibility and reliability of the information you have gathered and how you will analyse the information you have gathered.
The four groups reconvened to share the results of their group work. Each group was allowed ten minutes to share their answers, followed by feedback from each expert on positive aspects, gaps, areas to improve and further advice.

Each group presented their scenario and shared how they would address the planning, information collection and probative value assessment for their situation. All groups provided very comprehensive answers and the experts commended them on going through everything systematically and on other points of focus such as their concern of the well-being of the witness, seeking consent from child witnesses and re-training staff so that they are as highly trained as possible at all times.

Other areas of the feedback by the experts focused on the topic of child recruitment and on the fact that it is the responsibility of the recruiter to know the ages of the recruited person, it is not a defense for them to say they did not know the age. Even if parents give consent for their child to fight, they cannot be held responsible, the recruiter should be. Ms Smith identified other useful non-testimonial information that can be used such as a list of people in the armed faction, instructions on operational orders, information on how recruitment is done and records from training camps.

One group mistakenly classified the recruitment of children as a Crime Against Humanity instead of a War Crime. Ms Marcus highlighted that crimes against humanity do not need to be committed during a war, so when talking about war you are often outside of their parameters – things relating to war – weapons, fighting and so on, are war crimes. War crimes is part of what governs the conduct of hostilities by identifying how the law is broken when a war is going on. Crimes Against Humanity is about widespread systematic mass crimes. It can happen during a war but is also not related to acts happening in hostilities and can happen during times of peace. There is no hierarchy in regards to crimes against humanity, war crimes and genocide, which ever one you are prosecuted under does not affect your sentence, other details will affect the sentence. The number of crimes committed is not the key element of war crimes, you can have one person commit one act as a war crime. The number is only potentially relevant in Crimes Against Humanity when there are crimes against civilians to prove an attack against a civilian population is systematic or widespread. Experts advised participants to double check the legal section of the SGBV protocol to help with any uncertainties on this.

The experts then provided advice on interviewing. Ms Marcus advised that is important to do a read-back after you do an interview, telling the interviewee what they have noted down and to let them know if anything is incorrect, as this can stop many complications in the future. Mr Dixon also advised participants to conduct interviews in pairs if possible, acknowledging that this is reliant on sufficient resources.

After the break Mr Dixon spent some time going over some useful ways to remember and guide participants in their documentation word. For example, good starters for interviewers to ask open ended questions - TED ‘Tell me…’, ‘Explain to me…’, ‘Describe to me…’, or the 6 WH’s ‘What, When, Where, Who, How, Why’ which helps the interviewer to tell their story in their way. The questions are kept short and the interviewer does not impose. To remember what information you need, he used the acronym PLAT ‘people, locations, activities and time.’ Mr Dixon also discussed
the use of body language, advising participants to ‘soften’ themselves and show no threat or judgement, as well as using skills such as mirroring, effective use of pause and the value of silence.

At the end of the session, a key and interesting question was put to the group by Ms Marcus on how many people felt they can get better evidence in a conflict zone rather than outside the conflict zone, as many organisations seem to have a specific focus on documenting crimes inside Syria. Some people responded that they work in Syria because they live in Syria and others simply feel it is necessary to do so. She highlighted that there are victims everywhere who can be interviewed everywhere and that if their goal is the best evidence with the best circumstances then there are few advantages to documenting atrocities inside Syria. She was not discouraging the work of those inside Syria but simply raising the question and idea that if you work on documenting testimony evidence it may be worth considering doing this outside of the conflict zone as inside people are more at risk, more stressed and less at ease to talk about things.

Conclusion

The experts were very positively received in the workshop and participants were engaged in the topics of discussion. The group worked well together as there was a strong desire to learn and for self-improvement. Some participants commented that they would have liked a longer workshop to allow them to go more in depth with the protocols, which highlights the importance and value they placed on the workshop and its content. Other feedback from the participant’s evaluation included the desire to have had more time to spend on practical exercises, such as the opportunity to analyse real cases in more detail, and to conduct actual interviews in a roleplay. Understanding the obvious limitations in doing so, several organisations expressed their wish to have such a workshop for their staff in Syria. A large percent of the participants said they were likely to try and use the protocols in their organisation’s work, however they would like more time and training on them to use them to their best effect. Several participants mentioned that this was the first time they had engaged in a meaningful discussion on the topic of SGBV against men and boys and were pleased that there had been the opportunity to discuss and learn more about it. All but one participant said they felt more motivated with their documentation work after attending the workshop.
Annex 1 – Biographies of experts

Maxine Marcus

Maxine Marcus is an international criminal prosecutor and investigator with approximately 20 years’ international criminal practice experience, both in field based investigation and in trial advocacy. Her field work in the International Criminal Law field includes work in Chad (for Darfur), Sierra Leone, Bosnia and Herzegovina, Hungary, Kosovo, Ingushetia/Chechnya, Ivory Coast, Ethiopia (Gambella), Guinea, Kenya, and Guatemala. Her trial advocacy and litigation practice includes nine years as a prosecuting attorney at the International Criminal Tribunal for the Former Yugoslavia, on four cases including the Mladic Case. Prior to that, for two years she was investigating attorney for the Civil Defense Forces prosecution team in the Special Court for Sierra Leone. Max conducts training and mentoring in international criminal law, international criminal investigations and prosecutions, evidence in war crimes trials, and international and hybrid tribunals, and she has particular expertise in the investigation and prosecution of crimes of sexual violence under international criminal law. In November and December 2009 Max was seconded by ICTY through UNIFEM to the UN Commission of Inquiry for Guinea as the Gender and International Criminal Law Adviser, and from April to June 2014 she served as Senior International Criminal Law and Gender Adviser to the UK Foreign and Commonwealth Office on their Prevention of Sexual Violence Initiative, and as Senior International Criminal Law Advisor to the UK Protocol on Documentation of Sexual Violence in Conflict. From December 2014 to March 2015 Max was Gender Advisor to the OHCHR Fact Finding Mission for Sri Lanka, and from July to December 2015 she was Senior Legal Investigator to the UN Secretary General’s External Panel on Sexual Exploitation by Foreign Forces in the Central African Republic. Max serves on the faculty of the Institute for International Criminal Investigations and Justice Rapid Response, and was visiting lecturer at the Transitional Justice Institute in Belfast in June 2015 and at the Hague Academy of International Law in August 2015. Max is currently implementing a project she designed through which she provides peer-to-peer mentoring for national prosecutors and investigators, supporting them in building cases involving SGBV crimes as violations of international criminal law, with a
view toward prosecuting these grave crimes in the national courts.

Mike Dixon

Mike Dixon is a practitioner specializing in the management and investigation of grave crimes against international law. He was a Detective Chief Superintendent within Specialist Operations, Metropolitan Police Service, New Scotland Yard, UK, with responsibility for the investigation of international, serious & organised crime (1970-2000). He was a consultant for Counter-Terrorism to the Foreign & Commonwealth Office, UK (1999-2005). He was Director of UK Hostage Negotiation training and international operational response (1996-2000). He led a series of investigations of British nationals & others, kidnapped & subsequently murdered in Cambodia 1994-96 during Khmer Rouge guerrilla warfare. He subsequently served with the UN within the Office of the Co-Investigating Judges of the Extraordinary Chambers of the Courts of Cambodia (2006-8). A graduate (LL.B.) and Associate of Kings College (AKC), University of London, UK, he is a faculty member of the Institute for International Criminal Investigations (IICI) in The Hague and a roster member of Justice Rapid Response (JRR) in Switzerland.

Alison Smith, NPWJ Legal Counsel and International Criminal Justice Program Director

Alison Smith is the Legal Counsel and Director of the International Criminal Justice Program for No Peace Without Justice, having formerly worked as NPWJ's Country Director in Sierra Leone. In addition, she served as the chief legal adviser to the Vice President of Sierra Leone on the Special Court and international humanitarian law. At NPWJ, she has worked on several areas of policy and practice relating to international criminal law, including on documentation and outreach in several countries.

Ms Smith has acted as international legal adviser to a number of clients including the Tibetan Government in Exile, Kosovar politicians and worked as a legal adviser to the Government of Thailand during the United Nations Preparatory Commissions for the establishment of an International Criminal Court and during the first sessions of the Assembly of States Parties. She worked with No Peace Without Justice and UNICEF on the production of a book on international criminal law and children, has consulted with UNICEF and other organisations and written several articles on children and on international criminal justice more broadly. Ms Smith worked in Kosovo as an international legal officer for the International Crisis Group’s Humanitarian Law Documentation Project, which gathered statements from victims and witnesses of violations international humanitarian law in Kosovo. Prior to that, she was a researcher at the Kennedy School of Government's Carr Centre for Human Rights Policy at Harvard University. From March to June 2013, she was on temporary special leave of absence, as acting Head of Office and Senior Legal Adviser to the Special Court for Sierra Leone, to assist with the completion and wrap-up of its work.

Ms Smith is an Australian barrister and holds a Masters Degree in International Law from the Australian National University.
Annex 2 – Workshop Program

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Presenter</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.00 – 10.15</td>
<td>Welcome remarks and introductions</td>
<td>NPWJ</td>
</tr>
<tr>
<td>10.15 – 11:15</td>
<td>Presentation of aims of workshop, identification of expectations</td>
<td>Alison Smith</td>
</tr>
<tr>
<td></td>
<td>The purpose of this session is to ensure common understanding about the coming days and to identify the expectations of participants, to ensure these can be met</td>
<td></td>
</tr>
<tr>
<td>11.30 – 13.00</td>
<td>Documenting violations – overview and challenges on documenting SGBV and crimes against children</td>
<td>Alison Smith</td>
</tr>
<tr>
<td></td>
<td>The purpose of this session is to set the tone for the remainder of the workshop. Participants will discuss their work and the challenges they face on the ground documenting violations in Syria, including specific experience on documenting SGBV and crimes against children.</td>
<td></td>
</tr>
<tr>
<td>14.00 – 15.30</td>
<td>Overview of the International Protocol on the Investigation and Documentation of Sexual Violence in Conflict</td>
<td>Maxine Marcus</td>
</tr>
<tr>
<td>Time</td>
<td>Event</td>
<td>Presenter(s)</td>
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<tr>
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</tr>
<tr>
<td>10.00–10.15</td>
<td><strong>Review of previous day</strong></td>
<td>NPWJ</td>
</tr>
<tr>
<td>10.15–11.45</td>
<td><strong>Overview of the Anti-Impunity Toolkit</strong></td>
<td>Alison Smith</td>
</tr>
<tr>
<td>12.00–13.30</td>
<td><strong>Discussion on the Anti-Impunity Toolkit</strong></td>
<td>Alison Smith</td>
</tr>
<tr>
<td>14.30–16.00</td>
<td><strong>Overview of the Guidelines on SGBV Against Men and Boys</strong></td>
<td>Mike Dixon</td>
</tr>
</tbody>
</table>
The purpose of this session is to introduce participants to the purpose of the Guidelines, how they came into being, its use and some of their main elements.

### Coffee Break

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Speaker</th>
</tr>
</thead>
<tbody>
<tr>
<td>16.15</td>
<td><strong>Discussion on the Guidelines on SGBV Against Men and Boys</strong></td>
<td>Mike Dixon</td>
</tr>
<tr>
<td>17.45</td>
<td><strong>Wrap up and announcements</strong></td>
<td>NPWJ</td>
</tr>
</tbody>
</table>

**Participants** will identify their main challenges documenting SGBV against men and boys in small groups, who will present to the plenary for discussion. The discussion will focus on how the Guidelines addresses their challenges and identify gaps that could usefully be brought to the attention of the drafters.

### Day Three – Friday, 26 August 2016

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Speaker</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.00</td>
<td><strong>Review of previous day</strong></td>
<td>NPWJ</td>
</tr>
<tr>
<td>10.15</td>
<td><strong>Practical exercise</strong></td>
<td>Experts</td>
</tr>
</tbody>
</table>

The purpose of this session is for participants to raise any questions concerning the previous day’s work.

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Speaker</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.30</td>
<td><strong>Practical exercise continued</strong></td>
<td>Experts</td>
</tr>
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</table>

The work on the practical exercise continues in groups.

### Lunch

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>14.00</td>
<td><strong>Presentation of group work and discussions</strong></td>
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</table>

### Coffee Break

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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</tr>
</thead>
<tbody>
<tr>
<td>15.45</td>
<td><strong>Presentation of group work and discussions</strong></td>
<td></td>
</tr>
<tr>
<td>Time</td>
<td>Activity</td>
<td>Facilitator</td>
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<tr>
<td>16.45</td>
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<tr>
<td>16.45-17.30</td>
<td>Review of workshop and closing</td>
<td>NPWJ</td>
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</tbody>
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