

Manual:
**Documenting Human Rights and
Humanitarian Law Violations in Syria**

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A. INTRODUCTION

Recent reports indicate that the conflict in Syria continues to be characterized by gross human rights violations, war crimes, and crimes against humanity.¹

This primer is designed to assist groups engaged in documenting human rights and humanitarian law violations in the context of the Syrian conflict to do their work effectively, safely, and professionally. The focus is on conducting interviews of persons who have been affected by the conflict, referred to throughout this primer as ‘respondents’.

It is principally concerned with techniques for interviewing victims of, and witnesses to, human rights abuses and violations of the laws of war. It is intended for use by groups working in Syria or among refugee populations in bordering countries to document the human rights and international humanitarian law violations experienced by civilians affected by the conflict in Syria.

I. What is human rights documentation?

Human rights documentation is one component of the human rights monitoring process. **Human rights monitoring** refers to the observation and analysis of the human rights situation in a particular country or context.² **Human rights documentation** is the systematic collection and analysis of information for the purpose of improving human rights protection.

Why rely on international human rights and humanitarian law?

This primer will rely on international human rights law and international humanitarian law for the standards against which the conduct of all parties to an armed conflict, whether State or non-State actors, is measured. An explanation of what information the documentation team should obtain to demonstrate violations of international human rights and humanitarian law appears in Section D below, while a detailed table of Syria’s international legal obligations is in Annex C.

International human rights law is a body of law that sets out the minimum standards that **States** must meet in their treatment of citizens, including vulnerable groups such as children, women, and refugees. Examples of human rights include freedom from cruel or degrading treatment, the right to be given a fair trial, and the right to be able to freely associate with others. The core documents setting out international human rights law are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

International human rights law continues to protect civilians in Syria, even during the current conflict. For example, **torture and ill-treatment are still prohibited**. Conduct that might amount to torture under international law is discussed in Section D.

Human rights abuses occur when State or non-State actors fail to meet the relevant standard, either as a result of a policy or practice.³

Grave violations of international humanitarian law (the law of armed conflict) are crimes that can be prosecuted in courts such as the International Criminal Court. This includes **the forcible displacement of civilian populations or the willful killing of civilians**. Examples of such crimes are discussed in Section D.

International humanitarian law is a separate body of law that regulates the conduct of *parties* (State and non-State) engaged in armed conflict. While international humanitarian law is principally concerned with what parties can do in the context of an international conflict, there are still rules that must be observed by all parties to a conflict in a non-international armed conflict or civil war. A number of these rules concern how the civilian population must be treated during war, the kinds of weapons that can be used, and defining and identifying military targets in order to protect civilians. The key documents setting out international humanitarian law are

the four Geneva Conventions and the two 1977 Additional Protocols to the Geneva Conventions. Even though Syria is not a party to the latter protocols, a number of the rules contained in those instruments have such widespread international support that they are nonetheless binding on Syria under customary international law.

There are a number of reasons that the conduct of State and non-State actors is measured against the standards set out in international law:

- ❖ The vast majority of governments, including the government of Syria, have voluntarily agreed to be bound (through the ratification of international treaties) by international human rights and humanitarian law.
- ❖ International human rights and humanitarian law standards were determined at an international level with input from the representatives of many countries and organizations, and therefore represent a high degree of international consensus.
- ❖ International human rights and humanitarian law can be applied in a number of different fora, including UN, regional, and local bodies.⁴ Grave violations of human rights and humanitarian law committed by individuals can be prosecuted under international criminal law. The International Criminal Court, for example, has jurisdiction to prosecute individuals for genocide, war crimes (large-scale violations of international humanitarian law), and crimes against humanity (widespread or systematic attacks against civilians, including murder or torture). Syria's obligations under international law are elaborated in section D.

Although the range of human rights protected under international law is very broad, this primer will focus on those rights that are most likely to have been abused in the context of the conflict in Syria [outlined in Section E]. On July 14, 2012, the International Committee of the Red Cross (ICRC) classified the conflict in Syria as a non-international armed conflict. The ICRC had previously declared that this classification only applied to certain territories, including Homs, Idlib, and Hama, but the spreading

violence and deteriorating conditions across the country led the organization to revise its earlier assessment. It is therefore subject to Common Article 3 of the Geneva Conventions.⁵

COMMON ARTICLE 3 TO THE GENEVA CONVENTIONS:

In the case of **armed conflict not of an international character** occurring in the territory of one of the High Contracting Parties, **each Party to the conflict shall be bound to apply, as a minimum**, the following provisions:

(1) **Persons taking no active part in the hostilities**, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, **shall in all circumstances be treated humanely, without any adverse distinction** founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, **the following acts are and shall remain prohibited at any time and in any place** whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

B. KEY PRINCIPLES

When undertaking any kind of human rights monitoring work, including documentation, it is critical that the following principles inform the scope and method of work. These principles are summarized in Annex A.

❖ Do no harm

The documentation of human rights abuses should not come at the expense of the physical safety or emotional or mental health of the respondents.⁶ The interview process should be structured so that the personal safety and security of the respondent is not at risk. This includes keeping the interviews and the identity of the respondent confidential, unless the respondent expressly consents to the disclosure of her identity.

The safety and security of respondents is a priority and measures should be taken to protect respondents. For example, interviewers should not explicitly refer to statements made by one respondent when interviewing another respondent.⁷

While you should take measures to protect the security of respondents, it is important that you do not offer unrealistic guarantees concerning an individual's safety.⁸

❖ **Respect your mandate**

Respect the professional boundaries between you and the respondent. You should not seek to befriend or counsel respondents. However, this does not mean you should treat respondents indifferently: asking about their family, safety, and living conditions can help create a friendly and pleasant atmosphere to carry on the interview without creating any unrealistic expectations.

Respondents should never be paid to participate in interviews, although documentation teams should consider covering any travel costs or other incidental expenses incurred by respondents.⁹

Documentation teams should avoid undertaking to provide financial support to respondents, aside from reimbursing expenses incurred incidental to their participation in the interview. Providing a financial incentive to respondents to participate in an interview may undermine the credibility of their testimony. Nonetheless, respondents may attend the interview expecting relief support even if they are properly briefed about the purpose of the interview. To guard against respondents' frustration, it is important to clarify that your organization's work is exclusively research and documentation, not relief assistance. Explaining that the organization refrains from assisting the respondent for reasons of credibility and to avoid a conflict of interest may be helpful.

If the respondent asks you for assistance that is not within your professional mandate, you should try to provide a referral to an appropriate organization.¹⁰

❖ **Confidentiality**

Preserving the confidentiality of information gained through the documentation process is critical. Breaching confidentiality can put all of the parties involved at risk, including the respondent, anyone named by the respondent, and your organization. Further, it may undermine the credibility of your project and the confidence relevant groups have in your project, and therefore its overall effectiveness.¹¹ Key steps to protect the confidentiality of evidence are outlined in Annex B.

❖ **Understand the context**

Before starting your work, make sure you have a sound understanding of the historical, cultural, political, and military context in which you are conducting your work. This includes conducting desk research on the conflict and understanding the communities or sub-communities you are meeting with, including customs, language, religion, history, and family and community structures. For example, communities with particular cultural characteristics may be more likely or willing to talk about certain incidents. Individuals and families from a particular geographic

area, ethnicity, or sect may be more likely to identify one party to the conflict as the perpetrator due to their political beliefs or previous experiences, including experiences that pre-date the conflict. Being conscious of these characteristics is critical for properly targeting questions without stereotyping or stigmatizing respondents. If members of the relevant communities are not directly involved in your work, try to find someone from the community that can advise you and your team about the dynamics.¹²

❖ **Sensitivity**

Discussing and documenting abuses has the potential for serious consequences for individual respondents, their families, and their communities at large. Sensitivity must be exercised by the documentation team at all stages of the documentation process, and the documentation team must take care not to make assumptions about respondents based on their membership in a particular ethnic or religious group. Where possible, training should be undertaken on the kinds of harm that may be experienced in the course of documentation. At the very least, steps should be taken to guard against the risk of re-traumatization (discussed in Section C.II).

Moreover, many respondents will feel the need to share with you intimate experiences or thoughts related to their situation but not necessarily relevant to your documentation. It is essential to be open to listening and avoid interruption or expressing signs of impatience or indifference.

❖ **Exercise good judgment and be persistent, consistent, and patient**

Interviewers must aim to be professional, polite, and knowledgeable; maintain a non-judgmental, objective demeanor; and communicate complicated issues clearly. Interviewers should try to commit as many questions as possible to memory, as maintaining eye contact and a good rapport with the respondent are critical.

When documenting human rights abuses, you may encounter unanticipated circumstances, such as respondent discomfort or even hostility. It is important that you recognize when to terminate or pause during an interview, and to always adhere to the do no harm principle and the need to respect the project's mandate, and use your best judgment.¹³

Collecting reliable information can be a long, difficult process requiring persistence, flexibility, and patience.¹⁴ Good judgment is also required when evaluating whether or not testimony is credible. This is discussed further in Section C.II.2.4.

❖ **Seek consultation**

Regularly debriefing with your team will allow you to continuously evaluate the documentation process and identify early patterns or gaps. You may also find that you need to seek outside expertise, e.g. legal advice or military expertise, about the implications of some aspect of the documentation process.

For example, outside expertise may be necessary to understand the nomenclature of the weapons and arms mentioned during the interview. It may be prudent to write down the exact terms used by the respondent and to then confer with an expert. The

kinds of weapons identified can have important implications for identifying the type of attacks the respondent witnessed (aerial bombing, shelling, rocket attacks, etc.).

❖ **Accuracy and precision**

This is an important component of any project protocol. Make sure that the questions you ask are specific and your approach to ascertaining facts is rigorous. For example, if all investigators are using the same survey instrument to interview, make sure all investigators read the questions in the same way, with little improvisation. This will ensure that there is little bias and can safeguard against misunderstanding or imprecision in your work.

❖ **Impartiality and objectivity**

Strive to always be impartial and objective. Impartiality requires that you do not demonstrate political biases or views about the responsibility of particular parties during the documentation process. Doing so is likely to undermine the credibility of your project, lead the respondents to particular answers, or discourage respondents from assisting you.¹⁵

Even if you do have pre-existing views about the role of various parties in a conflict, you should not be influenced by those views when eliciting and evaluating testimony and other evidence. Instead, be objective and rely on human rights standards.¹⁶

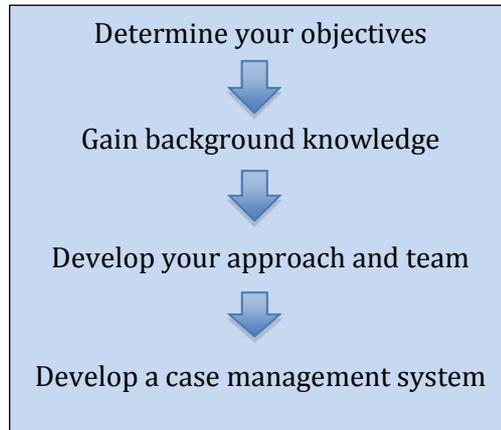
For example, do not ask leading questions, or questions that pre-empt the response. Instead of: “What human rights violations has the Syrian Army committed in your area?” ask: “Have you witnessed anyone being harmed? What kind of harm? By whom?”

The importance of impartiality extends to the perception of you by respondents. For example, respondents may make assumptions about your political or religious affiliation based on your appearance, nationality, name, or the area in which your organization operates. These assumptions may even make the respondent fearful. It is therefore critical to counter those perceptions by maintaining a neutral and impartial position. If you are specifically questioned by the respondent as to your background, you should exercise careful judgment as to whether you share personal information. In all cases, you should not state false information, but rather, keep responses short. You should emphasize your neutrality and lack of political affiliation.

C. TECHNIQUES FOR DOCUMENTATION

I. Developing a documentation protocol

Designing a documentation protocol is necessary to ensure that you achieve your objectives, and that your methodology is appropriately matched to the skills and resources of your team. The following advice draws on the methodology suggested in *A Practitioner's Guide to Human Rights Monitoring, Documentation, and Advocacy* published by Advocates for Human Rights, the *Training Manual on Human Rights Monitoring* published by the UN Office of the High Commissioner for Human Rights, in addition to ABA ROLI's own experience in documenting human rights documentation, including in the context of the current conflict in Syria.



Step 1: Determine your objectives

Consider what you hope to accomplish. What are the goals of the project? Is it replicating work that is currently being done or is there added value? What findings might the project yield? What will the final product be?

❖ *Identify the issue and the scope of the project*

Be clear about the issue that needs to be documented and investigated, including the suspected human rights abuses. Confirming that there is a need for documentation is necessary to respect the “do no harm” principle, given that documentation requires respondents to engage in a potentially physically and emotionally risky process. Define the scope of the issue that you will be documenting, given the time, money, and resources available to your organization.

Example: Documenting instances of torture

In view of reports of torture being committed by government and anti-government forces, a documentation team may wish to document instances of torture among a particular demographic profile (for example, civilians living or formerly living in a particular town or region) to try to establish a pattern of human rights violations.

❖ *Identify the relevant human rights standards*

It is important to have a clear understanding of the human rights standards that are relevant to the issue or issues being documented. The likely kinds of human rights and humanitarian law violations that may have been experienced by populations in Syria are outlined in Section D. However, as the nature of violations change, it will be important for organizations undertaking documentation to refresh and deepen their

understanding of the minimum protections that civilians are guaranteed during an armed conflict and the nature of the conflict.

Example: The prohibition against torture under international law

Under international law, the prohibition of torture is absolute. This means that there are no circumstances under which a State is allowed to inflict torture.

Torture is prohibited in a number of international human rights instruments and under international humanitarian law, and is considered an international crime. Because of the degree of international support for the prohibition of torture, all countries are bound by the prohibition.

Torture occurs when there is the **infliction of severe mental or physical pain or suffering**. A violation occurs when the conduct is carried out with either:

- the **consent or acquiescence of state authorities**, or
- in the context of an armed conflict, **by a party to the armed conflict who knows that the victim was not taking active part in hostilities**.

Generally, the conduct must be carried out for a specific purpose, such as gaining information, punishment, or intimidation. Torture may include rape and other forms of sexual violence.

❖ *Determine what information is needed and how to obtain it*

In determining which documentation techniques to use, consideration must be given to the kind of information needed to allow an evaluation of the existence or non-existence of human rights abuses. This may include:

- **direct** sources (such as victims, witnesses, and evidentiary materials); and
- **secondary** sources (such as reports from other human rights organizations, media reports, etc). Secondary sources can be particularly useful as a means of verifying information gathered first-hand.

The UN advises that “the most commonly applied rule of reliability in human rights fact-finding is the principle that information should be consistent with material collected from independent sources.”¹⁷ Secondary sources should also be credible.

❖ *Determine the standard of proof*

A potentially important component of your methodology is the **standard of proof** that you seek to apply. For example, this will be a relevant consideration if you plan to undertake ‘fact-finding’ in addition to documentation, that is, if you plan to draw conclusions of fact from your documentation activities. If so, the objectives of your project will need to reflect that you are seeking “sufficient evidence” to draw a conclusion in relation to an alleged human rights violation. “Sufficient evidence” or balance of probabilities is a coherent starting point for a standard of proof¹⁸ and is a commonly used standard of proof among humanitarian and human rights fact-finding missions. To meet this standard, the event or proposition in question must be more likely to be true than not to be true.¹⁹

If the relevant conclusions are to be relied on in a judicial process, or if they publicly attribute blame to particular individuals, a stricter standard of proof may be

appropriate. For example, the International Criminal Court requires that, for an individual to be convicted of a crime, the Court must be convinced of the guilt of the accused “beyond reasonable doubt.”²⁰

Step 2: Develop your approach and team

In light of the knowledge gained from step 1, it should be possible to determine how you will undertake the documentation process. Given your financial resources and personnel, try to determine a timeframe for achieving your objectives.

Second, consider how you will establish the documentation team. Careful thought should be given to preserving the credibility, neutrality, and independence of your team when selecting team members. Also consider whether or not your team members have experience as interviewers; their knowledge of the local context and population; whether or not they are able to perform well under pressure or work independently; whether or not they have a non-judgmental demeanor and an aptitude for establishing rapport.

Ideally, your team will comprise individuals with a range of backgrounds including human rights, conflict, legal, medical, and psychosocial expertise, as well as professional interpreters, if necessary. Gender balance is also an important consideration in developing your team.

Volunteers

It may be appropriate for your team to recruit volunteers to assist with your work. There are a number of advantages associated with using volunteers—most notably a larger team of people with potentially new and diverse skills and experience on which to draw—but there are a number of factors that should be kept in mind to ensure that volunteers are effective.

- There *are* costs associated with using volunteers: time and money need to be invested in recruiting and training volunteers. The latter may be particularly time-intensive given the varying level of skills and experience volunteers may have. Volunteers are also likely to require reimbursement for any costs that they incur that are incidental to their work, e.g. transportation.
- Given the sensitive nature of human rights documentation, volunteers need to be thoroughly screened before they are recruited. In this context, team diversity, objectivity, and impartiality are key. As with any team member, you must ensure that there are no biases based on religion, ethnicity, or political affiliation.
- To ensure a high quality of work by volunteers, other staff members need to be available throughout a project to advise and retain oversight of volunteers. This may detract from the time that full-time staff members have to dedicate to their own work.

You should ensure that a volunteer’s terms of work are clear, preferably in an agreement signed by your organization and the volunteer. The agreement should state the nature of the relationship between the organization and the volunteer, including any costs to be covered and liability associated with the work, especially if there are security risks. Further, the agreement should clearly set out requirements regarding the confidentiality of the work product.

Step 3: Develop a case management system

Documentation teams should develop a secure and efficient case management system in which all team members have been trained. At a minimum, an effective case management system will require team members to keep a log of all activities, file documentation methodically, and keep lists of outstanding and incomplete tasks. This requires:

- Keeping accurate, detailed, and clear records of all the work done on a case, including dates and times.
- Filing evidence according to categories, such as a witness statement file, photograph file, physical evidence file, document file, copies of all documents and/or a record of all documents obtained, and a sketch and map file.²¹
- Storing all files securely. Files should not be obviously labeled. As an extra precaution, files with notes about an individual and/or respondents should be identified by a number and not the name of an individual, and lists identifying interviewees should be kept separate from the substantive files. If possible, duplicate files should be made and stored in a separate, secure facility.

Documentation teams may wish to use a free secure online server, such as Martus (www.martus.org), which encrypts data and gives you the option of backing it up onto a secure, remote server.

II. Interviewing

1. Preparation

1.1 Identifying whom to interview

For most human rights documentation work, the principal and most powerful source of evidence will be direct victim and direct witness statements. The closer the respondent is to the event in question, the greater value their statement is likely to have. Beyond direct victims and witnesses, documentation teams should seek a broad range of perspectives when conducting interviews, e.g. organizations or State actors who respond to human rights abuses, as well as members of the community who are neither witnesses nor victims. Statements from these interviews can be relied on to corroborate findings.

Qualitative or quantitative research?

A key for human rights documentation project to consider is whether the project seeks to engage in quantitative or qualitative research.

- **Quantitative research** aims to draw conclusions from a representative sample of a population that can then be generalized back to the population.
- **Qualitative research** aims to deepen understanding of the various dimensions of a particular social issue or phenomenon.

The objectives of the project will determine the most appropriate methodology. For example, if the aim of the project is to ascertain the prevalence of a particular human rights violation, quantitative research may be appropriate. However, if the aim of the project is to understand the causes and responses to a particular human rights violation, a qualitative methodology that involves speaking to people with a variety

of perspectives may be more suitable. Many projects will use a combination of qualitative and quantitative methods. For example, documenting human rights abuses among refugee and internally displaced populations may involve quantitative sampling (so that the results can be generalized to the broader population) as well as qualitative research to gain a comprehensive understanding of how and why abuses occurred.

Qualitative and quantitative questioning

It is likely that qualitative and quantitative questioning will be necessary in any interview. A survey may proceed as follows:

Q. Why did you leave the neighborhood you live in? (Qualitative)

A. Because of repeated shelling. (Quantitative and qualitative data)

Other kinds of violations, such as the terrorizing of civilian populations as a military tactic, may only appear to be systematic after a series of interviews using qualitative techniques, at which point those violations should be noted and processed as quantitative data.

The research methodology an organization uses will also be influenced by the environment in which they are operating. When working in a refugee camp setting, for example, the security constraints might mean that interviewers have to wait to be approached by individuals who are willing to discuss their experiences. This will make random sampling very difficult. In such a situation, documentation teams should consider an individual's motivation for coming forward and telling her stories, and the potential implications this has for her reliability or credibility.

On the other hand, particular human rights abuses, such as sexual abuse, may be under-reported because of feelings of shame or fear resulting from the experience. The documentation team will need to assess whether and how it can reach victims. Speaking with other human rights organizations working on the same issue may yield some insight into how to identify potential interviewees.

Regardless of the kind of methodology a project employs, it is critical that any conclusions that are drawn from the research honestly reflect the limitations of that methodology.

1.2 Devising an interview protocol

An interview protocol sets out overarching guidelines intended to guide the interviewer's overall preparation and approach, and should emphasize the key principles elaborated in Section B, adapting them to the local context.

An interview protocol should also clarify the terms of the interview that the interviewer must communicate to the respondent. For example, interviews should begin with an introduction that clearly and accurately explains the following:

- The purpose of the interview and how the information from the interview will be used, including how long it will be stored;
- Who the interviewer is (e.g., first name and general explanation of background, e.g., lawyer, doctor, investigator);

- Clearly stating the independence, impartiality, and neutrality of the organization and its non-affiliation to any party involved in the conflict;
- The mandate of the project, including what the organization can and cannot do;
- The extent to which information and the respondent's identity will be kept confidential; and
- A reminder that participation is voluntary and that consent to participate can be withdrawn at any time.

Unless the respondent indicates that they have understood the above and are prepared to participate, the interview should not proceed because the respondent has not given his **informed consent**. There should be an 'informed consent form' for respondents to sign or initial or, in cases where respondents might be reluctant to do so or where it may not be safe to maintain a record of respondents' identities, a box on the interview form where the interviewer indicates that the respondent has been informed of the purpose of the interview and consented to participate.

Scheduling interviews: As part of the interview protocol, documentation teams should estimate how long each interview will take. If the interview is expected to run over an hour, it is prudent to schedule a short break. When scheduling interviews, ensure that there is enough of a break between interviews to account for interviews running longer than expected, and for any travel or transitioning between interviews.

Applying the protocol in practice by testing the introduction and interview questions on other team members will help to reinforce it.

1.3 Drafting questions

Interview questions should be designed to elicit information that gives a broad picture of the context in which human rights abuses are alleged to be occurring. Questions should be constructed to:

- **Determine the nature and extent of the abuses**, including specific details about perpetrators
 - Annex C elaborates on perpetrator identification in the context of the Syria conflict, including questions to assist with perpetrator identification;
 - Annex E describes a number of the weapons that have been used in the course of the conflict, which may assist documentation teams to draw inferences from evidence collected.
- **Establish possible causes**, including structural causes, such as laws or cultural practices;
- Understand the **consequences or harm suffered**;
- **Seek quantitative information**, e.g., how many people are affected by a particular abuse, how many of a particular gender, age, etc.;
- Understand **what kind of redress** respondents who are victims of human rights abuses are seeking.

When structuring interview questions, consider starting (after the introduction outlined in 1.2) by asking an open-ended question and allowing the respondent to tell you his or her account of what they've experienced in their own way and in their own time.²² When interviewing refugees or internally displaced persons, the

interviewer may begin by asking why the individual fled his or her home, which should eventually lead into a discussion of the human rights abuses experienced.

In general, questions should be open-ended and non-leading (that is, they should not suggest or pre-empt the answer to the question) and the most important questions should generally come earlier in the interview. It is also advisable to start with less controversial or sensitive topics and move on to those as the respondent becomes more comfortable.

Questions should be framed in a non-judgmental way and avoid slang or technical language. Try to keep questions as clear, concise, and easy to understand as possible.

It may be helpful to have a map or allow the respondent to draw a diagram if it facilitates the respondent's explanation.

The interview should conclude with the respondent being given time to add anything to his or her original answers, to ask questions of the interviewer, and to recommend any additional people for interview. The interviewer should also reassure the respondent of the confidentiality of the interview.

1.4 Security

The security of respondents and your documentation team should be a paramount consideration when determining whether to meet with a respondent. Security risks should be assessed at all stages of the documentation process, including the initial contact made with the respondent, during the interview, and during any follow-up contact.

The level of risk to respondents will face depends on a range of factors, including the:

- location and identity of respondents;
- respondent's own resources for self-protection;
- existing or past threats or intimidation; and
- broader security environment.

It will also depend on the capacity of the documentation team to provide protection to the respondent. It is important that the personal views of respondents as to potential risks are also taken into account when evaluating the level of risk.²³

The measures that documentation teams should take will be highly specific to the security context. As a general rule, discretion is crucial. This implies "making all efforts to draw the least possible attention to individual victims, witnesses, sources or other cooperating persons."²⁴ Respect for confidentiality—both the identity of a respondent and the information gained during the interview process—is a critical aspect of security. Steps that documentation teams should consider taking to protect the security of the respondent and of the evidence are outlined in Annex B.

With respect to the security of documentation teams, measures that teams might take include checking in with each other regularly, carrying a cell phone, and travelling in pairs or teams.²⁵

2. Conducting the interview

2.1. Location

The safety of the respondent should be the principal factor in determining where an interview will take place. Where possible, interviews should be conducted in private in a safe, neutral venue, such as a school or community center, where unnecessary attention will not be drawn to the respondent and surveillance is minimal. Ideally, the respondent will be allowed to choose the time and place of the interview.²⁶

2.2. Documenting the interview

There are a number of options for recording or documenting the interview, including writing notes by hand, or using an audio or video recorder. The best option for a particular project will depend on balancing a number of factors, including which method is most likely to accurately and efficiently capture the respondent's answers, which method is most practical given an organization's resources, and which method is the most likely to guarantee confidentiality.

Direct witnesses of human rights abuses in Syria may be particularly reluctant to have their voices and identities recorded, in which case handwritten note-taking will be the most acceptable approach to documentation. Handwritten note-taking, rather than digital recording, tends to be less intimidating to respondents and can facilitate sketching diagrams or maps, which can help respondents clarify their testimony. As importantly, there are fewer confidentiality and security concerns when working in hard copy. However, it may be difficult to capture all of the information as the interview proceeds. One way of addressing this is to work in two-person teams in which one person asks questions and the other person takes notes, although respondents may prefer to speak with only one person at a time.

Using standardized forms that require annotation is another option. Standardized forms are useful for ensuring consistency across interviews and for collecting quantitative information.

3. During the interview

Basic techniques

Persons who have experienced or witnessed human rights abuses, including refugees and internally displaced persons, are often under a lot of stress. These persons may also be experiencing feelings of uncertainty and loss of control. Interviewers should try to empathize with those feelings, and be sensitive to the fact that the

respondents may be without resources, and are away from their homes and possibly families. When interacting with respondents, interviewers should be aware of their tone, pitch, and inflection, and should try to maintain eye contact with the respondent throughout the interview. Respondents may focus on economic reasons for fleeing and may omit human rights violations. Interviewers should allow

Informed consent

An important consideration from the outset of an interview is that the interview should not proceed unless the respondent has given his informed consent to participating (see section 1.2).

respondents to speak freely about such issues before adjusting the focus of the interview.

Further, the respondent should be assured that they may withdraw from the interview at any time, and are not compelled to answer questions they feel uncomfortable answering. The interviewer should also exercise judgment in not asking a particular question or follow-on question when it is clear that it would cause additional stress to the respondent and should also recognize when it is appropriate to terminate the interview, either in the interests of the respondent's wellbeing or the interviewer's.

Verifying facts and chronology

Note that individuals may exaggerate or put themselves under pressure to make a particular impression, particularly if they are trying to justify their decision to flee their home country.²⁷ This does not mean their story is untrue, but it may mean there is some element of exaggeration.²⁸ Further, it may be possible that a respondent will repeat stories that he or she heard in the media without otherwise witnessing these events. Because verifying the testimony of refugees may be particularly difficult due to an inability to visit their home country, it is important to respectfully seek clarification where a respondent's story appears inconsistent or contradictory. For example, questions about the distance between the respondent and the perpetrator or victim and requests for physical description of victims or perpetrators will yield more accurate responses.

Try to establish a clear chronology of events, which may be done by asking the same questions in different ways.²⁹ This is an important aspect of ensuring the reliability of the information. The interviewer should try to test the internal consistency and coherence of the respondent's narrative without directly challenging the respondent's credibility.

Recording physical or psychological symptoms

Interviewers may wish to record the physical or psychological symptoms observed during the interview or during a separate medical examination.³⁰ If possible, the assistance of a medical professional should be sought during the interview to assess the symptoms. Alternatively, the interviewer can carefully observe and record any details for later evaluation by a medical professional. If photos are taken for this purpose, care should be taken not to disclose the identity of the individual in the photos by excluding recognizable features (see tips for photography, discussed in Section III). Generally, any obvious injury, e.g., swelling, bruises, cuts, grazes, or burns, should be noted. Attempts should be made to establish the site, size, shape, color, and type of injury. It may be helpful to indicate them on a body diagram. To establish the size of an injury, it may be helpful to compare it to the size of a common object. With the assistance of a medical professional, the interviewer can consider whether symptoms are consistent with ill-treatment alleged by the respondent.

Interviewing survivors of sexual violence

Because of the social stigma attached to rape or sexual violence in many cultures, respondents who have experienced such violence may be particularly reluctant to speak about their experience. Extra effort should be made to create an interview environment where the respondent would be willing to report such abuse, to develop a rapport with those individuals and to assure them of the confidentiality of the interview. Once an interviewer is able to establish the basic facts around the abuse or violence (what occurred, when, where, who was responsible, and whether there were witnesses) there may be no need to dwell on the details.

In this context, female interviewers should conduct interviews with female respondents. Interviewers may also wish to adopt the following guidelines for reducing harm to women in studies on violence against women:

- Interview only one woman per household;
- Do not interview men about sexual violence in the same households or clusters where women have been asked about violence;
- Craft diversionary questions on a less sensitive topic to use if others enter the room during the interview, including children.

People who have experienced torture may suffer from post-traumatic stress disorder and other emotional or psychological difficulties, including memory impairment, anxiety, and phobias. If respondents are having difficulty recalling or describing their experiences, it may be necessary to rely on other sources of information to understand the respondent's history, such as statements of relatives or friends. Expert medical advice can also help.

Interviewing individuals who have experienced trauma

People who are recalling traumatic incidents may appear unreliable—they may experience difficulty remembering episodes of their experience, confuse details including times and locations, and add details as they come to mind or become more trusting of the interviewer. Respondents should be given opportunities to clarify their responses, especially in relation to key details like dates, times, and names. Again, interviewers should be careful not to express skepticism, mistrust, or condescension. If the respondent becomes upset or emotional during the interview, change the subject and try to return to the topic at a later time. Do not push the respondent, and be respectful and sympathetic to the respondent's experiences. Be patient and allow the respondent to express themselves. Take a break if it appears that the respondent is becoming tired or overwhelmed.

Interviewers should be prepared for the fact that discussing past traumatic experiences, such as torture, may trigger **re-traumatization**. Re-traumatization occurs when a person re-experiences a past state of trauma. This cannot always be avoided, but the risk can be minimized. Suggested steps include:

- Pace the interview to avoid overwhelming the respondent;
- Recognize and acknowledge the difficulty of recalling traumatic events in a respectful way that avoids condescension;
- Actively listen to the respondent and encourage them to speak about their experiences;
- Avoid labeling or categorizing the respondent's behavior, or making assumptions or judgments about the respondent's behavior. Note that an

interviewer's response can be communicated through his or her body language, as well as his or her words;

- The interviewer should exercise control over their own emotional reactions to the respondent's experience and make clear that it is the issue—not the respondent—that is causing them discomfort;
- Do not hug or otherwise touch the respondent. Interviewers should keep in mind that, while they should be sympathetic, it is not their job to counsel or treat respondents.

4. After the interview

After the interview, the interviewer should prepare complete notes on the interview as soon as possible, ideally within twenty-four hours of the interview. They should go back to the list of issues that the questions were constructed to address, and try to determine how the information obtained during the interview is relevant.

When evaluating the reliability of the information obtained during an interview, the interviewer should give weight to the demeanor and overall credibility of the witness, keeping in mind that the nature of the issues being discussed (discussed in Section 2.3) and cultural differences may cause the respondent difficulty in communicating.³¹ Issues of trauma and culture may prevent a respondent from being assertive or clear in their testimony, or from communicating in a very direct way with the interviewer. Careful consideration should therefore be given to how a respondent's manner affects their credibility.

If the interviewer does not believe a respondent's account, he or she should explain why, although it is not uncommon to be unsure about a respondent's credibility. In some cases, it may be necessary to discard all or part of an interview. Before this happens, each interview should be subject to an internal review process based on the documentation team's notes and observations leading to a consensus within the team as to whether any part of an interview should be discarded.

III. Collecting evidence

Documentation teams may find that, in the course of conducting interviews, they are able to collect evidence, either from the site of the interview or by following up with appropriate institutions, such as prisons or hospitals, that helps to establish the existence of human rights abuses.

The most valuable kind of evidence is **primary or direct evidence**, which, if true, establishes the event or fact in question. The testimony of witnesses and victims that is recorded in an interview is a form of direct evidence.

Indirect evidence, which tends to support that the event in question occurred, is also an important form of evidence. Indirect evidence may corroborate testimony captured in interviews, such as medical records that support statements that a person was mistreated. Additionally, indirect evidence may give rise to an inference that supports the existence of the event in question, such as, bullet casings or bomb fragments found near a victim's home.

Other forms of indirect evidence that documentation teams may obtain include court transcripts, police and prison records, and photographs. Reports published by the media or other organizations are also potentially useful, although the credibility and independence of reports from secondary sources should be carefully evaluated. Whenever possible, the original document should be sought; court proceedings, for example, may require the original, rather than a copy.

If a documentation team is planning to visit a particular site to collect evidence, they should try to retain assistance from relevant experts if any special expertise, e.g., forensic science, is required to evaluate the site. Documentation teams should also be careful not to disturb sites that might yield evidence or to draw unwanted attention to the site. They should seek to make careful, objective notes, including diagrams or maps.

Audio and visual recording tools

Audio recorders, video recorders, or cameras may be used to document non-testimonial evidence of human rights abuses. Although these tools may present some advantages, including the immediate impact of sounds and images and the relative speed and ease with which digitally stored information can be distributed, there are serious security and confidentiality risks associated with this form of documentation. Audio-visual recordings should therefore only be made if the “do no harm” principle can be respected.

It is not recommended to use audio-video recordings to collect testimony. Recording tools should only be used to collect indirect evidence. Individuals, even those not providing testimony, should never be filmed, photographed, or recorded without their express informed consent. It is not necessary to take photos of witnesses, and doing so may create a risk of retaliation. In the rare event that testimony is recorded, every effort should be made to obscure the identity of a witness and it should be labeled in such a way that the identity of the individual is not disclosed.

If a documentation team is confident that it can make such recordings without compromising the security of any respondents, it should take the following steps:

- Try to use equipment that is discreet, e.g., a camera that is small and a dark color, rather than white, silver, or reflective. When using a camera, use it in silent mode;
- Practice using cameras without needing to look through the lens (i.e., take shots down by the photographer’s hip or, if using a phone camera, as if the user is normally handling a phone);
- When using a camera, always take more than one photo of each subject;
- Try to download data to an encrypted online database (such as Martus www.martus.org); if downloading onto a personal computer, use encryption software and a secure password to lock the file.

IV. Storing evidence

1. Testimonial evidence

The safe and secure storage of evidence is fundamental to effective human rights documentation. The storage of interview testimony and audiovisual evidence is discussed in Section C.I. under “Step 4: Developing a Case Management System”.

2. Physical evidence and the chain of custody

Physical evidence that is collected by documentation teams—whether documents or items of real evidence—should be stored and labeled in a way that preserves a clear chain of custody. The record of a chain of custody over an item of evidence is a written record of all of the individuals who have had control over the item. It may be relied on by a court as proof that the item being presented in a trial has not been improperly tampered or interfered with since it was retrieved from the scene of an alleged crime. Maintaining a limited chain of custody is also an important way of protecting the confidentiality of evidence.

The record of a chain of custody should clearly state:

- The description of the item;
- The identity of the person who collected the item;
- The time and date at which the item was collected;
- The location from which the item was retrieved.

Each time the item of evidence changes hands, the record should be updated.

D. DIFFERENT CATEGORIES OF HUMAN RIGHTS AND HUMANITARIAN LAW VIOLATIONS

Under restricted circumstances, such as during periods of ‘public emergency’ (which may be declared in situations of armed conflict), States are allowed to impose some limitations on the rights afforded to individuals under international human rights law.³² However, even in those circumstances, certain fundamental rights may not be suspended. These include the right not to be arbitrarily deprived of life; freedom from torture and other ill-treatment; and freedom of thought, religion, or conscience.³³

Further, in the context of a non-international armed conflict, the protections provided by international humanitarian law will apply. These include protection from inhumane or degrading treatment; violence; unfair trials; and restrictions on methods of warfare.

The following table sets forth the elements that the documentation team must document in order to prove violations of international human rights and/or humanitarian law.

Type of violation	Elements that need to be proven	In violation of international human rights law?	In violation of international humanitarian law?
Torture by a State actor	<ul style="list-style-type: none"> • Infliction of severe mental or physical pain or suffering • Consent or acquiescence of state authorities • For a specific purpose, e.g. gaining information, punishment, intimidation, humiliation • This includes rape and other forms of sexual violence. 	Yes—note that human rights law does not permit torture even in periods of public emergency.	Yes
Torture by a non-State actor (e.g. Syrian opposition forces)	<ul style="list-style-type: none"> • Infliction of severe mental or physical pain or suffering • For a specific purpose, e.g. gaining information, punishment, intimidation, 	Not covered (when committed by a non-state actor)	Yes

	<p>humiliation</p> <ul style="list-style-type: none"> • The alleged victim was not taking an active part in hostilities • This includes rape and other forms of sexual violence. 		
Ill treatment not amounting to torture (cruel, inhuman, or degrading treatment)	<ul style="list-style-type: none"> • Intentional exposure to significant mental or physical pain or suffering • Consent or acquiescence of state authorities 	Yes	Yes
Extrajudicial, summary, or arbitrary execution	<ul style="list-style-type: none"> • Deprivation of life without a fair trial (due judicial process) • Result of an order by the State or with the complicity of the State 	Yes	Yes
Arbitrary or unlawful detention	<ul style="list-style-type: none"> • Confinement with the consent of the State in a prison or other detention facility • No reason is given for detention; or • Detainee is not brought promptly before a judge; or • Detainee is not tried within a reasonable time. 	Yes	Not covered
Taking of hostages	<ul style="list-style-type: none"> • Seizing or detaining a person in the context of armed conflict • Threatening to kill, injure, or continue to detain the hostage in order to compel a third party to do or abstain from doing any act. 	Not covered	Yes
Forced recruitment of children	<ul style="list-style-type: none"> • A child under the age of 15 years is recruited as a soldier or combatant by all parties to the conflict 	Yes	Yes
Restrictions on freedom of thought, conscience, or	<ul style="list-style-type: none"> • An act of commission or omission that is intended to prevent a person from adopting or freely 	Yes	Not covered

religion	practicing a religion or belief of his or her choice.		
Pillage	<ul style="list-style-type: none"> Theft of private property by armed forces in the context of an armed conflict. 	Not covered	Yes
Forced displacement of civilian populations	A group of persons is forcibly moved or expelled with no legal basis from an area in which they were lawfully present. Note: an exception exists where civilians are evacuated for imperative military or security reasons for as long as the conditions warranting the evacuation exist.	Not covered	Yes
Violence aimed at spreading terror among the civilian population	<ul style="list-style-type: none"> Act of violence intended to target the civilian population. Examples include: <ul style="list-style-type: none"> Indiscriminate and widespread shelling; Assault, rape, abuse or torture of women and children; Mass killing. 	Not covered	Yes
Use of weapons that are by nature indiscriminate	<p>Use of weapons that:</p> <ul style="list-style-type: none"> are not capable of being only targeted at a military objective; or has effects that cannot be limited or has uncontrollable effects <p>Examples include:</p> <ul style="list-style-type: none"> chemical weapons cluster bombs incendiary weapons 	Not covered	Yes
Use of chemical weapons	Chemical weapons are generally defined as munitions or devices that disperse toxic chemicals designed to cause harm or death. They may be dispersed in gas, liquid or solid	Not covered	Yes ³⁴

	<p>form. Examples include:</p> <ul style="list-style-type: none"> • Sarin gas • Mustard gas • VX 		
Use of human shields	<ul style="list-style-type: none"> • Use of the presence (or movement) of civilians to deter military operations against certain points or areas. 	Not covered	Yes
Military attacks that fail to distinguish between combatants and civilians (violation of the principle of distinction)	<ul style="list-style-type: none"> • Civilian populations, individual civilians, or areas populated by civilians (such as mosques, churches, hospitals, or schools) are the object of military attacks; • specific populations were deliberately deprived of the right to access food, water, medication, or other basic services;or, • Military attack was undertaken without due regard to minimizing harm to civilian population. 	Not covered	Yes

ANNEX A

KEY PRINCIPLES

❖ **Do no harm**

The documentation of human rights abuses should never harm the physical, emotional, or mental health of respondents. All possible steps must be taken to ensure respondents' safety.

❖ **Respect your mandate**

Respect the professional boundaries between you and respondents. Do not seek to befriend, counsel, or offer financial support to respondents.

❖ **Confidentiality**

Preserving the confidentiality of information is critical. Breaching confidentiality can put all of the parties involved at risk, including the respondent, anyone named by the respondent, and your organization.

❖ **Understand the context**

Make sure you have a sound understanding of the context that you are attempting to investigate, including the dynamics of the conflict, community and sub-community dynamics, and customs, language, history, and family and community structures.

❖ **Sensitivity**

Human rights documentation has potentially serious consequences for individual respondents, their families, and their communities. Exercise sensitivity throughout the documentation process, including taking steps to guard against the risk of re-traumatization.

❖ **Exercise good judgment and be persistent, consistent, and patient**

Documenting human rights abuses is a challenging process. You should use your best judgment at all times and be prepared to be flexible, persistent, and patient.

❖ **Seek consultation**

Regularly debrief with your team to continuously evaluate the documentation process and identify patterns or gaps early.

❖ **Accuracy and precision**

Approach documentation with a specific and rigorous focus.

❖ **Impartiality and objectivity**

Strive to always be impartial and objective. Do not demonstrate political biases or views during the documentation process. Rely on objective human rights standards when evaluating evidence.

ANNEX B

KEY STEPS FOR PROTECTING THE CONFIDENTIALITY AND SECURITY OF EVIDENCE

Documenting testimony

Handwritten notes that do not identify respondents by name are the most secure approach to documentation. It is not recommended to make audio-visual recordings of testimony.

Making audio or visual recordings

Audio-visual recordings may be used to document non-testimonial evidence of human rights violations, but individuals should never be filmed, photographed, or recorded without their express informed consent.

If a documentation team is confident that it can make audio or visual recordings without compromising the security of any respondents or would like to document indirect evidence this way, it should:

- Try to use equipment that is discreet, e.g., a camera that is small and a dark color, rather than white, silver, or reflective.
- Practice using cameras in silent mode without needing to look through the lens (e.g., take shots down by the photographer's hip or, if using a phone camera, as if the user is normally handling a phone).
- Always take more than one photo of each subject.
- Try to download data to an encrypted online database (such as Martus, www.martus.org); if downloading onto a personal computer, use encryption software and a secure password to lock the file.

Storing evidence

- Store and label evidence in a way that indicates a clear chain of custody.
- Maintain a limited chain of custody wherever possible.
- Store all files securely:
 - Do not label files in a way that the files could easily be identified;
 - Files with notes about an individual and/or respondents should be identified by a number and not the name of an individual;
 - Lists identifying interviewees should be kept separate from the substantive files; and
 - Duplicate files should be made and stored in a separate, secure facility.
- Documentation teams may wish to use a free secure online server, such as Martus (www.martus.org), which encrypts data and gives you the option of backing it up onto a secure, remote server.

ANNEX C

PERPETRATOR IDENTIFICATION

Identifying parties who may be implicated in human rights abuses in the Syrian context is particularly challenging. This is partly because of the large number of groups that are involved in the conflict, including parties affiliated with the government, the Free Syrian Army, and jihadist groups.

Questions to assist with perpetrator identification

In order to ascertain the identity of perpetrators, after hearing the respondent's initial narrative statement pertaining to any incidents of human rights violations, an interviewer may wish to ask questions focusing on:

- The respondent's impression of whether the alleged perpetrator belonged to a particular armed group—if the respondent has an opinion, what is the basis of that opinion? Did the perpetrators say or do anything that suggested a particular affiliation? Did the perpetrators otherwise identify themselves in any way?
- How the perpetrators were dressed—were they wearing a certain type of uniform? If so, describe the uniform, including any insignia or logos. (official uniforms strongly indicate Syrian Armed Forces) (olive/khaki uniforms may be SAA or Syrian Arab Air Force; white or blue uniforms may be Syrian Arab Navy; khaki-grey or blue-grey may be Syrian Arab Defense Force; black uniforms point to Hezbollah or *Jabhat al Nusra*)
- Were they wearing camouflage? (Many groups wear camouflage, including the SAA, Syrian Arab Air Force, Syrian Arab Defense Force, Hezbollah, NDF)
- Were fighters dressed both in camouflage and civilian clothing? (National Defense Forces, Free Syrian Army, Farouq Brigades, Harakat Ahrar Al Sham Al Islamiyya)
- What color was the clothing they wore? (black civilian clothing may indicate Shabiha)
- Did they have any identifying insignia? (a red ribbon on the shoulder is a signal of rank within the official military police)
- Were they wearing hats/berets/headbands? If so, was there writing on the headpiece? (red beret might indicate Hezbollah; a red or green headband may indicate FSA; a black headband with white writing might indicate Jabhat al Nusra or the Farouq Brigades; a kuffa turban may point to the Farouq Brigades)
- Were there flags? If so, describe (see below).
- Could you identify the language/dialect? Is it a local group or foreign? (Farsi may point to groups from Iran, while Kurdish points to PYD/KSC)
- Did they carry or use any weapons? If so, what kind? (higher-tech weapons, i.e., small arms and tanks might indicate SAA, while small arms and lighter weapons might indicate Shabiha)
- Did shots come from far away? (flush out whether there were snipers—reports indicate the IRGC Ground Forces are supplying snipers and PFLP has been using snipers to kill rebel fighters in the camp)

- Did the group appear organized? (the more organized a group is, the more likely it is part of an official military group. A highly disorganized group may be resident groups such as the Popular Committees (*Lijan Sha'biyya*))
- Describe the attackers' facial hair. (long beards point to Jihadist groups such as Jabhat al Nusra or the Ahrar El Sham Brigades)
- Were there aerial attacks? (Syrian Arab Air Force)

Set forth below are examples of groups that have been reported to be active in Syria. This list is not exhaustive. The list is divided into three headings: (a) pro-government forces, (b) anti-government forces, and (c) other armed groups.

Syrian Government Forces and Pro-Government Forces	
	<p><i>Syrian Arab Army</i></p> <ul style="list-style-type: none"> • Regular armed forces of Syria. <p><i>National Defense Army:</i></p> <ul style="list-style-type: none"> • Paramilitary force drawn mainly from pro-government communities • Engaged in combat alongside regular army units <p><i>Shabiha:</i></p> <ul style="list-style-type: none"> • Pro-government militia • Dressed in civilian clothing • Often dress in black³⁵ <p><i>Syrian Intelligence and Police units</i></p>
	<p><i>Hezbollah fighters:</i></p> <ul style="list-style-type: none"> • Supporting the Syrian Army near Al-Qusayr and in other areas
<p><u>PFLP</u></p> <p><i>Logo of the PLFP</i></p>  <p><i>Flag of the PLFP</i></p> 	<p><i>Popular Front for the Liberation of Palestine</i></p> <ul style="list-style-type: none"> • Active around Yarmouk Camp in Damascus³⁶ • Reportedly uses snipers to kill rebel fighters in camp

	<p><i>Iranian Security Forces:</i>³⁷</p> <ul style="list-style-type: none"> • Reportedly supplying Syrian Intelligence with equipment and expertise • Defectors report the use of snipers to contain protests
<p>Anti-Government Forces³⁸</p>	
<p>Free Syrian Army (FSA)</p> <p>Logo of FSA</p>  <p>Flag of Syrian National Coalition</p> 	<p><i>Farouk Brigade (Liwa al-Farouq):</i></p> <ul style="list-style-type: none"> • Based mostly in Homs, with some presence in Daraa and also in parts of Idlib near the Turkish border • Notably fought during the February 2012 siege of Baba Amr <p><i>Tawhid Brigade (Liwa al-Tawhid):</i></p> <ul style="list-style-type: none"> • Formed in July 2012 in Aleppo • Known for its conservative Islamist orientation • Primarily involved in the battle of Aleppo, beginning August 2012 <p><i>Idlib Martyrs' Brigade (Liwa Shahuda' Idlib)</i></p> <ul style="list-style-type: none"> • Formed in March 2012 • Only operates in Idlib Province and its countryside <p><i>National Unity Brigades (Kata'ib al-Wahda al-Wataniya)</i></p> <ul style="list-style-type: none"> • Most active in the Damascus countryside, Idlib, Suweida, and Hama and its countryside • Secular orientation <p><i>Salah al-Din al-Ayyubi Brigade (Liwa Salah al-Din al-Ayyubi)</i></p> <ul style="list-style-type: none"> • Operate under the banner of the Free Syrian Army and Supreme Kurdish Military Council • Formed in May 2012 • Members include Arabs and Turkmen • Mostly active in Aleppo and surrounding countryside
<p><u>Jihadists</u></p> <p><i>Known for using the shahada as a symbol</i></p>	<p><i>Al-Nusra Front (Jabhat al-Nusra)</i></p> <ul style="list-style-type: none"> • Widely believed to have links to al-Qaeda in Iraq • Mostly based in Aleppo and Deir-EzZor; also has a presence in the Damascus suburbs and Homs • Presence in Syria from around Oct 2011 • Known for suicide operations at checkpoints and regime outposts

	
<p><u>Jihadists (continued)</u></p>	<p><i>Ahrar al-Sham</i></p> <ul style="list-style-type: none"> • Formed in late 2011 • Based mostly in Idlib Province, though also present in Hamah and Aleppo • One of the first brigades to use roadside bombs and IED attacks • Includes non-military wings that provide for children’s education, aid distribution, and sharia courts <p><i>Suqoor al-Sham</i></p> <ul style="list-style-type: none"> • Formed in Nov 2011 • Mostly based in Idlib Province • Salafi orientation • Known for suicide car-bombings
	<p><i>Harakat Ahrar Al Sham Al Islamiyya:</i></p> <ul style="list-style-type: none"> • Can be distinguished only by its flag, as fighters are otherwise dressed like other anti-regime militias—in a combination of civilian and camouflaged clothing. • Dominated by the Ahrar El Sham Brigades, a union of Jihadi factions that was established at the beginning of 2012
<p>Other Armed Groups</p>	
	<p><i>Kurdish Supreme Committee and Kurdish Popular Protection Units:</i></p> <ul style="list-style-type: none"> • Has begun to administer and control majority-Kurdish towns and key border crossings in the north

ANNEX D

SYRIA'S OBLIGATIONS IN INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW³⁹

Convention	Signed (s)/ Ratified/Acceded (r)	Reservations ⁴⁰
INTERNATIONAL TREATIES RELATING TO HUMANITARIAN LAW⁴¹ (specific)		
Victims of armed conflict		
Geneva Conventions, 1949	11/02/1953 (r)	None
Additional Protocol (I) to the Geneva Conventions, 1977	11/14/1983 (r)	None
Optional Protocol on the Involvement of Children in Armed Conflict, 2000	10/17/2003 (r)	The Syrian Arab Republic declares that the statutes in force and the legislation applicable to the Ministry of Defense of the Syrian Arab Republic do not permit any person under 18 years of age to join the active armed forces or the reserve bodies or formations and do not permit the enlistment of any person under that age.

Methods and Means of Warfare		
Geneva Protocol on Asphyxiating or Poisonous Gases, and of Bacteriological Methods, 1925	12/17/1968 (r)	None
Convention on the Prohibition of Biological Weapons, 1972	04/14/1972 (s)	None
Cultural Property		
Hague Convention for the Protection of Cultural Property, 1954	03/06/1958 (r)	None
Hague Protocol for the Protection of Cultural Property, 1954	03/06/1958 (r)	None
Second Hague Protocol for the Protection of Cultural Property, 1999	05/17/1999 (s)	None
Criminal Repression		
Statute of the International Criminal Court, 1998	11/29/2000 (s)	None
Other treaties relating to IHL		
Convention on the Prevention and Punishment of Genocide, 1948	06/25/1955 (r)	None

Convention on the Prohibition of Military or Any Hostile Use of Environmental Modification Techniques (ENMOD), 1976	08/04/1977 (s)	None
Convention on Mercenaries, 1989	10/23/2008 (r)	The Syrian Arab Republic has reservations on paragraph 1 article 17 of the Convention.
TREATIES RELATING TO HUMAN RIGHTS LAW⁴² (general)		
International Convention on the Elimination of All Forms of Racial Discrimination, 1966	04/21/1969 (r)	The Syrian Arab Republic does not consider itself bound by the provisions of article 22 of the Convention, under which any dispute between two or more States Parties with respect to the interpretation or application of the Convention is, at the request of any of the Parties to the dispute, to be referred to the International Court of Justice for decision. The Syrian Arab Republic states that, in each individual case, the consent of all parties to such a dispute is necessary for referring the dispute to the International Court of Justice.
International Covenant on Economic, Social and Cultural Rights, 1966	04/21/1969 (r)	The Syrian Arab Republic considers that paragraph 1 of article 26 of the Covenant on Economic, Social and Cultural Rights and paragraph 1 of article 48 of the Covenant on Civil and Political Rights are incompatible with the purposes and objectives of the said Covenants, inasmuch as they do not allow all States, without distinction or discrimination, the opportunity to become parties to
International Covenant on Civil and Political Rights, 1966	04/21/1969 (r)	

		the said Covenants.
International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973	06/18/1976 (r)	None
Convention on the Elimination of All Forms of Discrimination against Women, 1979	03/28/2003 (r)	Subject to reservations to article 2; article 9, paragraph 2, concerning the grant of a woman's nationality to her children; article 15, paragraph 4, concerning freedom of movement and of residence and domicile; article 16, paragraph 1 (c), (d), (f) and (g), concerning equal rights and responsibilities during marriage and at its dissolution with regard to guardianship, the right to choose a family name, maintenance and adoption; article 16, paragraph 2, concerning the legal effect of the betrothal and the marriage of a child, inasmuch as this provision is incompatible with the provisions of the Islamic Shariah; and article 29, paragraph 1, concerning arbitration between States in the event of a dispute.
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	08/19/2004 (r)	None
International Convention against Apartheid in Sports, 1985	11/28/1988 (r)	None
Convention on the Rights of the Child, 1989	07/15/1993 (r)	The Syrian Arab Republic has reservations on the Convention's provisions which are not in conformity with the Syrian Arab legislations and with the Islamic Shariah's principles, in particular

		the content of article 14 related to the Right of the Child to the freedom of religion.”
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000	05/15/2003 (r)	A reservation is entered to the provisions set forth in article 3, paragraph 5, and article 3, paragraph 1 (a) (ii) of the Optional Protocol on the sale of children, child prostitution and child pornography, which relate to adoption.
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990	06/02/2005 (r)	None
Convention on the Rights of Persons with Disabilities, 2006	07/10/2009 (r)	The Government of the Syrian Arab Republic declares that it does not recognize the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) provided for in articles 6 and 7 of the Optional Protocol, in accordance with Article 8 of that Protocol, which provides that each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.
Optional Protocol to the Convention on the Rights of Persons with Disabilities, 2006	07/10/2009 (r)	

¹ Rep. of the Independent Int'l Comm'n of Inquiry on the Syrian Arab Repub.to the Human Rights Council, 23rd Sess. Summary, UN Doc. A/HRC/23/58 (4 June 2013), available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-23-58_en.pdf [hereinafter OHCHR Manual].

² AMNESTY INTERNATIONAL AND COUCNIL FOR THE DEVELOPMENT OF SOCIAL SCIENCE RESEARCH IN AFRICA, UKWELI: MONITORING AND DOCUMENTING HUMAN RIGHTS VIOLATIONS IN AFRICA 8 (2000) [hereinafter "UKWELI"].

³ OHCHR Manual, *supra* note 1, at 10.

⁴ OHCHR Manual, *supra* note 1, at viii.

⁵ In June 2012, UN Under-Secretary-General for Peacekeeping Operations **Hervé Ladsous** stated that the situation in Syria could be called a civil war. In June 2012, the Independent International Commission of Inquiry on Syria stated that the violence in some areas "bears the characteristics of a non-international armed conflict." *Syria: Applicable International Law*, RULE OF LAW IN ARMED CONFLICTS PROJECT (last updated July 13, 2012), http://www.geneva-academy.ch/RULAC/applicable_international_law.php?id_state=211).

⁶ ADVOCATES FOR HUMAN RIGHTS, A PRACTITIONER'S GUIDE TO HUMAN RIGHTS MONITORING, DOCUMENTATION, AND ADVOCACY 15 (2011), available at http://www.theadvocatesforhumanrights.org/a_practitioner_s_guide_to_human_rights_monitoring_documentation_and_advocacy [hereinafter "Practitioner's Guide"].

⁷ OHCHR Manual, *supra* note 1, at 111.

⁸ OHCHR Manual, *supra* note 1, at 90.

⁹ OHCHR Manual, *supra* note 1, at 110.

¹⁰ Practitioner's Guide, *supra* note 6, at 15.

¹¹ OHCHR Manual, *supra* note 1, at 88.

¹³ Practitioner's Manual, *supra* note 6, at 15.

¹⁴ OHCHR Manual, *supra* note 1, at 91.

¹⁵ Practitioner's Guide, *supra* note 6, at 15.

¹⁶ KATE THOMPSON & CAMILLE GIFFARD, HUMAN RIGHTS CENTRE, UNIVERSITY OF ESSEX, REPORTING KILLINGS AS HUMAN RIGHTS VIOLATIONS, 86 (2002)[hereinafter University of Essex Handbook].

¹⁷ OHCHR Manual, *supra* note 1, at 103.

¹⁸ STEPHEN WILKINSON, STANDARDS OF PROOF IN INTERNATIONAL HUMANITARIAN AND HUMAN RIGHTS FACT-FINDING MISSIONS 23 (2012), available at <http://www.geneva-academy.ch/docs/reports/Standards%20of%20proof%20report.pdf> [hereinafter "Wilkinson, Standards of Proof"].

¹⁹ This standard of proof is also often expressed as "it is reasonable to conclude that (X)." Wilkinson, Standards of Proof, *supra* note 18, at 10.

²⁰ Rome Statute of the International Criminal Court art.66(3), July 1, 2002, U.N. Doc.A/Conf. 183/9, 2187 U.N.T.S. 90 [hereinafter Rome Statute], available at <http://untreaty.un.org/cod/icc/statute/romefra.htm>.

²¹ University of Essex Handbook, *supra* note 16, at 49.

²² UKWELI, *supra* note 2, at 67.

²³ OHCHR Manual, *supra* note 1, 12.

²⁴ OHCHR Manual, *supra* note 1, 15.

²⁵ Practitioner's Guide, *supra* note 6, at 15.

²⁶ OHCHR Manual, *supra* note 1, at 114.

²⁷ OHCHR Manual, *supra* note 1, at 105.

²⁸ UKWELI, *supra* note 2, at 63.

²⁹ UKWELI, *supra* note 2, at 68.

³⁰ OHCHR Manual, *supra* note 1, at 106.

³¹ OHCHR Manual, *supra* note 1, at 105.

³² See, e.g., International Covenant on Civil and Political Rights art. 4, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 [hereinafter ICCPR]. Note, however, that any suspension of rights during that period may only be to the "extent strictly required by the exigencies of the situation" provided the relevant measure are "not inconsistent with other obligations under international law" and do not involve discrimination.

³³ ICCPR, *supra* note 32, at art. 4(2).

³⁴ Note that Syria has not signed the 1997 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction, although it has ratified the 1925 Geneva Protocol.

³⁵ *Syria Unrest: Who are the Shabiha?*, BBC NEWS (May 29, 2012 12:20PM), <http://www.bbc.co.uk/news/world-middle-east-14482968>.

³⁶ UK BORDER AGENCY, COUNTRY OF ORIGIN INFORMATION REPORT: THE SYRIAN ARAB REPUBLIC 6 (2010), available at <http://webarchive.nationalarchives.gov.uk/20101208171359/rds.homeoffice.gov.uk/rds/pdfs10/syria-030910.doc>.

³⁷ *Iran Security Forces Arrested Man Charged of Spying for Israeli Regime*, INSERBIA (Aug. 5, 2013), <http://inserbia.info/news/2013/08/iran-security-forces-arrested-man-charged-of-spying-for-israeli-regime/>.

³⁸ *Syria's Armed Opposition: A Brief Overview*, CARNEGIE MIDDLE EAST CENTER (Feb. 7, 2013), <http://carnegie-mec.org/2013/02/07/syria-s-armed-opposition-brief-overview/fblr>.

³⁹ Sources: ICRC CUSTOMARY INTERNATIONAL HUMANITARIAN LAW DATABASE, available at http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule23 (last visited Oct. 8, 2013); OHCHR OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, available at http://www.ohchr.org/Documents/Issues/Disappearances/disappearance_gc.pdf.

⁴⁰ Common reservation made by Syria on all treaties, conventions, and protocols state the following: "...with the reservation that this accession in no way constitutes recognition of Israel nor the establishment of relations with Israel as regards the application of the provisions of the aforementioned Protocol/Convention."

⁴¹ The following treaties relating to international humanitarian law were not signed or ratified by Syria:

→ **Victims of Armed Conflicts**

- Additional Protocol (I) to the Geneva Conventions, 1977
- Additional Protocol (II) to the Geneva Conventions, 1977
- Additional Protocol (III) to the Geneva Conventions, 2005

→ **Methods and Means of Warfare**

- Convention prohibiting Certain Conventional Weapons (CCW), 1980
- CCW Protocol (I) on Non-Detectable Fragments, 1980
- CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, 1980
- CCW Protocol (III) prohibiting Incendiary Weapons, 1980
- Convention prohibiting Chemical Weapons, 1993
- CCW Protocol (IV) on Blinding Laser Weapons, 1995
- CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, amended, 1996
- Anti-Personnel Mine Ban Convention, 1997
- Convention prohibiting Certain Conventional Weapons (CCW), amended Article 1, 2001
- CCW Protocol (V) on Explosive Remnants of War, 2003
- Convention on Cluster Munitions, 2008

→ **Criminal Repression**

- Charter of the Nuremberg Tribunal, 1945
- United Nations Principles for the Nuremberg Tribunal, 1946
- Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, 1968
- Statute of the International Criminal Tribunal for the Former Yugoslavia, 1993
- Statute of the International Criminal Tribunal for Rwanda, 1994
- Statute of the International Criminal Court, 1998
- Statute of the Special Court for Sierra Leone, 2002

⁴² Note that the following treaties relating to international human rights law were not signed or ratified by Syria:

- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2008
- Optional Protocol to the International Covenant on Civil and Political Rights, 1966
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002
- Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2011
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989
- International Convention for the Protection of All Persons from Enforced Disappearance, 2006