Chapter 10

Human Rights Professionals and the Criminal Investigation and Prosecution of Core International Crimes

Morten Bergsmo and William H. Wiley

Contents

UNIVERSITY OF OSLO

Norwegian Centre for Human Rights

Morten Bergsmo, Senior Researcher, International Peace Research Institute, Oslo (PRIO) (2006–); formerly Senior Legal Adviser and Chief of the Legal Advisory Section, Office of the Prosecutor, ICC (2002–05); Legal Adviser, ICTY (1994–2002); Legal Adviser, UN Commission of Experts for the former Yugoslavia established pursuant to UNSC resolution 780 (1992) (1993–94); represented the ICTY to the UN negotiation process to establish the ICC (1996–2002). He has advised core international crimes investigation and prosecution processes in several countries, including Bosnia and Herzegovina, Cambodia, Canada, Denmark, Indonesia, Iraq, Macedonia, the Netherlands and Serbia, and has had several international consultancies in international criminal justice. He has published extensively in international criminal law.

William H. Wiley, International Law Advisor, Iraqi High Tribunal (2006–); formerly Human Rights Officer, United Nations Assistance Mission for Iraq (2005–2006); Investigator, ICC (2003–2005); Investigator, ICTR (2001–2002); Intelligence Analyst, ICTY (2000–2001, 2002–2003); and Analyst, Crimes Against Humanity and War Crimes Section of the Department of Justice of Canada (1997–1999). Dr. Wiley has published in the field of international criminal law, and, aside from his advisory work for the Iraqi High Tribunal, he owns a consultancy and is director of two NGOs, all of which specialise in the delivery of rule-of-law projects on behalf of national and international donors.

1. Introduction

Internationalised criminal courts and tribunals[1] re-emerged from a long post-World War II hiatus in the mid-1990s. The creation of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), and in particular the emergence of the International Criminal Court (ICC), owed much to the tireless efforts of human rights organisations to end impunity for the most serious core international crimes.[2] The crucial role played by the human rights community in the creation of these and other internationalised criminal jurisdictions has naturally given rise to willingness on the part of some human rights professionals to contribute to the work of these institutions, most notably the ICC. Concomitantly, the role of civil society in internationalised criminal justice is gradually being subjected to more critical scrutiny.[3] This critical discourse will probably continue. While the relationship between human rights organisations and the investigative arms of internationalised criminal jurisdictions is not without challenges, this paper recognises that there are a number of shared interests between the two and that these shared interests can lead on a case-by-case basis to partnerships between professionals working for internationalised criminal-investigative and prosecution services with human rights professionals.

Any partnership of this nature will necessarily rest upon several foundations. The most important of these is the fact that internationalised criminal jurisdictions are invariably established only after the underlying conduct of interest to a given internationalised jurisdiction has been perpetrated. For instance, the Extraordinary Chambers in the Courts of Cambodia (ECCC) were still waiting to hear their first case at the end of 2007 when this paper was written – some thirty years after the alleged perpetrators of the mass killings in Cambodia had been forced from power. Where an internationalised criminal jurisdiction is already in place when the underlying conduct occurs, and this body has the legal authority to make inquiries concerning alleged criminal conduct, various factors will work against the timely start of such an inquiry – if it is made at all. The Prosecutor of the ICC, to take the most obvious example, has neither the legal authority nor a sufficient number of investigators to respond promptly to all claims that core international crimes have been perpetrated. The result is that the investigative arms of the ICC and other internationalised criminal jurisdictions find themselves almost without exception in situations where they are dependent at the start of the inquiry on the work undertaken in the field by fact-finders (such as human rights monitors) employed by intergovernmental organisations (IGOs), non-governmental organisations (NGOs), and, in some cases, by governmental agencies.

Viewed purely from the perspective of the requirements of criminal investigations and prosecutions, the efforts of human rights professionals have proved to be somewhat uneven since the re-emergence of internationalised criminal justice in the mid-1990s. Put another way, investigators and analysts employed by internationalised courts and tribunals who have been tasked with the examination of allegations of core international crimes have often found that the monitoring and reporting efforts of human rights professionals do not do enough to advance methodologically sound criminal inquiries beyond an initial examination of the alleged underlying conduct. There are exceptions to this rule as well as good reasons to expect that the work of human rights professionals will not conform to the narrow professional requirements of criminal investigators and analysts. One impor-

tant consideration in this respect is the fact that staff employed by international criminal jurisdictions are ethically bound to search for inculpatory as well as exculpatory evidence from the start of an inquiry. At the ICC, this is a statutory obligation placed upon the Office of the Prosecutor. In seeking evidence the investigative and analytical staff must remain mindful at all times of the applicable standard of proof which determines the outcome of criminal proceedings (such as 'beyond reasonable doubt'). For their part, human rights organisations are more concerned with issues of monitoring and protection through advocacy; they seek to change conduct through the provision of information geared towards greater respect for human rights, the rule of law, good governance and democracy. The reporting efforts of human rights professionals are judged largely in the court of public opinion – which requires a lower 'standard of proof'.

These and other differences aside, human rights organisations on the one hand, and the investigative arms of internationalised criminal jurisdictions on the other, invariably share one goal: the desire to see those responsible for core international crimes answer to the allegations made against them in a legal system, when the inculpatory evidence is sufficient. This shared objective serves as a starting point of any cooperation between human rights professionals and the investigative service of any given internationalised criminal jurisdiction.

Human rights workers and their organisations can be particularly well placed to make important contributions to the investigation and analysis of core international crimes, and, in so doing, have much to teach internationalised criminal-investigative services. In particular, human rights organisations frequently attract not only highly motivated staff, but also persons with outstanding academic records. These factors often translate into a strong capacity on the part of individual human rights professionals as well as their organisations to identify and present in clear terms complex fact patterns that are found in domestic as well as foreign conflict zones. Moreover, human rights professionals are typically capable of working quickly and under pressure. This characteristic of the profession is one of the most important prerequisites to adopting and maintaining an operational posture. At the same time, the ability to work quickly and under pressure generates added value in the execution of a number of key investigative tasks, among them the examination of witnesses to core international crimes. Human rights workers also tend to be open to systematic approaches to fact-finding as well as fact-analysis, and to considerations of methodology and cost efficiency. In these respects, human rights professionals have proven themselves to be more skilled than policemen seconded to internationalised courts and tribunals from violent crime investigative units situated in national criminal justice systems. To this should be added the fact that a number of human rights organisations have developed comprehensive international networks through which professional staff can exercise their fact-finding and -analysis skills in numerous countries around the world. Apart from the general insights that such experience can offer into the phenomenon of unlawful victimisation during conflicts, the experience possessed by many human rights professionals frequently facilitates a useful comparative analysis of fact patterns in the organisation and perpetration of core international crimes.

Following a brief examination of the relevant features of international criminal law (Section 2) and the chief components of the methodology employed during investigations into alleged core international crimes (Section 3), a number of suggestions will be offered

concerning the contributions that might be made by human rights organisations to these investigations, should it fall within their mandate to do so: contributing to the establishment of the crime base (Section 4); contributing to the development of evidence linking the suspect to the perpetration of crimes (Section 5); and human rights professionals contributing as witnesses (Section 6). Section 7 looks briefly at the stark limitations in the jurisdictional system of the ICC, before some general concluding remarks are made in Section 8.

2. The building blocks of international criminal law

There are significant differences between the professional culture of human rights monitors and that of criminal investigators and analysts specialising in international criminal law. In part, this difference stems from the distinct manner in which the two disciplines approach human rights violations that may amount to core international crimes. It would seem fair to suggest that, broadly speaking, a significant and present professional concern of human rights organisations is to see an end to the perpetration of core international crimes at the earliest possible moment. While criminal investigators and analysts would share this concern on a personal level, their professional goals should be narrowly focused. Without prejudice to the methodology of human rights professionals, the overriding objective of a criminal investigation and the personnel assigned thereto is to collect sufficient incriminating and exonerating evidence to make a determination of whether there are grounds for a criminal prosecution. Where the incriminating evidence would appear to be sufficient, it falls to investigators and analysts to gather additional evidence. However, in cases where the evidence does not appear to warrant a prosecution, it is the duty of investigators and analysts to inform their superiors of this fact without delay in order to protect the rights of the individuals under investigation and to preserve public resources. Criminal investigators and analysts are able to meet their professional obligations only if they focus carefully upon all extant inculpatory as well as exculpatory information and evidence.

It is not the object of this short chapter to make human rights professionals expert in the field of international criminal law – an area of public international law where increasing numbers of human rights monitors have received considerable training and come to possess no small measure of knowledge. However, whereas a general knowledge of international criminal law is necessarily the starting point for a criminal inquiry, international criminal investigations tend to be highly technical as well as dispassionate in nature. Stated succinctly, the object of an investigation is to determine whether there would appear to be sufficient evidence to satisfy the requirements for a finding of guilt on a charge that might in future be laid by prosecutors against a given suspect. In making this determination, investigators and analysts must at all times remain mindful that each of the offences provided for by international criminal law consists of distinct elements of a contextual (for example, 'widespread or systematic attack on a civilian population'), material (such as 'torture') and mental (typically 'intent') nature. These elements are by now well established in international law and do not change from case to case, although their precise meaning is subject to interpretation by those sitting in judgement, usually on the basis of the reasoning found in earlier judgements and decisions. For these reasons, a finding of guilt at trial will follow only where the prosecutor is able to prove (normally to a 'beyond a reasonable doubt' standard) all of the elements of a given offence through the introduction before a court or tribunal of sufficient evidence.

Likewise, international criminal law sets forth a number of forms of participation. These are often referred to as 'modes of liability'. Among the modes of liability are the ordering of the commission of a crime by others and the failure to prevent persons under one's effective control from perpetrating criminal conduct. All of the forms of participation found in international criminal law are characterised by a distinct set of legal requirements, each of which must be proved by prosecutors through the introduction of sufficient evidence before a conviction will be registered by the persons sitting in judgement.

It is the necessity of proving to a high standard of probability the elements of crimes and the legal requirements of modes of liability that informs the dispassionate as well as technical nature of the investigative and analytical processes that underpin the search for justice for core international crimes. Where the human rights professional seeks to collect information for possible use in a criminal investigation and prosecution, he or she must consider carefully the structure of the substantive law on core international crimes and modes of liability. Learning about the elements of crimes and legal requirements of modes of liability can be done by means of training or by use of legal sources. A more durable resource in such competence building is the *Case Matrix* application developed at the ICC. It has been tailor-made for work on core international crimes. It provides detailed commentaries on such crimes and modes of liability in international criminal law, as well as a comprehensive library of legal sources on this substantive law. It also has a database structure for the organisation of information on core international crimes that can be used by advanced human rights professionals. There is more information about the *Case Matrix* on the ICC website. Human rights organisations that are engaged in the documentation of human rights violations which may amount to core international crimes and that seek to increase the quality of their reporting may apply to get access to the *Case Matrix* application by sending an e-mail message to case.matrix@icc-cpi.int.

Human rights monitors active in the field are often among the first persons to view crime scenes. Criminal investigators employed by international criminal jurisdictions rarely have the opportunity to inspect a crime scene until well after the underlying conduct has been perpetrated. It is one of the great burdens shouldered by the human rights professional that he or she is sometimes called upon by survivors to view places of carnage, for instance, to examine a scene where women, children and elderly persons lie dead, evidently from unnatural causes. As difficult as this reality is for the human rights monitor who is confronted with it, one of the important considerations that those who arrive first at a crime scene need to keep in mind is that the evidentiary distance between a given crime scene and the participants likely to be of most interest to internationalised criminal courts and tribunals – that is, the likes of Charles Taylor, Slobodan Milošević, Saddam Hussein and their lieutenants – can be a good deal longer than is sometimes realised. In particular, there is a significant amount of evidence that a prosecutor must adduce during trial before those sitting in judgement will render a guilty verdict on, say, a charge that murder as a crime against humanity was perpetrated in a village in the proverbial middle-of-nowhere by the likes of Charles Taylor, while the latter was sitting comfortably in a presidential palace in a neighbouring state.

A number of contextual, material and mental elements must be individually proved to a high standard (such as 'beyond a reasonable doubt') before a court will render a finding of guilt on a charge of, for instance, *murder as a crime against humanity*. Where murder as

a crime against humanity has been alleged in the charging document, a prosecutor must prove four elements relevant to the context in which the conduct occurred:

1. the existence of a widespread or systematic attack directed against a civilian population (an objective, contextual element);

2. that the conduct of the accused constituted part of the attack (another objective element, requiring a nexus between the context of an attack and the incident);

3. that the accused knew of the attack (subjective element referring to the context); and

4. that the accused knew of the nexus between the attack and the conduct (subjective element referring to the nexus between the context and the conduct).

Additionally, the prosecutor in such a case must demonstrate one material element referring to the conduct of the accused, that is, that a perpetrator killed one or more persons. Finally, the prosecutor must also prove that the perpetrator meant to kill the victim(s), or, in the alternative, that the perpetrator was aware that death would occur in the ordinary course of events.

Finding sufficient evidence to satisfy each of these elements is a difficult task. There are various reasons for this. Only a handful of the challenges facing investigators and analysts can be touched upon in the following paragraphs.

Prosecutors in most internationalised jurisdictions are bound by codes of professional ethics that demand, among other things, that a suspect not be formally accused of a crime unless there is a reasonable prospect of his or her conviction. Put another way, where there is insufficient evidence to satisfy all of the elements of a given crime, professional prosecutors are precluded from making formal allegations that the offence was perpetrated by the suspect in question. The general public, including human rights professionals, are normally not formally bound in the same way by this code of ethics, and there would appear to be a popular tendency to conclude that a crime against humanity *must have been* committed where there has been substantial civilian loss of life in a conflict zone. In contrast, the starting point for the professional investigator and analyst in such cases is the hypothesis that a crime – but not necessarily a crime against humanity – *may have been* committed. In particular, criminal investigators and analysts commence their efforts with the knowledge that, whereas the loss of civilian life in a conflict zone may be indicative of the perpetration of one of a number of core international crimes, there is no core international crime where conviction rests only upon evidence that a killing occurred. Indeed, where killing is an element (or a part of an element) of genocide, a crime against humanity or a war crime, evidence that a killing (or killings) took place may constitute proof of only one of the elements of the crime in question. For instance, as was laid out in the previous paragraph, murder as a crime against humanity can be broken down into six elements, all of which must be proved to a high standard, and sufficient evidence of one or more killings is only one part of the material element of the crime. Put another way, evidence of a dead civilian does not carry a criminal investigation as far towards a conviction as one might expect.

It is worth repeating that assembling sufficient evidence to prove core international crimes, in particular to prove that a suspect perpetrated murder as a crime against humanity, is time consuming and challenging. For example, investigators often experience considerable difficulties in collecting evidence that demonstrates the most basic of the contextual elements of this crime, that is, that a civilian population was the object of an attack. Proving this contextual element normally entails demonstrating beyond a reasonable doubt that the state or non-state actor (such as an armed political group) which perpetrated the attack was acting in accordance with a policy that a civilian population should be attacked. While the existence of such a *policy* may be inferred, this inference must be a reasonable one. Owing to the fact that the liberty of an accused person is hanging in the balance during most internationalised criminal proceedings, those sitting in judgement in such cases are necessarily very careful when finding against an accused person on the basis of inferential evidence. This is one of the reasons why it is difficult to envision a situation where a court will find that the presence of dead civilians, in particular when the loss of life took place in a single location (rather than over a widespread area), is sufficient evidence, in and of itself, that there existed a policy on the part of the attacking side to attack a civilian population. This reading of the law generally leads investigators and analysts to seek evidence which shows that murders or conduct similar to murder were perpetrated elsewhere by the same state or non-state actor. The aim is to meet the 'widespread or systematic' requirement of the first contextual element better. The search for evidence of this nature requires investigative resources that are very often unavailable. As will be discussed later in this chapter, human rights professionals and their organisations are sometimes particularly well placed to assist investigators and analysts with proving this element.

Apart from the need to collect evidence that a given crime such as murder as a crime against humanity was perpetrated, international criminal law additionally requires prosecutors to demonstrate the *form of participation* of the accused with respect to any and all alleged offences. Each of the forms of participation set forth in international criminal law have their distinct legal requirements that must be proved before there can be a conviction. These forms of individual criminal liability can be found in, among other legal instruments, the Statute of the International Criminal Court ('ICC Statute') in articles 25 and 28.

This aspect of international criminal law would appear to be widely misunderstood outside the ranks of international criminal law practitioners. This is unfortunate as the substantive law on individual criminal responsibility is particularly important insofar as the majority of suspects under investigation by internationalised courts were seldom if ever physically present when the underlying conduct (such as a massacre) took place. We are reminded in this context of the ICC Statute's requirement that the Court should target persons *most responsible* for core international crimes of concern to the international community as a whole. In practice, this means that the Court is likely to concern itself with persons whom the evidence suggests have perpetrated crimes at some distance from the physical conduct giving rise to investigations and prosecutions. International criminal jurisdictions should generally speaking concentrate their limited resources on persons with higher-level responsibility. Lower-level functionaries should be left to national courts.

International criminal law has evolved to provide a broad range of modes of liability which enable prosecution of persons not physically present where crimes are perpetrated.

These modes of individual criminal liability ensure that persons who involve themselves in the commission of genocide, crimes against humanity and war crimes are not granted *de facto* immunity from prosecution merely by virtue of their physical distance from the murder and mayhem arising from their acts and omissions. Allegations of ordering, joint perpetration, complicity, inducing and command responsibility – and there are still more modes of individual criminal liability – must be carefully investigated, properly pleaded in an indictment and proved to the necessary degree before a conviction can be registered for one of the core international crimes.

More specifically, if troops subordinate to a military commander were ordered by that military commander to attack the civilian population of a given village, which the subordinate troops thereupon did, giving rise to numerous civilian deaths, it is necessary to demonstrate not only that, for example, the crime against humanity of murder was perpetrated by the commander, but also that the commander was criminally liable by virtue of the orders that he or she issued. Stated in a different way, proof of culpability for any given crime must be *coupled with* proof of individual criminal responsibility for that crime on at least one of the grounds set forth above, that is, ordering, joint perpetration, complicity and so forth. At the same time, each of these forms of individual criminal liability has a number of distinct legal requirements which must be proved for a finding of criminal liability against a given accused. For instance, a finding of criminal command responsibility normally rests upon several legal requirements of increasing complexity, including the requirement that it be proved that the commander in question was aware or should have known that forces under his or her command were committing, or were about to commit, conduct contrary to international criminal law.

In sum, the legal requirements for a conviction on any crime set forth in the key international criminal law instruments such as the ICC Statute are considerable. Both the legal requirements of an enumerated offence (for example, murder as a crime against humanity) and the mode of individual criminal liability (for example, ordering) must be proved beyond a reasonable doubt. Meeting these legal requirements, and assembling the evidentiary bases upon which they rest, is necessarily time consuming and can be conceptually difficult. Where investigators and analysts can secure assistance in the provision of relevant information and evidence from, say, a human rights organisation, such assistance should be gratefully received.

Criminal investigators and analysts should never demand assistance on their terms from third parties to an investigation, such as human rights organisations. Criminal investigators and analysts are, however, most likely to be responsive to offers of assistance where this assistance is properly informed of the legal requirements of the crimes and modes of liability that are of relevance to a given case. It is important to be aware of this even if the day-to-day objectives of human rights organisations necessarily differ from those of a criminal investigative body. Human rights organisations and professionals may wish to systematically improve their knowledge of substantive international criminal law on core crimes and modes of liability. Some of these organisations are more resourceful than most investigation and prosecution services tasked with core international crimes. These organisations should be in the forefront of competence building in this area, and they should actively make use of tools such as the *Case Matrix* to give their professionals immediate access to first rate information on core international crimes and modes of

liability, as well as to the law-driven approach to the organisation of factual information concerning such crimes provided by the *Matrix* to its users.

3. International criminal investigations and analysis

The offices of the prosecutor in international criminal jurisdictions were maintaining distinct investigations divisions up until the end of 2007 when this chapter was written, subordinated either to the chief prosecutor or the operational prosecutions division. This makes good sense given the large volume of the work processes linked to fact-finding and -analysis in core international crimes cases. The investigations divisions have analysts and investigators drawn from a variety of disciplines, most commonly policing and the practice of law, albeit there has been an increased awareness of the need for high academic qualifications. Individuals holding advanced degrees in fields such as history and politics are frequently employed as analysts. The ICC has also appointed a number of investigators who have worked in the field of human rights for NGOs and IGOs.

Properly conducted investigations into allegations of genocide, crimes against humanity and war crimes are to a large extent analytically driven. That is, the analysts, investigators and counsel employed by any given prosecution service are meant to constantly assess the available information against the elements and legal requirements of any given crime and mode of individual criminal liability as defined by the theory of criminal responsibility in the case. The initial phases of inquiries and investigations have several important components. Two of these components stand out for the purposes of this chapter: (a) the work to establish the so-called crime base of the case; and (b) the process to develop information on the link between the suspect and the actual perpetration of the crimes in question. We will consider these two work processes in some detail in the following.

(a) Crime base

Despite the occasional practice of the investigations divisions of the ICC and in particular the ICTR, war crimes inquiries generally do not commence with an examination of the alleged criminal conduct of a given individual. Experience has shown that where investigations are 'target driven' from the start, numerous problems invariably arise, many of them stemming from a desire of inadequately qualified investigators to focus to the exclusion of all else upon information that the investigators deem to be inculpatory. This lesson having presumably been learned by prosecution offices through trial and error, it is today difficult to envision a situation where an inquiry would be launched without *prima facie* evidence that a crime has been committed. Only after some sort of crime base has been established are suspects identified and their conduct examined. As will be discussed in sub-section (b) on 'Linkage' below, investigators and analysts should generally analyse the state or non-state organisation that might be behind a given offence before seeking to establish individual criminal responsibility.

International criminal jurisdictions seem to be, in the first instance, most responsive to allegations of murder in one of the several forms which this offence can take in international criminal law. In attempting to determine whether a crime has been committed, criminal analysts and investigators initially study open-source materials, that is, NGO, IGO and governmental reports found in the public domain, mostly by means of Internet searches. On occasion, in particular at the ICC, materials of this nature are submitted

unsolicited by the organisation that prepared them directly to the Office of the Prosecutor. However such materials are acquired, the inquiries made by the investigative arms of international criminal jurisdictions will start with the reports and other information generated by, *inter alia*, human rights monitors and their organisations. The apparent quality of these reports may play a factor in subsequent decisions concerning whether to commit additional investigative resources to an inquiry. As a general rule, the efforts of governmental agencies and civil society groups that appear to be well researched and documented will encourage further inquiries; reports that lack sources or otherwise appear to have been poorly prepared discourage additional inquiry. Media reports, where they are not of a so-called investigative nature, generally play a less significant role as they are insufficiently sourced and are known to have been written against tight deadlines. Where reports of any sort appear to have been poorly prepared by their authors, analysts and investigators will have little to build upon, and, if the volume of allegations stemming from a given situation (such as in the northeastern Democratic Republic of the Congo) far and away outstrips the capacity of the investigation service in question to examine all allegations, resources will be committed where there would appear to be natural partners outside of the institution able to assist an inquiry.

During the formative years of the ICTR and the ICTY, the investigations divisions of both institutions often relied heavily upon materials published by what might be termed third parties to the underlying conflicts, that is, IGOs and NGOs that were represented in the conflict zones and independent of any of the belligerent parties. The reports and the allegations of these third parties were examined closely at the start of numerous ICTY and ICTR criminal inquiries and often revisited during subsequent investigations. It was frequently the case that as an investigation progressed, the findings presented in IGO and NGO reports were buttressed by the testimony of the authors. In building their cases, inadequately skilled investigators sometimes supplemented these reports with little more than the testimony of the victims of the crimes alleged. In the meantime, suspects were indicted and apprehended, and prosecution counsel theretofore unfamiliar with the investigation would be presented on the eve of trial with a weak investigation file. Unsurprisingly, prosecutors would find the evidence unsatisfactory. Such trials, if they took place, proved to be difficult. The situation has since improved.

Criminal inquiries continue to commence with an examination of open-source materials gener-ated by, *inter alia*, human rights professionals. While the quality of open-source materials is often important to the decision of whether to afford additional resources to an inquiry, this phase of the inquiry is invariably short-lived. The focus of an inquiry will generally shift quickly to an effort to secure documentation generated contemporaneously by the party which is suspected of involvement in the *prima facie* crimes under examination. Documentary materials of this sort, where they can be found – and experience suggests that such materials are invariably extant in considerable quantities, even in places such as the northeastern Democratic Republic of the Congo – can constitute a proverbial goldmine of information concerning the movements and other actions of the group suspected of having perpetrated criminal conduct. Whether the contents of contemporaneously generated documents prove after further investigation into the case to be inculpatory or exculpatory, such documents are the key to determining the direction in which an investigation ought to go after the analysis of the open-source materials has been completed and a decision taken to proceed with more in-depth inquiries. When

open-source materials are examined, one of the first things that investigators and analysts will look for in these reports is whether the findings of the authors would appear to have been based upon contemporaneously generated documents.

Investigators and analysts will seek to secure relevant documentation from those NGOs and IGOs who are thought to possess such materials. Additional document searches and seizures will generally be coupled with the first efforts to establish a network of sources and informants in the field, at least where the context within which the alleged crimes were committed remains wholly or largely unchanged. It is only after these steps have been taken, that criminal investigators should begin to examine victims of and witnesses to suspected criminal conduct (that is, so-called crime-base witnesses). Forensic work – for instance, the exhumation of bodies from mass graves – might commence later still. Forensic examinations can be very expensive and tend to consume large quantities of finite human and financial resources. It is largely for these reasons that investigation services should delay forensic work until there is a reasonable prospect that the forensic work in question will relate to a case which is likely to proceed to an arrest warrant, indictment and trial.

Most individuals brought before international criminal jurisdictions are asked to answer to several charges, including allegations of crimes against humanity. It will be recalled that the first contextual element for a finding that a crime against humanity has been perpetrated is sufficient evidence that the alleged crime was part of a widespread or systematic attack. Where prosecutors charge the perpetration of the crimes against humanity of murder and (or in the alternative) extermination, such charges are generally based on the earlier identification (for instance, from open sources) by analysts and investigators of a number of locations where unlawful killings may have taken place. In turn, investigative staff will have built upon and confirmed their preliminary findings, ideally through documentary materials and forensic evidence buttressed by crime-base witness testimony.

This investigative approach likewise lends itself to the investigation of other crimes against humanity such as enslavement, deportation or forcible transfer, torture, persecution, rape and other sexual offences. For example, the occurrence of a great many rapes in one village, held up against evidence that other villages were attacked by the same belligerent party without demonstrable occurrences of sexual violence, would likely undermine any working hypothesis that the overall commander of the attacking forces had instituted a policy of sexual violence as part of a wider campaign of repression against a given group of civilians. Conversely, evidence collected over a widespread area suggesting that sexual violence was a feature of all or most attacks would lend support to allegations of rape as a crime against humanity against the overall commander. The key point is this: investigating crimes against humanity, in particular those that do not involve killing, takes a good deal of time and effort owing to the necessity of meeting the 'widespread or systematic' legal requirement. In the same vein, crimes against humanity should not be charged where investigative staff have not properly examined whether the 'widespread or systematic' element of the crime can be satisfied. Human rights professionals are especially well placed to assist with criminal inquiries into whether a given allegation meets the 'widespread or systematic' threshold, in ways which will be discussed later in this chapter.

(b) Linkage

It has already been observed elsewhere in this chapter that international criminal jurisdictions, in particular the ICC, can be expected to primarily pursue alleged perpetrators who were not physically present when criminal conduct was committed. It has further been established that international criminal law provides for a number of modes of individual criminal liability that do not require an alleged perpetrator to have been physically present at the scene of a crime or to have been the actual perpetrator of the crime for there to be a finding of criminal culpability. The search for linkage information and evidence is the process whereby information and evidence are acquired relevant to allegations that a given individual is criminally liable for a particular underlying act. Invariably, the linkage search process commences with an effort to link a state or non-state organisation to the underlying conduct. Only later does the linkage process begin to focus upon possible suspects.

Many investigative files compiled during the formative years of the ICTY and the ICTR suffered from weak linkage evidence. This state of affairs eventually contributed to the transfer of oversight of investigations from senior investigative staff to prosecution counsel. Cognizant of the early investigative shortcomings at the ICTY and the ICTR, the ICC inquiries and investigations have focused heavily on questions of linkage. From the start of any given ICC inquiry, attention is given to the allegations of criminal misconduct made against groups and individuals in open-source reports by IGOs, NGOs, governments and others. Specific allegations against individuals are initially observed in passing. Slightly more attention is paid to assertions that a particular state or non-state organisation is responsible for underlying conduct of an ostensibly criminal nature. Initial investigative efforts to secure linkage information and evidence concerning groups and individuals focus heavily from the start of an inquiry – and throughout an investigation – upon the acquisition and analysis of documentation generated contemporaneously by suspect groups and individuals. Hence, where criminal investigators and analysts examine the linkage component of a given open-source report, this is done less with an eye to the conclusions by the report's author than to the nature of the source materials. Where the latter are deficient, investigative staff is unlikely to pay much attention to the report; where the sourcing of the report shows the author's commitment to the substantiation of any and all claims of criminal responsibility, investigative staff is likely to contact the author with a request to share his or her source materials with the nascent inquiry.

Investigators and analysts will seek the assistance of so-called linkage witnesses at a later stage of an investigation, after the effort to seize or otherwise acquire contemporaneously generated documents has progressed. Linkage witnesses are important where there is insufficient documentation. Their importance corresponds inversely to the strength of the documentary base. In an ideal situation, the latter is so firm that linkage witnesses – in particular, the professional associates of persons who have emerged as suspects during the investigation – will be consulted by investigators on few if any issues beyond the filling of holes in the collection of contemporaneously generated documentation. Some of the challenges inherent in dealing with linkage witnesses will be discussed later in this chapter. Linkage witnesses are in most cases – although not in every instance – tied conceptually to the documentary base. For example, victims of and witnesses to alleged criminal conduct (that is, crime-base witnesses) can also be a source of linkage evidence. Depending on the nature of the underlying conduct, investigators might ask a crime-base witness

about the mental state of the physical perpetrators of the conduct, as well as about military activity in an area prior to the perpetration of the conduct (such as an artillery barrage that killed civilians) in an effort to determine, in part, whether or not the attack may have been indiscriminate. Despite these observations, it is on the whole the experience of international investigation services that crime-base witnesses do not advance the linkage component of an investigation beyond a limited point. Where linkage evidence is sought from crime-base witnesses, the effort is frequently limited to questioning on issues such as the types of vehicles in which the perpetrators arrived (if relevant to the investigation), the uniforms or clothing that were worn by the perpetrators (if relevant), the weapons carried by the perpetrators (again, if relevant) and other details of this nature. Where these details are relevant to the investigation, their collection seldom does much to lessen the evidentiary gap between the underlying conduct, on the one hand, and the persons being investigated by international criminal courts and tribunals, on the other.

There are often considerable differences in the recollections of crime-base witnesses on the aforementioned, and related, details. In other instances, the recollections of a group of victim-witnesses are so remarkably similar as to suggest that the witnesses have colluded in some way or otherwise been prepared improperly. For these and other reasons, there is some debate within the profession concerning the wisdom of seeking linkage evidence from what are essentially crime-base witnesses. When a decision is taken by an investigator to make linkage enquiries of crime-base witnesses, such enquiries should be made with extreme care lest individuals and groups be unjustly impugned, or, in the alternative, the witness directs investigators towards persons whom reliable evidence suggests had no relationship to the underlying conduct. Likewise, informants and other sensitive sources, while important to the building of the linkage component of a file, must be handled with caution in light of their unknown loyalties, and, in some cases, unsavoury characters. The view taken here is that informants and sensitive sources are best employed as guides to documentary repositories.

Finally, it will be noted that personnel employed by NGOs and IGOs, journalists and members of armed forces who were present in a conflict zone but were not serving with a belligerent party (such as United Nations military observers) are frequently consulted by the investigative arms of international criminal jurisdictions. In some cases, these individuals are asked by investigators to provide formal statements and later to testify at trial, usually for the prosecution. The evidentiary issues which are addressed by criminal investigators with, among others, human rights professionals will be discussed later in this chapter.

(c) Combining crime-base and linkage evidence

Experienced investigators and analysts are in the main familiar with the earlier efforts and missteps seen in particular at the ICTY and the ICTR. Having drawn conclusions from earlier errors, later inquiries and investigations of the investigation services of international criminal jurisdictions can generally be divided into four broad phases:

1. preliminary analysis of open-source materials, operational planning and liaison with personnel employed by IGOs, NGOs, governmental and other organisations who have prepared reports of particular interest to the investigative body;

2. collection of contemporaneous documentation, its analysis, other advanced document collection and analysis;

3. collection of crime-base and linkage-witness statements, ongoing analysis and document collection, and the identification as well as pursuit of individual suspects; and

4. where the evidence warrants, the preparation of warrants of arrest, and, or in the alternative (depending upon the jurisdiction), indictments targeting specific individuals.

The second and third phases are particularly important for human rights professionals to fully appreciate. In particular, it should be noted that only when the collection and analysis of information has reached a relatively advanced state should a given inquiry and subsequent investigation begin to focus narrowly on possible suspects. Put another way, war crimes inquiries and investigations should rarely be suspect-driven until relatively late in the investigative and analytical processes. It is when investigators and analysts have identified a suspect (or suspects), that they assess the available information increasingly in terms of its evidentiary value, whether this value is inculpatory or exculpatory.

4. The contribution of human rights professionals to investigations of possible core international crimes – building the crime base

As mentioned earlier, human rights monitors are frequently present in the field where ostensible criminal acts have been perpetrated. Conversely, it is very rarely the case that investigators and analysts employed by international criminal jurisdictions find themselves at the scenes of alleged crimes until well after – and sometimes years after – the fact. Human rights professionals, whether they are employed by an IGO, NGO or governmental agency, are therefore often in a position to record valuable information concerning a *prima facie* offence immediately after the fact. This ability to compile information *in situ* can serve at least two useful ends: (1) the interests of the human rights organisation which is concerned with monitoring and protection through advocacy; and, months and sometimes years later, (2) those of an internationalised court or tribunal making inquiries concerning the underlying conduct in question.

It is not the core function of human rights professionals to assist internationalised criminal jurisdictions with the establishment of a given crime base. Some human rights professionals and the organisations to which they belong will understandably not wish to do so, for instance, in order to maintain some perception of neutrality vis-à-vis the belligerent parties in a given conflict. However, where a human rights organisation is willing to contemplate the provision of assistance to an ongoing or (possible) future investigation, adjustments to prevailing human rights monitoring modus operandi may be required. A human rights organisation that is prepared to make such adjustments may be better positioned to support internationalised criminal investigations; and, at the same time, these adjustments will probably improve the quality of the monitoring and protection efforts of the human rights organisation. Such changes can be effected without the commitment by hard-pressed human rights organisations of additional human and material resources. Elements of the recommended modus operandi to be followed by a human

rights organisation when documenting alleged core international crimes is the focus in the following.

(a) Documenting a possible crime scene

Human rights professionals will at times find themselves present at *prima facie* crime scenes shortly after the perpetration of core international crimes. Of particular interest to international criminal jurisdictions are situations in which there has been a manifest loss of life. This brief guide cannot cover all the steps that human rights monitors might take when finding themselves called upon to respond to such a situation. However, cognizant of the fact that the time available for the inspection of a possible crime scene is often limited by ongoing military activity, a number of suggestions are put forward below.

Secure the ostensible crime scene: Where possible – for example, if an international armed force is present to assist – the area should be marked with mine or crime-scene tape, if available, and persons who are not involved in the examination of the crime scene should be prevented from entering the marked area while the process of examination is underway. One person should act as overall coordinator of the site examination and assign tasks (see below) to his or her colleagues. This same person should later prepare a report (see below).

Identify precisely the location of the crime scene: This will ideally be done through the logging of GPS coordinates *and* by hand on a topographic map. The two distinct means of location identification are used in the event that one or the other later proves to have been wrong. The information concerning location should be noted in the final report of the examination team (see below) and any marked map must be signed, dated and preserved with the remainder of the evidentiary record (see below).

Prepare a sketch of the crime scene: Any sketch should constitute an overhead view. It should be prepared as far as possible to scale. The rough scale should be indicated on the sketch, as should the magnetic north and the key features appearing on the sketch (such as buildings, dwellings, outbuildings, human remains, and so forth). The sketch should be completed at the scene and signed as well as dated by the person who prepared it in the event that the sketch is later entered into evidence in criminal proceedings. Once the completed sketch has been photocopied so that a working copy is available, the original should be handled as would be a piece of physical evidence (see below).

Videotape the crime scene: A video camera, if available, serves a purpose similar to that of a crime-scene sketch; that is, the video camera is an excellent tool for use in reproducing the layout of a crime scene, despite the limitations of videotaping in capturing depth and dimension. The individual wielding the camera should use the audio feature of the camera to indicate, as he or she films, what image is being captured by the camera at any given time. It is exceedingly important that the time and date indicator on the camera is properly set prior to the start of filming and that the camera itself is in working order (that is, that the batteries are sufficiently charged, a fresh cassette has been inserted, and so forth). Owing to the fact that technical means of recording frequently fail, a hand-drawn sketch should be prepared (see above) in the event that the video record later proves to be insufficient or becomes lost. Upon leaving the crime scene, any and all recordings should be copied for working purposes, with the original tapes handled as would be pieces of physical evidence (see below).

Photograph the crime scene: Still photographs are the best means of recording important details at a crime scene. Photographs should be logged in a notebook as they are taken. The log should note the name of the photographer, the date and location at which each picture was taken, and its subject. A 35mm camera is preferable; where possible, both a digital and a non-digital camera might be used. Still photography can be used to create an additional overview of the crime scene, and in particular to capture details which might assist subsequent determinations of the cause(s) of death of the victim(s). Bodies should be photographed as a whole, followed by detailed shots of any wounds to the bodies. A ruler or a like instrument of linear measurement should be laid alongside any wounds prior to the wounds being photographed. Once a body and the wounds on the portions of the body visible to observers when the body was found have been photographed, the body might be turned and all other wounds captured in the same manner. The process of turning bodies should be undertaken with care: bodies should not be disturbed where there is any possibility that improvised explosive devices have been rigged to the human remains, and persons handling remains should ensure that they are properly protected from the transmission of illness from the remains to the handler. Finally, it will be noted that where blood-splatters appear, most commonly along walls, these patterns should be photographed. The body (or bodies) from whom the blood appears to have emanated should be captured in a photograph along with the blood-splatter pattern(s) prior to any disturbance of the position of the remains. The photographic log should note whether the position of a body was disturbed prior to the taking of any given photograph.

Handling physical evidence: Where possible, physical evidence which appears to relate to the ostensible crime should be removed from the scene when those present determine that the non-collection of the item(s) will result in their loss to any future investigation. This refers, for instance, to shell casings and other materials which have a *prima facie* connection to the death of the victim(s). Weapons and other items that belonged to the possible perpetrators will rarely be found. Where these items do appear, they should be seized. All items to be removed should be photographed before removal. Their location relevant to the bodies and any structures must likewise be recorded on the crime-scene sketch and/or by the video and photographic records. Physical evidence should be put into individual bags (that is, 'evidence bags'), as it is collected. A slip of paper should be put into the bag along with the item, describing it, the date upon which it was collected, where it was collected, and the person who collected it (who should be the same person placing the item in the bag). This paper should be signed by the collector and then the bag sealed by whatever means are available where evidence tape is not at hand. The seal should be signed and dated with indelible marker, with the signature running across the seal onto the bag itself. A piece of paper should then be attached to the outside of the bag. Whenever the evidence bag passes from the custody of one person to another, the name of the person taking custody of the item, and the date upon which custody was taken from whom, should be clearly recorded. The person surrendering custody of the bag and the person taking custody of the bag should sign alongside their names. The bag itself should not under any circumstances be opened after it has been sealed. Ideally, one person in the organisation should act as something akin to a 'property officer' responsible for all physical evidence. Any videotapes made at the crime scene should be handled as physical evidence. The name of the videographer should be written on a piece of paper, along with his or her signature, and sealed inside the evidence bag together with the videotape(s), after working copies of the latter have been made. The same procedure should be followed for photographs.

Reporting on the crime-scene visit: The human rights monitor in overall charge of the recording and collection effort should take notes throughout the process, recording among other key facts: who was present at the crime scene; at what time the team arrived at the crime scene; which actions were taken by the team at the crime scene; which items were removed from the crime scene; the time at which the team vacated the crime scene and the condition in which the crime scene was left when the team departed (for example, if the bodies were left where they had been found). It is particularly important to note whether the crime scene appeared to have been disturbed (for example, by relatives of the victims) before the arrival of the examination team. All notes made at the crime scene, along with the final report prepared after the visit, should be preserved as evidence, although these materials do not need to be placed in evidence bags. Care should be taken that the person who was in overall authority approves, signs and dates the final report. Potential witnesses to the crime who are identified at the crime scene itself should have their full names and other identifying details (such as dates of birth, identification card details, places of residence, mobile telephone numbers, and so forth – if possessed by or otherwise known to the witness) recorded on a piece of paper which should likewise be preserved with the remainder of the evidentiary record.

Finally, crime scenes can be dangerous on numerous grounds such as ongoing military activity in an area or owing to the presence of booby traps and other unexploded ordnance. Human rights professionals should not under any circumstances risk their personal safety in an effort to record a crime scene with an eye to future criminal prosecutions. In contrast to proceedings before domestic courts, the outcome of proceedings before international criminal courts and tribunals rarely rests upon physical evidence. Indeed, in the majority of international criminal proceedings, little if any physical evidence relating to alleged crime scenes constitutes part of the trial record. In the main, evidence collected at a crime scene constitutes what might be termed a desirable, but not an essential, component of an investigation into alleged violations of international criminal law. In the circumstances, there is no reason to risk life or limb in the collection of crime-scene evidence.

(b) Interviewing witnesses to an alleged crime

Where criminal investigators do not meet minimal requirements in conducting interviews with crime-base witnesses, there is a risk that persons will be unjustly accused of crimes or that persons rightly suspected are not held to account for certain crimes which might otherwise have been proved. Where human rights monitors are concerned, the ramifications of poorly conducted crime-base witness interviews are likewise negative: (1) the human rights organisation might be brought into disrepute should the insufficient efforts come to light; (2) persons in positions of authority – whether it be within an armed force or an internationalised court or tribunal – might choose to act in part upon the basis of a human rights report that is founded upon incorrect or incomplete information; (3) the records of poorly conducted interviews disclosed to internationalised criminal jurisdictions are of neither analytical nor evidentiary value; and (4) in the hands of skilled defence counsel, the record of a poorly conducted crime-base witness interview can actually serve to undermine good faith efforts to bring suspected perpetrators to justice. The latter is particularly the case where the information collected and recorded during a poorly conducted interview contradicts statements taken properly by others, be they criminal investigators or human rights professionals.

It has been observed elsewhere in this chapter that many of the core objectives of human rights organisations and international criminal jurisdictions are distinct. The goal of immediate protection for victims and other vulnerable persons may at times compel human rights organisations with limited time and resources at their disposal to value the quantity of witness testimony over the quality of individual interviews. However, it would seem that where time and resources permit, the standards which both professions might strive to achieve in their dealings with crime-base witnesses are broadly similar. More to the point, the proper recording of crime-base testimony by human rights professionals serves simultaneously the longer term goals of human rights organisations – which must of course be the priority for these organisations – as well as the objectives of the investigative arms of internationalised criminal jurisdictions. With this in mind, a number of suggestions for the effective interviewing of crime-base witnesses are developed below.

Challenges to be overcome: Human rights professionals are in the main sensitive to the fact that crime-base witnesses are very often traumatised as well as frightened of reprisals. Additionally, crime-base witnesses will frequently be fearful of persons who arrive to interview them and witnesses must be put at ease. At the same time, it must be kept in mind that the possible traumatisation of any given witness, and whatever fears he or she may have, frequently combine to give rise to mistakes of fact, and/or misrepresentations of the truth which are rooted in an ultimately unhelpful desire to assist the interviewer in identifying those responsible for the suffering that the witness either saw or experienced. It is therefore important for interviewers to avoid any further traumatising of a witness while keeping in mind that only information which is believed to be factually correct should be solicited and accepted from crime-base witnesses.

Preparing for the interview: The person(s) conducting an interview must study the contents of the investigative file (which should be opened at the start of an inquiry) before proceeding to interview crime-base witnesses. Only when each interviewer is familiar with all extant information can he or she properly identify potential witnesses, determine the order in which these witnesses should be interviewed, and, during any given interview, grasp to the fullest possible extent the potential relevance of a given crime-base witness. The interview team – that is, the interviewer(s) and the interpreter (if an interpreter is required) – must be selected with care. Moreover, the objective(s) of each interview must be determined beforehand, in part so that the witness is not confused during the interview by indecision and frequent changes of direction on the part of the interviewer(s). Likewise, the recording method(s) to be employed (audio, video, handwriting) must be determined, the functionality of any technical equipment confirmed, and responsibility for the recording process assigned. If interpretation services are required, the sole function performed by the interpreter should be interpretation. Interpreters should not be used as note-takers. As a general rule, interviews are conducted by two persons – one interviewer asking the questions, and both taking notes, with the secondary interviewer acting as the principal note-taker and recording-equipment operator. Whether the second interviewer might also ask questions is a matter to be worked out between the interviewers.

Tactical planning: It has been noted that the fear and traumatisation experienced by many crime-base witnesses will frequently give rise to mistakes of fact as well as misrepresentations of the truth. These likelihoods must be anticipated and prepared for. The fear felt by many crime-base witnesses while interacting with an interviewer can often be

reduced through a clear demonstration by the interviewer that he or she is who he or she claims to be. This might be done through the provision of proper identification, or better yet, by means of a reference from a third party trusted by both the interviewer and the witness.

The further traumatisation of a crime-base witness is a more difficult possibility against which to prepare. It is the practice of the Investigations Division of the ICC to have a psychologist prescreen witnesses who are believed to be at particular risk, most notably children and persons thought to have been assaulted sexually. Where a human rights organisation is not able to arrange prescreening, the minimal requirement is that arrangements be made *a priori* for a modicum of post-interview psychological care where it is found that the witness has been unduly traumatised by the interview process. Where such care cannot be provided by the human rights organisation, it should consider refraining from conducting interviews with especially vulnerable crime-base witnesses.

Furthermore, it must be anticipated that crime-base witnesses will in almost every case make errors of fact. The best defence against errors of fact is a gentle cross-examination of the witness during the interview process. This *de facto* cross-examination is likely to be successful only where the interviewer entered the interview room with a strong grasp of the investigative file. Deliberate misrepresentations of the truth are likewise dealt with through *de facto* cross-examinations rooted in a thorough knowledge of the case file. Interviewers must resolve prior to the start of any interview that the interview will be terminated where a crime-base witness proffers fanciful or other manifestly untruthful information. An interview record that contains information which the witness knew to be false – even where other information in the record is likely to be true as well as helpful to the inquiry – is of neither analytical nor evidentiary value. Were the record of such an interview to appear at trial, competent defence counsel would seize upon the falsehoods in the record to destroy the overall credibility of the witness. Simply put, investigators and analysts are not in a position to pick and choose convenient bits of information from interview records that contain evident falsehoods. Under these circumstances, scarce resources should be invested only in crime-base witnesses who appear to make every effort to state an accurate account of the events in question. It is worth reiterating in this context that the likelihood of securing an accurate and honest account from a crime-base witness improves markedly where interviewers are prepared properly for every interview.

Confidentiality: The position of a human rights organisation with respect to the confidentiality of witnesses and the information collected from them (these are distinct issues) should be clear in the minds of the interviewers before they set out. This policy ought in turn to be shared with each witness at the start of an interview. Where a human rights organisation is prepared to consider the provision of assistance to criminal investigations, it would be helpful if the organisation has a policy permitting the disclosure of information and/or witness identifying details. The Investigations Division of the ICC found in 2003-2004 that all manner of human rights organisations were prepared to offer assistance, although few were able to provide detailed witness information owing to the absence of disclosure policies. In turn, this gave rise to disputes *within* a number of human rights organisations on how to deal with the ICC, in particular the Office of the Prosecutor and its Investigations Division.

Where a human rights organisation has put in place a policy that information might in principle be shared with a criminal investigative body, it is necessary that the permission of each witness be secured before disclosing this information to a third party. At the conclusion of an interview, each witness should be asked whether he or she consents to the disclosure to criminal investigators of the information that he or she has provided as well as his or her personal details. It is imperative that this be done during the interview owing to the difficulties that human rights organisations will frequently experience in recontacting witnesses.

The interview: The interviewer(s) must remain in control of the process throughout. This is not to say that the crime-base witness should be interrupted frequently or otherwise be prevented from speaking freely. Moments of emotional distress should be handled with tact and patience. Where a crime-base witness is lucid, or, following a period of distress, able to continue, it is important that the witness speak in the main to the issues of interest to the interviewer(s), in accordance with the objectives of the interview determined in advance by the interview team.

The methods used to keep a witness focused will vary according to the personalities of the witness and the interviewer(s). A witness can be kept on track through gentle reminders or by means of feigned displeasure where the witness continually wanders verbally into territory of no interest to the interviewer(s). However, an interviewer should never permit genuine impatience with a witness to show through. Rather, where a crime-base witness cannot be controlled, the interview should be concluded with expressions of thanks. Conversely, where an interview is moving forward according to plan, it is crucial that evident mistakes of fact be dealt with promptly through gentle cross-examination. If the witness persistently makes mistakes of fact, the interview should be abandoned unless there is some compelling reason not to do so, for example that the interviewers are keen to determine the location of a missing person. Deliberate mistruths must be addressed rather more firmly. Before concluding that a deliberate mistruth has been put forward, interviewers must question themselves, that is, they must consider whether the disputed remark was indeed untruthful, or simply at odds with existing assumptions of the interviewers which remain unproved. Once this process of assessment has been undertaken, witnesses who are reasonably believed to have stated deliberate mistruths should be afforded a single opportunity of escape from the falsehood. This escape should be of a face-saving nature. For instance, the interviewer might show his or her disapproval by means of body language and through his or her tone of voice in posing a question such as: 'Is it possible that you are mistaken on this point?' Where this approach proves unsuccessful, the interview should be abandoned with expressions of thanks, unless there is a pressing concern which compels the interviewer(s) to continue.

One of the keys to a successful interview is the ability of the interviewer to hide his or her true feelings, and, where necessary, to use both sincerity and feigned displeasure. With this in mind, assertions made by a witness that are incorrect or manifestly untruthful should be addressed promptly by interviewers. On the other hand, testimony that would appear to be truthful, no matter how damaging to the existing theory of the case, should in every instance be embraced.

Vulnerable crime-base witnesses: It may be argued that human rights organisations have proven themselves to be more skilled in meeting the needs of vulnerable witnesses than criminal investigative bodies. While the handling of vulnerable witnesses by criminal investigative services has improved considerably in recent years, there remains room for further improvement. The starting point for a human rights professional approaching a presumed crime-base witness should be an assumption that all victims of, and witnesses to, criminal conduct will have experienced some degree of traumatisation. This awareness will invariably influence the manner in which the witness is interviewed, in particular during the start of the interview where the interviewer(s) must attempt to determine with some subtlety how best to secure information from the witness without causing additional psychological harm.

It must likewise be kept in mind that a concern for the psychological well-being of the witness should not, and must not, translate into a situation where crime-base testimony is afforded informational or evidentiary value commensurate only with the degree of traumatisation suffered by the witness. The handling of a crime-base witness as a fellow human being and as a source of information and evidence are distinct challenges that should not intersect in the minds of human rights professionals. For example, where a crime-base witness claims to have been a victim of torture, an interviewer may wish to empathise with the witness. There is no harm in this as long as the interviewer does not neglect to verify the claims of physical abuse, where necessary through a visual examination of any wounds or scars said by the witness to have been inflicted by others upon his or her body. Requests for a visual inspection must be made tactfully, ideally by persons of the same sex as the witness – but they must nonetheless be made. Likewise, a crime-base witness offering information that he or she has been sexually assaulted must be interviewed with considerable care lest the witness be revictimised. Experience has suggested that in such cases it makes little difference whether the interviewer is of the same sex as the victim.

When interviewing persons who claim to have been sexually assaulted, the interviewer has a professional duty to confirm to the extent possible the claims of criminal misconduct made by the witness. To this end, any extant medical records supporting claims of sexual assault must be secured, albeit only with the prior consent of the witness. Additionally, if the human rights professional wants to collect information from the witness of evidentiary (as opposed to purely information) quality that might contribute to a subsequent criminal prosecution, careful questioning of the witness will be necessary in accordance with the elements of sexual violence offences. These lines of questioning are necessarily highly personal and invasive. Human rights professionals may therefore not want to question in this manner a person believed to have been assaulted sexually. However, where there is insufficient *prima facie* evidence of sexual violence, the investigative arms of internationalised criminal jurisdictions will be loath to proceed with sexual violence investigations owing to the difficulty of clearing the high evidentiary hurdles. Practice suggests that investigative priority is given to crimes with a killing component, which, perhaps paradoxically, are usually easier to prove to the requisite standard than sexual violence offences.

The best hope for the prosecution of high-ranking perpetrators of sexual violence are often human rights professionals working with victims of sexual crimes. However, simple advocacy is insufficient. Put another way, demanding prosecutions is not normally going

to give rise to prosecutions; and, where this does occur, such prosecutions may be hastily assembled and therefore have a limited chance of success. What is required from human rights professionals seeking prosecutions of sexual crimes is a solid investigative effort by these same human rights professionals. Criminal analysts and investigators employed by internationalised criminal jurisdictions might subsequently build upon the findings of partners in the human rights community. Owing to the fact that the elements of sexual crimes are difficult to prove and that the collection of the requisite evidence is time consuming, in particular if an investigation is to be sure to meet the requirements for a charge of rape as a crime against humanity, the prospects for the prosecution of sexual crimes are generally better with the practical support of *de facto* partners such as human rights professionals.

Minors: Wherever possible, the taking of testimony from children, or from persons who were under the age of eighteen at the time of the crimes, should be avoided. There are a number of reasons for this. Suffice it to say that crime-base witnesses who were minors at the time of the crimes are particularly vulnerable to effective cross-examination by skilled defence counsel. Where a decision is nonetheless taken to interview persons who remain under the age of eighteen at the time of the scheduled interview, permission must in every instance be secured from a parent or guardian. This parent or guardian should in turn be present during the interview, although the adult in question should not be permitted by the interviewer(s) to assist the witness with his or her answers. The presence of a person additional to the witness represents an exception to the preferred mode of interviewing witnesses, that is, an adult witness should be alone with the interviewer(s) and interpreter. When an interview with a child commences, the interviewer(s) should not lose sight of the fact that the child-witness has been, and will continue to be, extremely vulnerable to suggestions by authority figures – such as human rights professionals.

'Tricks of the trade': Experienced interviewers have a handful of 'tricks' in the interview repertoire which are of use in ensuring the flow of a crime-base interview in accordance with the objectives of the interviewers. Some of these methods are used by most, if not all, interviewers. For instance, crime-base witnesses should be made to feel physically and psychologically at ease. One of the ways to do this is to seat the witness as comfortably as possible near the entrance of the room, without anybody between the door and the witness. It will also be observed that humour can be a very useful tool in any interview, no matter how grim the subject matter. Additionally, breaks should not be prescheduled, although crime-base witnesses should be afforded breaks during an interview, in particular upon request. Refreshments – at a minimum, water – should be available at all times; food and other refreshments should be offered during longer sessions. Finally, it is often helpful to start interviews involving both crime-base and linkage witnesses with open-ended questions rather than with queries requiring a 'yes' or 'no' answer. These and other steps should be taken to make the witness feel a partner in a process, rather than a tool being manipulated by the interviewer(s).

Post-interview procedure: Immediately following each interview, the interview team should conduct a brief review of what went well during the interview and where improvements might be made in the future. This exercise can be undertaken in as little as five minutes, even if – and particularly if – another witness is waiting to be interviewed. An investigative report detailing the information provided by the witness, along with his or her personal information, should be prepared within twenty-four hours following the

interview and ideally the same day. *Human rights professionals should prepare this report using the third person and witnesses should not be asked to sign the interview reports.* There are several reasons for this. A witness should be formally interviewed as seldom as possible on the grounds that multiple interviews will invariably give rise to contradictions in the multiple interview records. A statement taken in the first person by a human rights organisation, and subsequently signed by the witness, will in most cases form part of the evidentiary record if it is disclosed to an internationalised court or tribunal. This is required as a matter of fairness. However, the disclosure of signed statements that were not taken by criminal investigators increases the likelihood that contradictions will emerge between the statements taken by criminal investigators and those taken by human rights professionals. This kind of problem is much less likely to occur where statements are recorded by human rights professionals in the third person and not signed by the witness. In the event that these interview records are turned over by a human rights organisation to an internationalised court or tribunal, they are, as such, likely to be afforded little, if any, formal evidentiary weight by either the defence or the prosecution, principally because the records will not have been signed. However, the same interview records, if carefully prepared, might constitute an invaluable analytical and investigative tool, whether of an inculpatory or exculpatory nature. They may guide the fact- and truth-finding process in a decisive manner.

These suggestions for human rights professionals involved in the interviewing of crime-base witnesses are by no means exhaustive. At any rate, the object of this chapter is not to transform human rights monitors and protectors into criminal analysts and investigators. These fields of endeavour are distinct and ought to remain so. However, both professions have a shared interest in the effective questioning of crime-base witnesses, and their distinct objectives should not give rise to conflicting approaches to the collection of crime-base information and evidence.

5. The contribution of human rights professionals to investigations of possible violations of international criminal law – establishing linkage

The collection and analysis of information relevant to the requisite link between the suspect and the actual perpetration of core international crimes has gradually emerged as a specialised field within the investigative profession. Methodology appropriate to such cases has only emerged more recently and it continues to evolve in response to the practical needs of prosecutors, jurisprudence and the analytical capacity and innovative ability of investigation and prosecution services tasked with core international crimes cases. Increasingly, investigations management assigns investigators and analysts to either the crime-base or the linkage component of an investigation. Where larger investigations are concerned, there is a danger that those assigned to one or another part of the case will generally have little time to acquaint themselves in any detail with those aspects of the file which are not the principal focus of their efforts.

The analysis of human rights reports undertaken by the investigative arms of international criminal jurisdictions in the ten years following the start of the work of the ICTY in 1994 has found, with rare exceptions, that human rights organisations are not yet particularly

adept at the systematic collection, and, in particular, the analysis of information tying an alleged perpetrator to particular underlying conduct. This is unsurprising given the specialised nature of such an undertaking, the limited resources which even the largest human rights organisations can commit to a given case, and the fact that the core mandate of human rights organisations lies in areas other than the prosecution of individual perpetrators. In light of the still nascent skills of human rights organisations in the field of linkage-information collection and analysis, human rights professionals may wish to look again at how their organisations should approach the 'naming of names' and whether they should allege individual criminal responsibility in their public reports and statements – as opposed to referring to organisations behind the alleged crimes.

It happens that individuals accused of criminal misconduct in human rights reports are accused either falsely or for the wrong reasons. False and otherwise incorrect allegations made against individuals have sometimes had the effect of giving rise to prosecutions – for example, before the ICTR – where investigative staff proved ill-equipped to build a proper linkage case. The responsibility for such errors lies solely with the investigative bodies concerned. However, human rights organisations should not underestimate the power which they sometimes wield unwittingly in the offices of senior decision makers in international criminal jurisdictions, including the ICC. It is therefore advised that this power – the power to 'name and shame' – should be exercised as responsibly as possible.

It is not being suggested here that human rights groups should avoid linkage information collection and analysis. This would be undesirable and at any rate impossible as crime-base and linkage information is rarely acquired in distinct bundles. Rather, what is suggested is that where an organisation finds itself in the possession of linkage information, or is otherwise desirous of collecting it, a number of guidelines should be followed.

(a) Handling documentary materials

An effective linkage case will enable prosecutors, and in turn those sitting in judgement, to determine with clarity the persons who are criminally liable for the underlying conduct. A properly constructed linkage case will likewise enable a clear determination by a criminal jurisdiction of which persons should not be subjected to further investigation, indictment, and, or in the alternative, prosecution. Succinctly stated, effective linkage investigation and analysis are central to considerations of fairness and due process. The foundation of an effective linkage case is documentation, that is, documents generated contemporaneously by the organisation believed to be behind the underlying conduct as well as by the person(s) of interest to criminal investigators and analysts.

Personnel employed in the field by human rights organisations routinely come into the possession of contemporaneously generated documentation, although it does not appear in all or most cases that the organisations systematically seek such materials. It is recommended that they should set a policy in this regard, determining whether or not they will seek contemporaneously generated documentation. Human rights organisations that choose consciously to collect documentation, with no intention of disclosing it to international criminal jurisdictions if asked to do so, will unwittingly obstruct justice. Organisations which collect such materials, and are prepared to disclose them to international criminal jurisdictions if asked to do so, but in the meantime mishandle the documents, likewise perform a disservice to justice.

Where organisations are collecting materials and are prepared to disclose them to an internationalised court or tribunal, the ideal procedure for the physical handling of such materials is fairly straightforward. When materials are acquired, the source of each individual document should be recorded, along with the date, the place at which it was received and the name of the person receiving it. This information need not be completed for each and every document where the source, date, location and name of the recipient are one and the same. However, the process should be repeated where any of these variables differ, in particular the source of the documents. In every case, the relevant information should be recorded on a single piece of paper, the documents photocopied (carefully, if in a fragile state, and with sufficient attention to the legibility of the copies) and the originals placed in an evidence bag (any easily sealable plastic bag will suffice) along with the information sheet. The bag ought to be sealed and the seal signed by the person who received the documents in the first instance. A chain-of-custody sheet should then be appended to the outside of the bag; the name of the person taking custody, from whom, and the date should be noted on the sheet every time the evidence bag containing the document(s) changes hands. Finally, the evidence bag should not be opened at any time. In fact, there should be no need to do so, as all analysis can be done from the working copies which were made before putting the originals into the evidence bag.

(b) Interviewing linkage witnesses

Linkage witnesses are those persons asked to speak to the possible connection between a suspected perpetrator and the underlying conduct of interest in a particular inquiry. Most commonly, linkage witnesses are persons who served in a military or political capacity alongside the persons of interest to the inquiry, or alongside suspects and accused persons, where an inquiry has advanced to the point of a comprehensive investigation or prosecution. Where a particular conflict has been characterised by a large international presence in and around the conflict zone – as was most especially the case during the violent disintegration of the former Yugoslavia – the list of linkage witness will often include persons who served with third parties to the conflict, for instance, United Nations military observers, journalists and others who during the conflict came into contact with persons later suspected or accused of violations of international criminal law. Occasionally, human rights professionals will have had direct contact with alleged perpetrators. The phenomenon of the human rights professional as a witness will be discussed separately below.

For reasons of security, it is not advisable that human rights professionals adopt the approach to linkage witnesses that is often taken by investigators and analysts employed by internationalised criminal jurisdictions. This is particularly the case where the potential witnesses are 'fellow travellers' of persons of interest, likely suspects and accused persons. Even where criminal investigators are not operating with the support of a UN Security Council Chapter VII mandate, the personnel employed by internationalised criminal jurisdictions can invariably rely upon comprehensive security arrangements to ensure the safety of staff operating in the field – before, during and following any and all interviews with often unsavoury characters. As has been noted elsewhere in this chapter, no inquiry or prosecution will succeed or fail on the testimony of a single witness or piece of evidence. Likewise, the efforts of a handful of human rights professionals to secure linkage testimony is today (in contrast to several years ago) unlikely to influence significantly the opening of an investigation against any given individual, let alone the prosecution of

that individual. Put another way, human rights professionals are advised not to take risks in attempting to meet with certain categories of linkage witnesses. With this important consideration in mind, a few remarks concerning the interviewing of linkage witnesses are offered below.

Types of linkage witnesses: Where they are not openly *hostile*, the vast majority of linkage witnesses will be reluctant to deal with those making inquiries of any sort, be they criminal investigators or human rights professionals. A minority of linkage witnesses will be *friendly*, in the main where they are unconnected to any party to the conflict. Ostensible linkage witnesses with a relationship to a belligerent not under investigation may be well disposed towards those making inquiries but may generally be of limited information value. Other linkage witnesses will already be *incarcerated* and some will have been *convicted*. Still others will be suspects or indictees in domestic or internationalised proceedings.

Preparing for the interview: The guidelines to be observed by interviewers in preparing for an interview with a linkage witness are the same as those to be followed in dealing with crime-base witnesses.

The interview: Linkage witnesses should be interviewed with particular attention to the elements and legal requirements of the relevant crimes and forms of participation. An effective linkage interview cannot be conducted without a carefully laid-out plan built around an understanding of the wider investigation as well as a comprehensive grasp of the relevant law. The advantage that a skilled and properly prepared interviewer has in dealing with a linkage witness, in particular where that witness has agreed to give an interview but is not inclined to cooperate, is that the interview subject will rarely have a developed understanding of how seemingly innocuous facts can constitute proof of the necessary elements and legal requirements. That noted, no witness should be underestimated: criminals and their fellow travellers, while frequently lacking legal expertise, are often possessed of considerable intelligence and psychological gifts; they frequently recognise when they are being forced into a corner with what may appear to be innocent documentation and questions. Additionally, linkage witnesses who are possible perpetrators or who otherwise have strong links to suspected perpetrators may well make statements that are manifestly false. For these and other reasons, it is difficult to advise the human rights professional on principles that might be followed in each and every instance. The best advice might be that the interviewer should be confident in him- or herself at all times and be prepared to confront directly lies wherever they may arise. Even self-confessed criminals, where they hold or have held considerable authority, do not seem to like to be thought of as liars. This can often be exploited to particular gain if untruths are challenged in a forceful manner.

Post-interview procedure: The principles to be observed after an interview are precisely the same as those to be followed when dealing with crime-base witnesses. It is particularly important that post-interview reports concerning linkage witnesses are prepared in the third person.

6. The human rights professional as witness

Human rights professionals are often interviewed by international criminal jurisdictions, and in some cases they are asked to testify at trial, generally by the prosecution.

(a) Called upon as a de facto investigator
Human rights professionals employed, or formerly employed, in regions of interest to the investigative staff of an internationalised court or tribunal are frequently the first persons contacted by investigators and analysts making initial enquiries. This reflects the expertise which the human rights professional is assumed to have acquired concerning local conditions and possible criminal conduct perpetrated during the period of his or her service in the field. While a formal interview will not be requested upon first contact, or perhaps ever, investigators and analysts will generally enquire straightaway whether the human rights professionals or their organisations possess documentation or other materials of potential evidentiary value. Investigators will then determine whether the expertise of the human rights professional and the documentation in his or her possession are of interest.

Human rights organisations should have a policy pursuant to their mandate on how to deal formally with international criminal jurisdictions. When expertise or documents are made available by a human rights organisation to an international jurisdiction and it is assessed to be of possible value to a future or actual prosecution, criminal investigators will normally take a statement from the relevant human rights professional. Where documents are concerned, the statement should testify to the manner in which the materials were collected, their authenticity and so forth. The human rights professional may later be asked to provide testimony along similar lines during a trial. (Expert testimony is dealt with later in this section.) On the other hand, the taking of trial testimony from a human rights professional concerning physical evidence such as documentation is not common, largely because the collection methods employed by human rights organisations do not meet adequate standards.

(b) Called as a linkage witness
Where human rights professionals, in the course of their monitoring work, in particular during a conflict, came into contact with a person or persons later suspected of criminal wrongdoing, the subject of these meetings will often be of considerable interest to criminal investigators. This will particularly be the case when the human rights professional brought to the attention of the person of interest the alleged perpetration by others of conduct which was claimed during the meeting to be contrary to international criminal law. This is known as 'notice evidence', that is, evidence that a suspect was put on notice that persons believed to be under his or her actual or formal control were involved in the perpetration of criminal conduct. The value of notice evidence provided by a human rights professional is higher where the witness made a contemporaneous record of the meeting, recording carefully what was said by all persons present at the meeting.

(c) Called as an expert or contextual witness
Human rights professionals have frequently been interviewed, and subsequently called to testify, as expert or contextual witnesses. In such cases, the human rights professional is normally asked to speak to questions concerning the structure of a given political organi-

sation and its internal workings, and sometimes concerning patterns of evident criminality witnessed during a given conflict. However, some very resourceful international criminal jurisdictions seem to prefer to use in-house analysts who have become experts during the course of an investigation on questions of linkage and crime-base.

7. Note on ICC jurisdiction

The human rights community made an essential contribution to the creation of the ICC and it has continued to extend the Court its support and vital protection since then. On occasion, good faith claims of ownership of the ICC are made by enthusiastic members of the human rights community, although the ICC is a treaty body over which the states party to the ICC Statute retain considerable control by means of, *inter alia*, the careful monitoring of financial expenditures. No organisation or professional group can be said to 'own' the ICC anymore than the ICC is the property of its judges, chief Prosecutor or staff. Nevertheless, there should and does indeed exist a natural partnership between the human rights community and the Office of the Prosecutor of the ICC.

This partnership gives rise to frequent offers of assistance from the human rights community as well as requests that the Investigations Division of the Office of the Prosecutor investigate this or that allegation of criminal wrongdoing. The number of such requests far exceeds the limited investigative resources possessed by the Prosecutor. Furthermore, these requests frequently conflict with the limits placed by the ICC Statute on the jurisdiction of the ICC. For all intents and purposes, the ICC Prosecutor does not have effective authority to start an investigation – States Parties, the United Nations Security Council or Pre-Trial Chamber judges play a key role. What is more, the Court cannot exercise jurisdiction over a crime perpetrated prior to the coming into force of the ICC Statute on 1 July 2002. Where a state became a party to the ICC Statute after 1 July 2002, the Court can only exercise jurisdiction after the membership of that state took effect. The Court can exercise jurisdiction only over the nationals of ICC States Parties or over persons who have perpetrated crimes on the territory of a State Party. In other words, where a crime is perpetrated by a national or on the territory of a non-State Party, the Court cannot exercise jurisdiction. There is an exception if the United Nations Security Council refers the matter to the Court.

In sum, the ability of the ICC Office of the Prosecutor to respond to individual allegations is circumscribed by its Statute and the resources available to the Court. It is therefore to be expected that the Office will frequently not be in a position to bring specific allegations of criminal misconduct made by human rights organisations to trial at the ICC.

8. Concluding remarks

The investigation and prosecution of alleged core international crimes are complex processes owing to several factors described above, in particular the elements of crime and legal requirements of modes of criminal liability provided for by international criminal law. At the same time, the number of war crimes committed will in many conflicts be so high that there is no way that an international criminal jurisdiction can investigate and prosecute all cases. International criminal jurisdictions will therefore often be prepared to form partnerships with human rights organisations that are willing to contribute the ex-

pertise and findings of their staff to criminal inquiries, investigations, and prosecutions. Given that the core functions of a human rights organisation and the investigative arm of a given internationalised court or tribunal differ markedly, it would be unusual if the contributions by a human rights organisation – such as the sharing of information and expertise – determined the course of criminal investigations. However, human rights organisations are often well placed to contribute to the analysis and further investigation of the crime base upon which any given inquiry and investigation must in large part rest. Knowledgeable human rights professionals also tend to have a detailed understanding of the conflict in question, its main actors and the chronology of relevant patterns of events which can aid criminal investigation services in their analysis of the allegations of crimes and subsequent prioritisation or selection of cases for prosecution.

Contributions by human rights professionals to the criminal investigation and prosecution of core international crimes can be made without additional human or material cost to the organisations prepared to assist. But effective contributions to a criminal inquiry or investigation may require human rights professionals to make modifications to the ways they collect information and physical evidence. While this chapter constitutes no more than a rough guide to how this might be done, it is hoped that this brief introduction to, and call for, improved forms of cooperation might give rise to working relationships between human rights organisations and international criminal jurisdictions which are more fruitful still than those that have been witnessed since the re-emergence of internationalised criminal investigations and prosecutions in the mid-1990s.

It would be useful in this context if leading actors in the human rights community were to articulate their perspective on how this cooperation can be improved, in particular how the unique strengths of human rights professionals can be made better use of by the criminal justice process for core international crimes. It would also be interesting to hear the thoughts of such professionals on how the quality of the work of the investigation and prosecution services tasked with such crimes can be developed further.

Notes

[1] The expressions 'internationalised criminal courts and tribunals or jurisdictions' used in this chapter include core international crimes mechanisms established within national legal systems with a significant involvement of the international community, such as the Special Court for Sierra Leone or the Extraordinary Chambers in the Courts of Cambodia.

[2] By the expression 'core international crimes' in this chapter is meant genocide, crimes against humanity and war crimes. Sometimes the shorter expression 'war crimes' is used for all core international crimes.

[3] See, for example, the seminar "The evolving role of NGOs in international criminal justice" organised by the Forum for International Criminal Justice and Conflict in Oslo on 2 October 2006 (http://new.prio.no/FICJC/Activities/Seminar-on-role-of-NGOs/).

The Norwegian Centre for Human Rights aims to contribute to the realisation of internationally recognised human rights, through research and reporting, teaching, advisory services, information and documentation. The Centre was founded in 1987 and is organised as an interdisciplinary centre under the Faculty of Law at the University of Oslo. Since 2001 the Centre has been designated as the National Institution for Human Rights in Norway.

The Norwegian Resource Bank for Democracy and Human Rights – NORDEM – was established at the Norwegian Centre for Human Rights in 1993 with the support of the Norwegian Ministry of Foreign Affairs. NORDEM aims to accommodate international requests for personnel assistance in subject areas relevant to the promotion of human rights. Requests for personnel to human rights field operations are serviced through the NORDEM Stand-by Force, which is operated jointly with the Norwegian Refugee Council.

The first edition of the Manual on Human Rights Monitoring was developed at the request of the United Nations High Commissioner for Human Rights and published in 1997. The Manual is integral to the generic training provided to members of the NORDEM Stand-by Force in order to prepare them for human rights field operations. This is the third, revised edition (2008). The new edition includes one new chapter (Chapter 10) and three rewritten chapters (Chapters 2, 5 and 11). The remaining chapters are updated according to events and new developments in the field of human rights since the second edition in 2001.

www.humanrights.uio.no

This booklet is one of eleven chapters of the Manual on Human Rights Monitoring.
ISBN 978-82-8158-059-6