*This document consolidates 18 separate Word documents - comprising the cover pages or introductory notes for trainers (1 document), and the guidance notes for trainers for each module (17 documents). They, together with the 17 sets of presentations (PowerPoint slides) (one for each module) and the proposed fact scenario linked to module 4 (1 Word document) constitute the Training Materials accompanying the 2nd edition (of March 2017) of the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict. All these documents are available at https://iici.global/publications/.*

**TRAINING MATERIALS**

**ON THE MARCH 2017 INTERNATIONAL PROTOCOL ON THE DOCUMENTATION AND INVESTIGATION OF SEXUAL VIOLENCE IN CONFLICT**

*Institute for International Criminal Investigations*

*March 2018*

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***Training Materials on the International Protocol***

**INTRODUCTORY NOTES**

**NOTES FOR USERS**

These *Training Materials on the March 2017 International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law* (Training Materials) have been written by the Institute for International Criminal Investigations (IICI) (www.iici.global) as part of a project supported by the Foreign & Commonwealth Office of the government of the United Kingdom (FCO).

These Training Materials are available online at https://iici.global/publications/. They may also be published in due course on the website of the FCO.[[1]](#footnote-1)

The Training Materials are based on and accompany the English version of the second edition of the International Protocol (also, Protocol), which is published by the FCO. Different language versions of the second edition will be available for download from the website of the FCO by the end of 2018.[[2]](#footnote-2) The first edition of the International Protocol was launched at the Global Summit to End Sexual Violence in Conflict, which was held from 10-13 June 2014 in London. The second edition of the International Protocol was launched on 13 March 2017 to mark the 5th anniversary of the FCO’s Preventing Sexual Violence Initiative (PSVI).

The second edition of the International Protocol is considerably different from the original one. For example, it has nine entirely new chapters, and the original chapters have been substantially rewritten. It is therefore essential that trainers using these Training Materials, including those who are familiar with the first edition of the International Protocol, read the second edition of the Protocol.

The Training Materials largely reflect the content of, and must be used in conjunction with, the International Protocol. In a few rare instances, including in Module 15 (Trauma) and Module 16 (Sexual Violence against Children), there are slight divergences or differences in emphasis given to certain issues between the Training Materials and the Protocol.

The Training Materials comprise 17 modules. Each module contains a narrative document, “Guidance Notes for Trainers” (Guidance Notes), and PowerPoint slides.[[3]](#footnote-3) Roughly, a minimum of about 1,620 minutes and a maximum of about 2,625 minutes as training time (including exercises) would be required to cover the content of the Training Materials; that translates into about 4-7 training days. This estimate duration is a very rough guide based on the assumption that all or most participants would be new to several concepts and topics. Trainers could compress or expand modules, or drop some.

Every training is unique. Accordingly, designers and managers of training courses and trainers must consider for themselves the degree to which the Guidance Notes and slides may have to be adapted to the particular needs of each group of trainees or participants and the circumstances of each training course. Trainers are strongly encouraged to tailor the Training Materials to the specific context in which participants are working, and, if possible, include short videos and other additional materials or exercises to complement or replace some of the suggested content. Trainers could also delete, skip or simplify, or otherwise tailor slides as appropriate, especially the text-heavy slides.

The relevant sections or page numbers of the Protocol are set out at the top of each slide where appropriate, including references to other modules where relevant information can be found. The practicality and adaptability of the International Protocol and such training materials have been tested and proven in training courses conducted by IICI and other users.

IICI has produced annotations or supplements to the International Protocol for Iraq, Myanmar and Sri Lanka (Protocol Supplements) which are available in English and relevant local languages (Arabic and Kurdish for Iraq, Burmese for Myanmar, and Sinhala and Tamil for Sri Lanka). They highlight specific considerations to take into account in view of the legal framework and other circumstances in or in relation to those countries. Trainers with target audiences from Iraq, Myanmar and Sri Lanka could refer to the relevant Protocol Supplements, which can be downloaded from IICI’s and REDRESS’ websites.[[4]](#footnote-4)

The Training Materials are designed for use by appropriately qualified and experienced trainers and designers and managers of training courses. Depending on the context, this topic (sexual violence) may be very sensitive. Trainers should be mindful that some of the participants may have personally experienced or witnessed sexual violence and other violent crimes. With the responsible assistance of training participants, they should be able to create an atmosphere where participants feel safe to freely discuss their views and, should they wish so, experiences. Trainers should put in place the necessary and appropriate ground rules and other measures to properly and sensitively deal with any related issues that may arise during and/or as a consequence of the course.

**DISCLAIMER**

IICI is not and will not be responsible for how the International Protocol and/or the Training Materials[[5]](#footnote-5) are used and/or adapted by others (including trainers and trainees/participants), and for any related consequences, including for any consequences for participants of putting the content of the International Protocol and/or Training Materials into practice.

Every user of the International Protocol and/or the Training Materials, including participants and trainers, is responsible for assessing the suitability and safety of using and/or putting into practice the content of the International Protocol and/or the Training Materials in their specific context.

**ACKNOWLEDGEMENTS**

The Training Materials have been written by Danaé van der Straten Ponthoz, co-author of the International Protocol, IICI consultant and partner of the Transitional Justice Clinic. Maxine Marcus, founder and director of the Transitional Justice Clinic, has advised on and reviewed a draft version. IICI’s Programme Director, Gabriël Oosthuizen, has reviewed the final version of the Training Materials. The content of the Training Materials does not necessarily reflect the views of all three on all points, and the content does not necessarily reflect the views of the FCO. IICI would also like to thank the external experts who have kindly offered their time to review specific modules of these Training Materials. To the extent possible, these Training Materials used as starting point the training materials which Niamh Hayes developed on behalf of IICI to accompany the first edition of the Protocol (June 2014). However, much of the content of this edition of the Training Materials is new. The development of the Training Materials has been made possible by the support of the PSVI of the FCO.

**ABOUT IICI**

The Institute for International Criminal Investigations specialises in building and strengthening the capacity of international, national, civil society and other investigators and practitioners to document and investigate war crimes, crimes against humanity, genocide and grave human rights violations. Its offerings include training courses and mentoring assistance on the investigation of conflict-related sexual and gender-based violence. More information on IICI can be found at www.iici.global.

***Training Materials on the International Protocol***

**PART I MODULE 1 – USING THE INTERNATIONAL PROTOCOL**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain what the International Protocol is and how it can be used
* Recognise the purpose and importance of the Protocol as a practical tool
* Define certain terms and concepts which apply to all modules

**Suggested duration of session:**  15 to 45 minutes

**Exercise:** None

**Relevant sections of International Protocol:** Pages 10-15

This module should be the first session of any training based on the International Protocol (also, Protocol). The trainer on this and other modules should read the Notes for Users section on page ii of these materials. This module sets out some key concepts, explains how the Protocol can be used as a practical tool and clears up some terminology which will be used throughout all the modules. Participants should be asked if they have read or worked with the Protocol prior to the training. Those that have can discuss their experience, while those that have not should be encouraged to think about how it could be useful to them in their work. The trainer should encourage an appreciation among participants of its usefulness notwithstanding its size.

The trainer should emphasise that the Protocol is intended to be a helpful practical guide for those who are researching, investigating or documenting sexual violence as a war crime, crime against humanity, act of genocide or other serious violation of international criminal, human rights or humanitarian law (referred to as Conflict and Atrocity-Related Sexual Violence, or CARSV), not to act as a rulebook or set out the only possible way of doing things. The Protocol sets out best practice on the documentation of sexual violence as a crime or violation of international law, which will have to be tailored to the particular context of any field research, investigation or documentation project. Participants should be encouraged to think carefully about whether they or their organisation have the necessary mandate, skills and training to carry out this kind of work sensitively and responsibly. However, even those who are not directly involved in investigating or documenting CARSV can learn from the Protocol by seeing it as an overview of international best practices and using it as a benchmark to better understand and analyse how this kind of work is done in their local context.

It should also be emphasised to participants that the Protocol is not intended to insist on a universally applicable legal or professional standard or to challenge the ethical and legal practices of experienced criminal investigators. National and international criminal investigators have varying procedures and legal requirements (and those also differ between legal systems), but some of the fundamental ethical and practical principles set out in the Protocol are still useful to their work. The aim of the Protocol is to provide basic practical guidance for anyone who is gathering information about sexual violence as a crime or violation of international law for accountability purposes – particularly those in the field who are faced with a need to document acts of sexual and gender-based violence, but who may not have the training or professional foundation for doing so. As such, the Protocol is intended to be as broadly accessible and widely useful as possible, but must be adapted by the practitioners on the ground to fit the specific requirements of their situation and mandate.

Increasingly, information about sexual violence and other international crimes and violations is being gathered by groups and individuals who fall outside the category of traditional police or judicial investigating authorities, whether national or international. This can include: non-governmental organisations (NGOs), victim advocacy groups and other civil society actors; human rights monitors; journalists and investigative reporters; and humanitarian, development or outreach workers. The evidence or information collected by them may ultimately end up being used for advocacy purposes or in the work of transitional justice or other accountability mechanisms. The trainer should emphasise that the principles set out in the Protocol, if followed with due care and attention and applied in a manner which is appropriate for the situation and individuals concerned, can help to ensure that any information about sexual violence – even if collected by non-judicial authorities – can still be used to contribute to the pursuit of justice and accountability, and does not undermine official efforts to bring justice to the victims.

On the final two accompanying PowerPoint slides on terminology, the trainer should emphasise some issues about the terms that will be used throughout the training materials. For example, the difference between investigation and documentation of sexual violence may (or may not) be of practical importance to participants. In some contexts, the primary difference is that investigation implies a focus on establishing responsibility and may require specific legal or professional authority, whereas documentation is focussed more on establishing facts or sequences of events and can be carried out by many different groups and individuals. The participants may not think of themselves as investigators or may think that the principles in the Protocol do not apply to them, but if they are collecting relevant and detailed information about sexual violence as part of their work they are involved in documentation. Some principles in the Protocol apply differently to investigation and documentation, and the language in some other modules also reflects this (i.e. referring to evidence rather than information, or testimony rather than statements). Mindful of the risk of confusion about the practical importance of the distinction, the trainer should encourage the participants to consider whether they or their organisation are involved in investigation, documentation or a mixture of both, and should tailor the language in the other modules accordingly. The Protocol uses the term “documentation” broadly to refer to the process of gathering information on CARSV, regardless of the role or mandate of the relevant practitioner. Where relevant, the term “official investigation” is used to refer to state-led or other investigative efforts by mandated justice and law enforcement actors.

There is a growing body of research on the prevalence, scale and nature of CARSV against male victims. There also is a growing body of practice concerning possible similarities and differences between investigating or documenting such violence against women, girls, men, boys and minority sexual and gender identities. The Protocol generally integrates sexual violence against men and boys throughout. However, Module 16 (Sexual Violence against Children) covers specific considerations when dealing with children as victims and witnesses, whereas Module 17 (Sexual Violence against Men and Boys) specifically deals with sexual violence against male victims, whether adults or children. However, the trainer of these topics and other modules should be experienced in, or at a minimum familiar with, such issues and should highlight and integrate them throughout all the modules where relevant. For some trainings and in certain contexts, additional specific content and emphasis on such issues may be required.

***Training Materials on the International Protocol***

**PART II MODULE 2 – UNDERSTANDING SEXUAL VIOLENCE**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain what sexual violence and gender-based violence mean
* Identify forms, patterns and potential victims of sexual violence
* Recognise the harm caused by sexual violence and associated stereotypes

**Suggested duration of session:** 90 to 120 minutes

**Exercise:** Recognising CARSV (30-60 minutes)

**Relevant sections of International Protocol:**

Pages 16-27; Module 7 – Do No Harm; Module 8 – Satefy and Security; Module 9 – Planning; Module 11 – Interviewing; Module 14 – Analysing Evidence and Information; Module 15 – Trauma; Module 16 – Sexual Violence against Children; Module 17 – Sexual Violence against Men and Boys; Annex 1 – Evidence Workbook

This module should form an important part of the first day of the training. All subsequent modules will depend on participants having a solid and detailed understanding of what sexual violence means, what forms it can take, and what impact it has on victims, their families and communities. Participants should also be able to distinghuish between sexual violence and gender-based violence. The trainer for this session must have professional experience dealing with sexual violence, and should ideally be able to inform the participants about relevant patterns or factors for CARSV in their geographical areas of work (i.e. ethnic, economic, religious or political motivations, issues relating to military or security services, targeting of specific groups). Depending on the time available, the trainer should encourage as much discussion as possible among the participants, both during the session itself and as part of the exercise.

The trainer should lead the group in a discussion of each of the questions on the slides – what is sexual violence, who can be affected, what are the impacts – and encourage the participants to discuss their own opinions and experiences in their local context. The trainer can then reveal the rest of the information on those slides and highlight any issues which have not already come up during the discussion. It is important for the trainer to encourage the participants to think more broadly about this topic and to underscore certain key points: sexual violence does not just mean rape; sexual violence is about violence, power and control, not about sex or sexual attraction; beautiful young women are not the only possible or likely victims; and what genuine and voluntary consent means, how certain circumstances negate genuine consent and hence why the circumstances in which the sexual violence takes place are so important in proving the lack of consent. Participants should be instructed that this module deals with the facts and concepts behind sexual violence rather than the specific legal definitions which could apply in their jurisdiction. The latter issue is covered in Module 4 (Individual Criminal Responsibility) and Module 5 (State Responsibility).

In relation to the impact of sexual violence, the trainer should ask participants to suggest examples of the possible harm sexual violence can cause for each of the headings provided and facilitate a discussion based on examples from their professional experience. The trainer should encourage participants to think how certain forms of harm (e.g. physical, psychological, social, socio-economic and legal) may affect all victims, while others may affect male, female and children victims differently. The purpose of this part of the module is for the participants to think deeply and carefully about the harm that sexual violence causes not only to the direct victim, but also how that harm extends outwards to their families, communities and beyond. The importance of systematically and appropriately documenting the different types of harm caused and the victims of that harm should already be flagged at this stage (one of the reasons for doing so is that it may be relevant to the design and implementation of reparations). The purpose is also for the participants to realise that a victim of sexual violence is first harmed by the perpetrator, but then is often further harmed by their family, community, and the authorities. The trainer should emphasise that sexual violence – particularly CARSV – is not an intimate, personal or shameful issue; it is an extraordinarily destructive form of violence which causes many forms of harm and which can cause humiliation, fear, powerlessness and a sense of loss of control. The trainer should also highlight that anyone who is documenting sexual violence should not only aim to “Do No Harm”, but endeavour to empower survivors through participation in decision-making and, as the case may be, helping them to pursue accountability.

For the slides on myths and stereotypes (slides 17-18), the trainer should again stimulate a discussion among the participants about common myths regarding sexual violence that they have encountered in their professional work and own communities. The participants should be asked for examples of stereotypes that they may have heard or encountered (or even that they used to believe themselves) about how victims of sexual violence “should” behave, react, feel, speak, dress or interact, including with the authorities. The trainer should emphasise that these myths and stereotypes are false but that they can still cause serious damage. The participants must have the self-awareness to analyse their own beliefs about sexual violence and make sure that they are not subscribing to any damaging assumptions or preconceptions. The trainer should emphasise that myths and stereotypes can cause even a seasoned documenter to overlook or incorrectly assess potential evidence/information, lead to mistaken and prejudicial assessments of credibility (i.e. a victim who is angry rather than upset must be lying), and even prevent them from recognising when they are dealing with a victim. The participants should be encouraged to look beyond their own personal and professional assumptions and hold themselves to the task of bringing justice to all victims of sexual violence, whether men, women, boys or girls, regardless of their role in society.

**Exercise instructions**

For the ‘Recognising Conflict and Atrocity-Related Sexual Violence’ exercise, depending on the size of the group and the time available for this module, the trainer can pick out some specific examples from the tables on the final two slides (ideally including at least one example of sexual violence against men, women and children and one example of gender-based violence) or go through each of them in turn. Participants should be encouraged to express their opinion about whether they would consider the act in question to be an example of CARSV, sexual violence or gender-based violence based on their discussion of the topics covered in the previous slides, and if not, to explain their reasoning. The trainer should give clear directions before the exercise and emphasise that participants should focus on the content of the acts rather than what legal qualification they would be given. All of the examples provided are situations of CARSV, sexual violence or gender-based violence, but depending on the context and the background of the participants, they may not previously have recognised them as such.

If there is time for a follow-up exercise (either in this module or the following module), the trainer could ask the participants to consider and discuss whether each of the examples would be illegal in their own countries or in the law applicable to their work. There are two primary purposes to this: (i) to get the participants to think critically about whether the law offers sufficient protection to victims (although the law in many places does not offer sufficient protection regardless of the sex or gender of the victims, the trainer should emphasise that this is often particularly difficult for male victims); and (ii) to prepare participants for the introduction of the legal framework applicable to CARSV in Modules 3-6. All of the examples provided would constitute a crime or violation of international law, but it may not be as straightforward in the local context in which the participants work. The important point of this exercise is to recognise the different forms sexual violence can take and the ways in which different individuals can be targeted.

***Training Materials on the International Protocol***

**PART III MODULE 3 – ACCOUNTABILITY AVENUES & REMEDIES**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Define sexual violence as a violation or crime under international law
* Explain the different legal frameworks applicable to CARSV and their interplay
* Describe the rights of CARSV victims and key accountability avenues and remedies available to them

**Suggested duration of session:** 60 to 90 minutes

**Exercise:** Exploring Accountability Avenues and Remedies (30-60 minutes)

**Relevant sections of International Protocol:**

Pages 28-39; Module 4 – Individual Criminal Responsibility; Module 5 – State Responsibility; Module 6 – Reparations; Module 18 – Conclusion

This module should ideally be scheduled on the first day of training. It serves as an introduction and lays down the legal foundations for treating sexual violence as a crime or violation of international law on which all the modules in Part III – which deals with sexual violence under international law - will build. It also aims to help participants think about accountability in broad terms, from criminal prosecution to civil compensation claims, administrative reparations programmes, human rights litigation and beyond. The trainer should stress that it is essential that participants get a clear idea of what they will do with the information gathered before embarking on any documentation process, in part because admissibility and evidentiary requirements usually vary from one accountability mechanism to another. In addition, some processes may be exclusive of each other, some may be used in parallel while others may only be used subsequently. For instance, filing an individual communication against the state before a regional or international human rights body can usually be done only after having (unsuccessfully) used all possible domestic remedies.

In order to be able to deliver the information in this session effectively, the trainer for this session and subsequent legal modules (Modules 4-6) must have a strong background in international law, and should ideally be able to draw upon his/her own experience to provide examples of how different accountability mechanisms have been used to deliver justice and reparation to CARSV victims and how to develop successful litigation strategies. If possible, the trainer should be familiar with (or prepare for the training through research on) domestic and regional accountability avenues available to CARSV victims in the country or region where the participants work and share examples where they have been successfully used. Depending on the time available, the trainer should encourage as much discussion as possible among the participants, both during the session itself and as part of the exercise. If relevant, participants should in particular be encouraged to discuss their own experiences using certain accountability mechanisms in their local context, including – as the case may be - the challenges they may have faced and strategies used to overcome these.

The trainer should assess the level of legal expertise among the participants and adjust his/her emphasis accordingly. The trainer should also clearly set out and explain that practitioners often have different understandings of even basic concepts such as “international criminal law” or “international crime”. It may be necessary to adjust the slides as a consequence.

If relevant and necessary before introducing Modules 4-6, the trainer should ensure that he or she has researched and is able to clearly explain the following issues, and should ensure that the participants have fully understood them:

* the differences between various sources of international law, including treaty law (such as the Rome Statute of the International Criminal Court), custom and jurisprudence (case-law);
* the prohibition of sexual violence as a matter of customary international law;
* the different legal frameworks applicable to CARSV, in which circumstances these various regimes apply, how they complement each other and how, depending on the circumstances, they can apply simultaneously;
* how the international law set out in the Protocol interacts with the law that the participants use in their work, including (if relevant) applicable domestic law; and
* the important differences for investigation or documentation work between relevant accountability mechanisms, including variations in both substantive law (such as the definitions of particular sexual violence crimes or violations, modes of liability, grounds for excluding liability and bars to the prosecution of perpetrators) and, importantly, evidentiary law and procedural law.

For example, in slide 4, and depending on the needs of the participants, the trainer should make sure that they understand the differences between international human rights law, international humanitarian law and international criminal law, particularly in terms of who is bound by and punishable pursuant to those bodies of law. If relevant, the trainer may also have to explain how international law is or can be applied in domestic legal systems. It will also be necessary to deal, in addition to the criminal liability of individuals, with the civil liability of individuals, and the responsibility of states, organised armed groups and other actors, both under international law and domestic law.

The trainer should lead the group in a discussion of the questions on the slides: what constitutes an international crime or violation; what are the legal consequences of sexual violence amounting to an international crime or violation and what additional accountability avenues open as a result; what human rights violations can sexual violation give rise to; etc. The trainer can then reveal the rest of the information on those slides and highlight any issues which have not already come up during the discussion. The trainer should underscore certain key points: it is the context in which sexual violence is committed (e.g. sexual violence committed in conflict or committed as part of a widespread or systematic attack against a civilian population) which can make it amount to an international crime or violation of international law; international law contains norms and standards which not only provide definitions of the acts themselves but determine how certain acts are being classified under international law; and factual circumstances determine whether a specific act of sexual violence amounts to a crime or violation of international law rather than domestic laws. Participants should be instructed that this module provides an overview of accountability avenues and remedies available to victims of CARSV and that specific legal definitions and elements of crimes and human rights violations to be proven to hold someone or a state accountable are covered in Module 4 (Individual Criminal Responsibility) and Module 5 (State Responsibility).

For slide 8 on factors to consider when determining the range of accountability avenues available in a specific case, the trainer should encourage the participants to come up with questions they need to clarify, such as:

* What does the applicable domestic legal framework provide?
* Is there a specific legal regime dealing with war crimes, crimes against humanity and genocide applicable in the context in which I am operating?
* Which domestic courts are competent to deal with international crimes (ordinary criminal courts, military courts, special courts, other)?
* Are there specific war crimes/international crimes investigative units?
* When dealing with male victims, does the domestic legal framework recognise men as potential victims of sexual violence? Is homosexual activity criminalised, regardless of whether the conduct was consensual or not? (The trainer should underscore that the issue here is not the sexual orientation of the victim and/or perpetrator. One of the reasons for knowing the law on such issues is that it may help documenters avoid or mitigate the risk of exposing, through the process of documentation, male victims of sexual violence by other men to criminal prosecution in countries where homosexual acts are outlawed.)
* What international legal instruments or human rights treaties has the country in which the crimes took place ratified? When did these instruments enter into force for that country? Were the crimes committed before or after their entry into force?
* How can the national jurisdiction deal with the principle of legality?
* Have domestic legal remedies been exhausted? If not, why not? Etc.

When talking about regional and international human rights instruments, the trainer should encourage participants to discuss what substantive or procedural rights guaranteed by key human rights legal instruments CARSV can give rise to, before revealing slide 15. The point here is to highlight that even when human rights treaties do not explicitly prohibit sexual violence – as this is often the case – sexual violence itself and the response to sexual violence by relevant authorities can give rise to violations of a series of other rights and freedoms guaranteed by most human rights treaties.

When presenting the overview of accountability avenues and remedies on slide 19, the trainer should mention that there are mechanisms which might not - strictly speaking - be considered as “accountability” mechanisms as such but are nevertheless important elements of the broader framework of transitional justice mechanisms. While truth and reconciliation commissions appear on the visual, others like memorialisation, conflict mapping or archiving do not. These other mechanisms may form an important part of transitional justice and are discussed further in Module 6 (Reparations). They should not be considered as a substitute or alternative to accountability mechanisms but as complementary measures to ensure that CARSV victims obtain adequate remedy.

**Exercise instructions**

For the ‘Exploring Accountability Avenues and Remedies’ exercise, the trainer should ask participants to discuss accountability mechanisms they are familiar with or that victims they are working with may have used. The trainer should encourage participants to come up with examples of accountability options at the domestic, regional and international level and discuss whether these mechanisms deal with criminal responsibility, state responsibility and/or the responsibility of other actors, as well as whether these bodies are judicial, quasi-judicial or non-judicial. If there is enough time and provided this is relevant considering the participants’ background and experience, the trainer could ask the participants to highlight potential barriers to accessing justice and reparations victims may have faced using these accountability avenues (e.g. domestic statute of limitations, inappropriate legal qualification of the crimes, lack of political will, lack of independence) and how they have dealt with these.

To make the exercise more interactive and help participants to visualise the different categories of accountability mechanisms, the trainer could draw on a flip chart an empty semi-circle similar to the one appearing on slide 19 and ask participants to write the name of the mechanism they wish to discuss on a piece of paper and stick it in the appropriate section of the semi-circle. The main point of this exercise is to enable participants to appreciate the broad range of accountability options available to CARSV victims beyond criminal prosecution, and enable them to select the most appropriate in a given case based on the wishes of the victim.

***Training Materials on the International Protocol***

**PART III MODULE 4 – INDIVIDUAL CRIMINAL RESPONSIBILITY**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain how sexual violence can constitute an international crime
* Identify the different legal elements which must be proven to hold someone accountable for an international crime
* Use the Evidence Workbook as a checklist to avoid leaving in gaps in evidence

**Suggested duration of session:** 120 to 270 minutes

**Exercise:** Recognising Elements of International Crimes

 (90-120 minutes, group work and feedback)

**Relevant sections of International Protocol:**

Pages 40-63; Module 2 – Understanding Sexual Violence; Module 3 – Accountability Avenues and Remedies; Module 6 – Reparations; Annex 1 – Evidence Workbook

Ideally, this module should be scheduled on the first day or at the start of the second day of the training. Depending on the time allowed to cover previous modules, the theoretical part of this module could be covered on the first day of training and the exercise at the start of the second day of the training. The module sets out the legal foundations for treating sexual violence as an international crime and provides participants with a framework for what is needed to document and prove crimes under international law. In order to be able to deliver the information in this session effectively, the trainer for this module and all other legal modules (Modules 3-6) should have a legal background and should be very familiar with the relevant law. Importantly, international law as set out in the Protocol may in some respects differ from the law which applies in national and some international legal systems. The Protocol does not cover all relevant aspects of the applicable law (including substantive law) in the detail and with the nuance that may be required by trainers and documenters working on specific cases or in particular jurisdictions. For example, the law on evidence (which differs between legal systems) may require more attention in the training.

The trainer should highlight that this module deals with the individual criminal responsibility of individuals, while Module 5 deals with state responsibility.

For the non-lawyers among the participants, this session should help to give them a grounding in basic principles and concepts of international criminal law, to understand the three main categories of evidence needed to hold someone accountable for an international crime (specific, contextual and linkage evidence) and to provide them with a helpful tool or checklist to make sure that they document information which can satisfy all three categories of evidence. For the participants with legal experience, this session should give them a more detailed understanding of the kind of evidence which would be needed to prove the legal elements which must be satisfied in order to hold someone individually criminally responsible for the various sexual violence crimes under international law. It should also enable them to identify any relevant and important differences between the law covered in the Protocol and the law relevant to their investigation or documentation work.

As for all other legal modules (Modules 3-6), the trainer should evaluate the level of legal expertise among the participants and adjust his/her language and emphasis accordingly. It may be necessary to adjust the slides as a consequence.

First, the module provides a general introduction to international crimes. The trainer can use this as an opportunity to gauge whether any of the participants are familiar with international criminal law and what their understanding of it is. The Protocol, and hence the bulk of these training materials, focusses mainly on aspects of the law of the International Criminal Court. However, that law may or may not be relevant to the participants. The trainer may have to make related adjustments to the slides.

For example, the trainer may also have to deal with relevant similarities and differences between the International Criminal Court and its law, and other national and international accountability mechanisms and their applicable law. Such accountability mechanisms may include ad hoc international or hybrid criminal courts; the International Court of Justice; regional and sub-regional human rights courts; other international human rights monitoring and accountability fora, including those of the United Nations, Europe and the African Union; and national courts, human rights commissions and truth and reconciliation commissions. The trainer should remind participants that Module 5 (State Responsibility) specifically covers the law applicable to accountability mechanisms dealing with the responsibility of states. If there is any international court or other accountability mechanism currently examining crimes that participants are working on, the trainer should highlight that fact for the participants and explain how the court or other accountability mechanism operates.

The trainer must clearly show the practical relevance of the law to the investigation or documentation work of participants. The trainer should also be aware of the potential for confusion, particularly among participants who do not have a legal background. The trainer should repeatedly check that the participants understand the material that has been covered and should encourage questions and discussion.

After slides 3 and 4, the information in this module is split into three main sections: A) the specific elements of underlying crimes; B) the common elements of the category of crime; and C) linkage elements or modes of liability of international crimes. The trainer should spend an equal amount of time on all three as they are equally important in proving international crimes, making sure to allow enough time for the exercise. For the section on specific elements of underlying crimes, the trainer should encourage the participants to refer to the more detailed information set out in the Protocol and Evidence Workbook (Annex 1). As suggested earlier, some of the specific underlying crimes mentioned – such as rape or torture – might have different definitions and legal elements in different legal systems. If relevant, either the trainer or lawyers in the group should highlight these differences and emphasise that as a matter of international law, international law trumps any contrary domestic law.

For the section on common elements of the category of crime (war crimes, crimes against humanity and genocide), the trainer should ensure that the participants understand the relationship between war crimes, crimes against humanity and genocide, and how the same act could satisfy the elements for all three categories of crime, depending on the background circumstances. If there has been a situation of armed conflict or widespread human rights abuses in the geographical areas of work of participants, the trainer should encourage the participants to discuss and analyse which category or categories of crime could apply (with due respect for and awareness of any related sensitivities that there may exist among participants). For the section on linkage elements/modes of liability, the trainer should emphasise that the exact requirements to hold someone individually criminally responsible vary from jurisdiction to jurisdiction, but that the most important thing to increase accountability is to try to gather as much information as possible about those who were directly or indirectly responsible for crimes of sexual violence and what form their involvement took (i.e. how they were involved, what their roles were).

**Exercise instructions**

For the ‘Recognising Elements of International Crimes’ exercise, depending on the size of the group and the time available for this module, the trainer should split the participants into groups (ideally three). The trainer should try to make sure that any participants with legal expertise are spread out amongst the groups to help guide their fellow participants. The fact scenario associated to this exercise is provided as an example (in a separate document). The trainer can use the fact scenario proposed as such, adapt it or research and select a factual scenario (i.e. from newspaper stories or NGO reports) that is more relevant for the specific needs of the group of participants and their context. Whichever factual scenario is chosen, the trainer should hand it out to each group.

Each group will have to identify evidence to satisfy the specific, common and linkage elements of an international crime. Ideally, each group will work on a different underlying crime, a different category of crime, and a different mode of liability, so as to give all the participants exposure to how the exercise would play out in a variety of criminal contexts. The primary purpose of the exercise is for the participants to show their understanding of the kind of evidence (facts) which could prove the elements of particular crimes. An additional benefit is to give each team the opportunity to advocate for their findings under circumstances where their conclusions might be challenged. That is a useful skill for those working in human rights documentation and advocacy groups.

The trainer should allow 60 to 90 minutes for participants to:

* read the factual scenario distributed, identifying the most relevant passages to answer the questions mentioned in the fact scenario document;
* discuss among the group the answers to be given to the questions using the Evidence Workbook (Annex 1) as a guide; and
* choose a representative to present to the plenary the outcome of the discussion within the group.

Each group must choose (or be assigned) a specific underlying crime – rape, torture, sexual slavery – that they feel is most appropriate for the factual scenario they are dealing with. Using the Protocol and the Evidence Workbook, they should try to identify the evidence from the factual scenario which could satisfy each of the legal elements which must be proven for that specific crime. What information do they already have which could satisfy those elements, and how would they go about finding additional information to fill any outstanding gaps? For the common/contextual elements, each group should think about what categories of international crimes might be relevant to the facts and select (or be assigned) a specific category of crime (war crimes, crimes against humanity or genocide), so if the participants are split into three groups, one group should focus on war crimes, one group on crimes against humanity and the third on genocide. Each group should carefully examine the factual scenario to identify which evidence could satisfy each of the legal elements which must be proven to establish that category of crime, and, using the factual scenario, assess which elements they can already establish from the available information and which will require more evidence. Finally, for the modes of liability/linkage elements, each group should discuss whether they can identify a potential perpetrator from their factual scenario. Depending on which individual they choose or are assigned, they should then analyse what mode of liability or form of individual responsibility would be most appropriate to hold that suspect accountable, and what factual information could help satisfy the elements of that mode of liability. If they are missing information that must be proven, how would they go about pursuing and documenting that information?

The trainer should make sure that enough time is scheduled to allow the groups to discuss and that there is enough space in the training area for them to split up and work comfortably within the groups. Each group should be given paper or a whiteboard to make notes of their conclusions. When the discussion time is finished (at least 60-90 minutes depending on the factual scenario is recommended, with a ¼ of the time to focus on the specific elements of the crime and the remainder ¾ of the time to be split between the common and linkage elements, since these are more challenging to establish) the trainer should re-assemble all the participants into one large group and ask representatives from each of the three groups to report back on their findings. It may help to pretend that they are evaluating preliminary evidence for a fact-finding mission or their own organisation and making recommendations about how to find or collect additional information to improve the strength of the evidence.

As an alternative to asking them how they would go about pursuing additional evidence, the trainer may also suggest that, if the evidence in the fact scenario is or appears to be incomplete, participants could “make up” or “imagine” additional evidence that could best support the legal elements in question; the trainer could then ask them to present such “additional” evidence and discuss that evidence with them. This approach could be used in relation to all three categories of evidence.

***Training Materials on the International Protocol***

**PART III MODULE 5 – STATE RESPONSIBILITY**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain how sexual violence can give rise to state responsibility
* Identify the substantive and procedural violations of human rights law that sexual violence can give rise to
* Recognise the information which may help establish a violation of a state’s obligations

**Suggested duration of session:** 60 to 90 minutes

**Exercise:** Analysing a concrete case to assess state responsibility (60-75 minutes, group work and feedback)

**Relevant sections of International Protocol:**

Pages 64-73; Module 2 – Understanding Sexual Violence; Module 3 – Accountability Avenues and Remedies; Module 4 – Individual Criminal Responsibility; Module 6 – Reparations; Module 10 – Types of Evidence of Sexual Violence; Annex 1 – Evidence Workbook

The module sets out the legal foundations for sexual violence to engage state responsibility and provides participants with a framework for what is needed to document and prove human rights violations. This module is the counterpart of module 4 on individual criminal responsibility. It is important for the trainer to reiterate that different legal frameworks govern each form of responsibility and that the same act of sexual violence can give rise to both forms of responsibility.

In order to be able to deliver the information in this session effectively, the trainer for this module and all other legal modules (Modules 3-6) should have a legal background. In addition, the trainer for this module should be familiar with international human rights law and ideally have practical experience submitting individual communications and/or other submissions to regional and/or international human rights mechanisms. The trainer should research which human rights mechanisms are relevant for the context in which the participants are working, in particular:

* which human rights treaties and other instruments the relevant state has ratified (in addition to customary international law which may be relevant);
* when such instruments came into force;
* whether the relevant state has accepted the competence of a specific court, commission or other body to monitor the implementation of its international obligations and how these bodies operate, as appropriate;
* whether the relevant human rights instruments and applicable customary international law contain explicit prohibitions of sexual violence;
* whether the previous exhaustion of domestic remedies is a requirement - and relevant exemptions – as well as other admissibility criteria; and
* whether there are decisions and other relevant communications for CARSV victims that such mechanisms have issued.

This session should give non-lawyers among the participants a basic understanding of general principles of international human rights law, the two main categories of information needed to hold a state accountable for a violation of fundamental rights (which rights were violated and how the state is responsible) and provide them with a basic tool to ensure that they document information which can satisfy each category of information. For participants with legal experience, this session should give them a more detailed understanding of the kind of information which would be needed to prove the legal elements which must be satisfied in order to engage a state’s responsibility for (i) the acts or omissions of state agents or persons acting with the state’s authorisation, acquiescence or support, or (ii) failure to comply with its positive obligations to prevent, investigate, prosecute and sanction, and provide adequate reparation to victims of CARSV and other human rights violations.

The trainer should flag early on that the specific rights guaranteed by various human rights instruments and the legal elements to establish a violation of a state’s obligations may vary. For instance, the definition of torture in the UN Torture Convention[[6]](#footnote-6) and the Inter-American Convention to Prevent and Punish Torture[[7]](#footnote-7) requires the involvement or acquiescence of a public official, whereas this is not a legal element in the International Covenant on Civil and Political Rights, or, arguably, under customary international law generally, nor under the national law of various countries. The methodology presented in the Protocol and the Evidence Workbook provides a framework which must be adapted to the specific requirements of a particular human rights mechanism and its applicable law.

Human rights accountability mechanisms may include domestic constitutional and ordinary courts; national human rights commissions; regional and sub-regional human rights courts such as the European Court of Human Rights; regional and international human rights commissions, committees and other monitoring bodies, such as special rapporteurs and working groups; the International Court of Justice; commissions of inquiry and other fact-finding bodies set up at the national, regional or international level; and truth and reconciliation commissions. The mandate, applicable substantive law, and admissibility and evidentiary requirements will vary between different mechanisms. The trainer can refer to Module 3 (Accountability Avenues and Remedies) for examples of human rights mechanisms which may be relevant to the context of the participants.

The module first provides a general introduction to states’ obligations and the categories of conduct which may constitute violations of individuals’ fundamental rights and engage state responsibility. The trainer should use this as an opportunity to assess the level of legal expertise among the participants, how familiar they are with international human rights law and their understanding of it. The trainer should adapt his/her language and emphasis accordingly and consider whether the content of the slides needs to be tailored as a result.

The trainer should encourage participation and generate discussion among participants during the session and the exercise, in particular by asking them questions to prompt their thinking about the content covered in the slides and encouraging those who may have relevant experience submitting information to human rights mechanisms to share it with the group.

After slides 3 and 4, the information in this module is split into two main sections. The first section sets out states’ obligations (slides 5-12): A) in relation to the act of sexual violence itself (slides 6-7) and states’ obligation to prevent CARSV by state and non-state actors; and B) in relation to the response to CARSV (slides 8-11) and states’ obligations to investigate, prosecute and sanction, and provide reparation to victims, regardless of whether the sexual violence crimes were committed by state officials, militia groups or private individuals. The trainer is encouraged to refer to his own experience or case law referenced in the Protocol to illustrate instances where states have been found to be in violation of their international obligations.

The second section (slides 13-19) provides a framework to document human rights violations and sets out the two categories of elements (which rights were violated and how the state is responsible) in relation to which information must be gathered to hold a state accountable for its actions or omissions. The trainer should stress certain key points:

* Many human rights treaties do not contain a specific or explicit prohibition of sexual violence - sexual violence is prohibited primarily as a violation of the right to physical and mental integrity and as a form of torture and other ill-treatment.
* A single act of sexual violence can give rise to the violations of a myriad of substantive and procedural rights (from the right to life to the right to health, education, non-discrimination and the right to an effective remedy and reparation, to mention only a few).
* These rights and the legal elements to prove may vary depending on the applicable legal framework.
* Case law from international tribunals and human rights courts and commissions has recognised that rape and other forms of sexual violence may amount to a violation of the absolute prohibition of torture and other ill-treatment.
* States’ failure to comply with their obligations to prevent and respond to gross human rights violations, including torture and CARSV, can give rise to independent procedural violations, regardless of whether any substantive rights have been violated.

In terms of information to gather, the trainer should reiterate the importance of documenting the harm caused to the victim as this can help to prove that certain legal elements of a violation are satisfied (e.g. in the case of torture, that the act inflicted severe pain or suffering, whether physical or mental) and provide a foundation for reparations. Evidence showing that the state knew or should have known that CARSV occurred - in the form of direct communications or UN, NGO or media reports - but nevertheless failed to protect persons under its jurisdiction is always useful to collect. Finally, although CARSV and other gross human rights violations trigger an obligation for the state to initiate an investigation without the victim having to launch a complaint, it is always useful to collect evidence demonstrating that the victim has been proactive about seeking justice and reparation, for instance by providing information to investigative authorities. Such information will also be necessary if the victim does not get satisfaction at the domestic level and needs to show that s/he has unsuccessfully exhausted domestic remedies before seeking redress at the regional or international level.

**Exercise instructions**

For the “Analysing a concrete case to assess state responsibility” exercise, the trainer should select a real case adjudicated by a human rights mechanism (e.g. decision from a UN Treaty Body such as the CAT or CEDAW, or from a human rights commission or court from the European, African or Inter-American systems). The same case may be used for the “Analysing concrete measures of reparation” exercise which is part of Module 6 (Reparations). If module 6 is covered as part of the training, the trainer may either conduct each exercise at the end of the relevant module, or consider conducting a single exercise combining all the questions on state responsibility and measures of reparations at the end of Module 6 (Reparations). As the case may be, the trainer should ensure that the selected decision orders or recommends different forms of reparations.

Depending on the size of the group and time available for this module, the trainer should split the participants into groups (ideally two). The trainer should try to ensure that the composition of the groups is different from that of the previous exercise and make sure that participants with legal expertise are equally spread out between the groups to help guide their fellow participants.

Wherever possible, the trainer should select a decision from a human rights mechanism relevant to the participants’ context and specific needs. Chapter 5 of the Protocol contains various references to relevant case law which could potentially be used for this exercise and the exercise suggested for Module 6 (Reparations). The trainer should hand out relevant excerpts of the factual part of a case. The excerpts distributed should not be too long in order to allow plenty of time for discussion. Generally speaking, decisions from UN Treaty Bodies are not too lengthy. Group 1 will pretend to represent the applicant while Group 2 will pretend to represent the relevant human rights mechanism.

The trainer should allow about 30 minutes for participants to:

* read the factual part or relevant factual excerpts of the case, identifying the most relevant passages to answer the questions mentioned on the exercise slide;
* discuss among the group the answers to be given to the questions; and
* choose a representative to present to the plenary the outcome of the discussion within the group.

Each group should be given paper or a whiteboard to make notes of their answers to each of the questions. After the first 30 minutes, the exercise should continue in plenary. The representative for each group should be given about 15 minutes to report back in plenary on his/her group’s findings. After each presentation, the trainer can ask if other members of the relevant group have additional information to add before complementing the answers.

At the end of the exercise, the trainer can distribute a second set of relevant excerpts from the judgement or decision selected including the allegations and legal findings made by the human rights mechanism. The participants should end up with either a full decision or relevant excerpts of the factual and legal parts which they can study for further details if they are interested. If the training covers Module 6 (Reparations) and uses the same case for the exercise on reparations, the second set of relevant excerpts should only be distributed at the end of the exercise suggested for Module 6 (Reparations).

***Training Materials on the International Protocol***

**PART III MODULE 6 – REPARATIONS**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Set out some possible avenues for reparations
* Describe what constitutes adequate remedy and reparation
* Identify what information to gather for different forms of harm, and how

**Suggested duration of session:** 45 to 60 minutes

**Exercise:** Analysing concrete measures of reparation (30-45 minutes, group work and feedback)

**Relevant sections of International Protocol:**

Pages 74-83; Module 2 – Understanding Sexual Violence; Module 3 – Accountability Avenues and Remedies; Module 4 – Individual Criminal Responsibility; Module 7 – Do No Harm; Module 10 – Types of Evidence of Sexual Violence; Annex 1 – Evidence Workbook

This module sets out basic principles of reparations and provides participants with a framework for what is needed to comprehensively document the harm caused to CARSV victims for reparation purposes. It is the last legal module and complements Module 4 (Individual Criminal Responsibility) and Module 5 (State Responsibility). The trainer should highlight that reparations for victims of CARSV is part of a process consisting of obtaining truth, justice, redress and guarantees on non-repetition. Reparations that strive to address the root causes of violence and foster social change can play a critical role in restoring victims’ dignity and empowering them.

In order to be able to deliver the information in this session effectively, the trainer for this module and all other legal modules (Modules 3-6) should have a legal background. In addition, the trainer for this module should be familiar with international law and principles and guidance applicable to reparations for victims of CARSV and other gross human rights violations. References to relevant provisions of human rights treaties, case law and international practice on reparations are mentioned in Chapter 6 of the Protocol. The trainer should also research the applicable legal framework for reparations and associated practice relevant to the participants’ context (e.g. whether compensation can be adjudicated directly by criminal courts or not; if not, whether a criminal conviction is required before a victim can submit a civil compensation claim or if a civil action can be pursued independently; and what the legal and/or practical barriers to victims seeking reparation or the implementation of reparation orders are – such as cost, excessive formality, lack of confidentiality, complex administrative proceedings, etc).

The principle of “Do No Harm” is closely linked to the concept of reparation and should guide practitioners at all stages of the reparation process to shield victims from further harm. In addition, international practice’s trend is to require reparations to go a step further and have a transformative effect by addressing pre-existing structural gender inequalities and other forms of discrimination which have caused or contributed to the violations and their impact, and allowing CARSV victims to assume a proactive and empowering role in obtaining and designing reparations.

The module first lays down the legal foundations of the right to an effective remedy under international law, what this right entails and who can benefit from it. Ideally, the trainer should encourage participants to consider the questions mentioned on the slides and think about the relevant issues before revealing the information contained in the slides. As much as possible throughout the session and the exercise, the trainer should facilitate discussion among participants and ask them to critically consider how their understanding and experience of reparations in their specific context compares to relevant international standards and, as the case may be, what changes may be required.

After slides 3 and 4, the information in this module is split into three main sections. The first section covers some of the possible avenues for reparations available to CARSV victims (slides 5-6), followed by key principles and forms of reparation (slides 7-15), and finally the different forms of harm to document and the information to look for to get a comprehensive picture of the full impact that CARSV has had on the victims and their reparation needs (slides 16-17).

In relation to the first section on avenues for reparations (slides 5-6), the trainer should highlight certain key points:

* CARSV victims can seek different forms of reparations at the domestic, regional or international level; different forms of reparations may be sought not only from the perpetrator(s) of CARSV, but also from a corporate or other responsible entity and/or the responsible state.
* CARSV victims should be entitled to seek reparations through judicial and non-judicial channels; reparations may be adjudicated in the context of civil and human rights litigation, or criminal prosecution, by domestic and international courts as well as quasi-judicial bodies and other human rights mechanisms.
* When violations take place on a large scale or the parties liable for the violations are unable or unwilling to provide reparations, states should establish administrative reparation programmes and other assistance programmes to victims; such administrative reparations programmes are particularly suited and favored for CARSV reparations for various reasons, including confidentiality, ease of access and timeliness, but these should not preclude CARSV victims from complementarily obtaining reparations or compensation through court proceedings.

The second section (slides 7-15) highlights key reparation principles based on the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of Humanitarian Law (2006), the Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence (2014), principles developed by the ICC in the Lubanga judgement (2015) and other international guidance. The trainer should highlight certain key points:

* Reparation can take many forms and means much more than mere financial compensation.
* Adequate remedy and reparation can include a combination of five forms (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition); these five forms of reparation are not mutually exclusive but complement each other as they each address different needs that CARSV victims may have.
* Whether collective or individual, reparations should strive to be transformative and aim at addressing the structural inequalities and gender stereotypes which serve and create a context conducive to sexual violence.
* Consultation with and meaningful participation of CARSV victims in the design, implementation and monitoring of reparations are essential in order to ensure that the measures adopted are victim-based and empowering.

The slides on reparation principles are followed by slides containing more detailed information about what each of the five forms of reparation means in practice, from appropriate sanctions against the perpetrators, public apologies, provision of services and employment opportunities, to empowerment projects and changes in relevant laws and practice.

The third and last section (slides 16-17) constitutes the more practical part of the module and sets out the various forms of harm (physical, mental, social and economic harm) that practitioners should document in order for CARSV victims to be able to seek gender-sensitive reparations that are comprehensive, tailored to their specific needs and proportionate to the gravity and nature of the harm suffered. The trainer should reiterate that thorough documentation of the harm caused is essential not only for reparation purposes, but also to prove certain crimes (e.g. genocide which can be committed by causing “*severe bodily or mental harm*”, or torture which requires the infliction of “*severe pain or suffering, whether physical or mental*”) and for sentencing.

During this part of the session, the trainer should encourage participants to discuss certain challenges associated with quantifying the harm caused to CARSV victims, such as moral damage suffered by women and girls who will often be blamed for and considered as tainted by the sexual violence, or how to calculate the loss of income or earning potential of victims who do not receive any income because they are working in the home or on family land. Certain courts and other bodies have done an excellent job at finding creative solutions to address these issues which should inspire practitioners and pave the way for fairer and more adequate reparations for CARSV victims in other contexts. Challenges in quantifying the harm caused to male CARSV victims should also be identified and discussed.

**Exercise instructions**

For the “Analysing concrete measures of reparation” exercise, the trainer may use the same case used for the “Analysing a concrete case to assess state responsibility” exercise which is part of Module 5 (State Responsibility). The trainer should refer to the instructions for the exercise on state responsibility as necessary.

Depending on the size of the group and time available for this module, the trainer should split the participants into groups (ideally two), ensuring that participants with legal expertise are equally spread out between the groups to help guide their fellow participants. The composition of the groups may be the same as for the previous exercise with the two groups simply swapping roles (i.e. Group 1 which represented the applicant in the previous exercise will pretend to represent the human rights mechanism for this exercise and Group 2 which represented the human rights mechanism in the previous exercise will pretend to represent the applicant for this exercise).

The relevant excerpts of the factual part of the case will already have been handed out and reviewed by participants. The trainer should allow about 15 minutes for participants to:

* based on the factual part or relevant factual excerpts of the case which they should already be familiar with, identify the most relevant passages to answer the questions mentioned on the exercise slide;
* discuss among the group the answers to be given to the questions; and
* choose a representative to present to the plenary the outcome of the discussion within the group.

Each group should be given paper or a whiteboard to make notes of their answers to each of the questions. After the first 15 minutes, the exercise should continue in plenary. The representative for each group should be given about 5-10 minutes to report back in plenary on his/her group’s findings. After each presentation, the trainer can ask if other members of the relevant group have additional information to add before complementing the answers.

At the end of the exercise, the trainer can distribute a second set of relevant excerpts from the judgement or decision selected including the allegations and legal findings, including measures of reparation, made by the human rights mechanism. The participants should end up with either a full decision or relevant excerpts of the factual and legal parts which they can study for further details if they are interested.

***Training Materials on the International Protocol***

**PART IV MODULE 7 – DO NO HARM**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Recognise the fundamental importance of the Do No Harm principle and a survivor-centred approach to documentation
* Explain what informed consent means and when and how to obtain it
* Identify categories of measures to prevent, mitigate or respond to potential harm

**Suggested duration of session:**  90 to 120 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 84-103; Module 2 – Understanding Sexual Violence; Module 8 – Safety and Security; Module 9 – Planning; Module 11 – Interviewing; Module 13 - Storing and Handling Information; Module 16 – Sexual Violence against Children; Module 17 – Sexual Violence against Men and Boys; Annex 2 – Conducting Threat and Risk Assessments; Annex 5 – Organisational Security Good Practices Checklist

This module is the first module relating to Part IV of the Protocol (Documentation in Practice - Preparation). Part IV covers the Do No Harm principle, safety and security issues, planning considerations and an overview of types of evidence of sexual violence. It should be closely linked with Module 8 (Safety and Security), Module 9 (Planning) and Module 10 (Types of Evidence of Sexual Violence), as these four modules cover important topics for the planning and preparation phase of any investigation or documentation. The trainer for these modules should therefore have experience in planning and managing documentation processes. It should be emphasised to the participants that the issues covered in Modules 7-10 will need to be carefully considered *before* conducting any inquiries in the field. Taking time and care in the planning and preparation phase will result in more organised documentation processes, stronger and more relevant evidence or information, increased clarity about the roles and responsibilities of different members of the documentation team, more detailed recognition of potential risks or security considerations, and, ultimately, a better chance to pursue accountability for sexual violence crimes or violations. If any of the participants are already engaged in documentation and have not encountered or considered these issues before, they should be encouraged to assess and discuss whether they could usefully be applied to their current work.

This module covers the fundamental ethical principle of Do No Harm. The trainer should start the session by asking the participants if any of them have heard of this principle, and if so what it means to them. The basic postulate of the Do No Harm principle – that individuals should not be exposed to unnecessary risk or left in a worse situation as a result of their interaction with investigators or documenters – is part of the ethical requirements for many different professions, but the exact details of how it is applied in practice can vary (between doctors and humanitarian field workers, for example). If participants have encountered it before, they should be encouraged to discuss their experiences and any challenges they faced.

If the participants are not familiar with it, the trainer should emphasise that the Do No Harm principle requires them to adopt a survivor-centred approach to documentation and support survivors’ autonomy. This means that they have to prioritise the needs and wishes of victims and witnesses ahead of the objectives of their documentation process. The trainer should remind participants that to Do No Harm constitutes a minimum requirement and that they should aim to go further and empower survivors through participation and decision-making throughout the documentation process. The principle of Do No Harm requires participants to think carefully about potential risks or harm that could affect not only individual victims or witnesses and their families and communities as a result of interacting with them but also members of the documentation team. Participants should make every effort to avoid or minimise the risk of harm, and if identified risks are unacceptable, they should stop the process. The trainer should remind participants that victims are first harmed by the perpetrator(s), but that they can then be further harmed by their families and communities, poorly trained practitioners and service providers as well as unresponsive or inadequate police or justice mechanisms as illustrated by the visual on slide 4.

The participants must understand that they have a responsibility to consider the impact that their actions will have on those with whom they come into contact (including but also beyond victims and witnesses) and to make an effort to treat them all with care and respect. It may be useful to return to some of the slides in Module 2 (Understanding Sexual Violence), for example to review the impacts of sexual violence as potential sources of harm and to underline the importance of avoiding stereotyping of victims/survivors. Slide 6 introduces the second and third part of the module by highlighting that the Do No Harm principle obliges us to fully - and upfront - disclose to victims/witnesses potential risks associated with their participation in the documentation process in order for them to make an informed decision, as well as putting in place appropriate measures to mitigate risks.

The second component of the module (slides 7-10) relates to the legal and ethical obligation to obtain informed consent – which is grounded in the principle of autonomy - from victims/witnesses regarding their participation in the documentation process and, as the case may be, its modalities. The trainer should underscore that informed consent is not a simple box-ticking exercise to complete when practitioners first meet a victim or witness, but a *process* which requires victims/witnesses to consent throughout all stages and regarding all aspects of documentation, based on full disclosure by practitioners who should ensure that victims/witnesses, and/or their legal representatives when children are involved, have the competency to consent, have clearly understood all risks involved and are making their decision based on their free will.

The third and last component of the module (slides 11-25) covers the four main categories of measures that practitioners should put in place to prevent, mitigate or respond to potential harm, detailed under the following headings: (i) threat and risk assessments; (ii) coordination; (iii) confidentiality; and (iv) referrals.

Slides 12-14 deal with the concept of threat and risk assessments and the methodology of how to conduct them. Further details about possible threats and practical measures to mitigate identified risks are covered in Module 8 (Safety and Security). The trainer should emphasise the difference between threat and risk – a threat assessment involves identifying any and all *potential threats or vulnerabilities* which could cause harm to victims, witnesses or team members, or the security of equipment, infrastructure or information, whether those threats arise from current or former perpetrators, the physical environment or any other source. A risk assessment analyses the *individual risk or likelihood* that those threats could come to pass, and tries to identify *mitigating measures* which could reduce the impact or likelihood of harm. The trainer should consider including examples of both from their own professional background. In situations where the risk is too significant and cannot be mitigated, then that witness or information should not be pursued.

In order to assess or minimise the potential harm to any individual, a (formal or informal) threat and risk assessment will be needed. The steps to follow are presented on slide 14 and further detailed with some examples in Annex 2 of the Protocol (Conducting Threat and Risk Assessments). When thinking about the safety of others, it is also necessary for participants to consider themselves and their own team. The most important thing is to remember to think and plan carefully rather than simply taking action or taking no action with good intentions. The participants must understand that in doing this kind of work, their actions can have both positive and negative consequences and that they are responsible for those consequences.

Another way to mitigate potential harm is to ensure proper coordination (slides 15-17) with referral services and other documentation efforts which may be under way in the context where the participants operate. Participants should be encouraged to critically consider how much they know about other actors involved in documentation in their context, their activities and mandate, and the impact that multiple lines of inquiry may have on victims/witnesses and their communities. The trainer should highlight that poor coordination between various agencies and organisations dealing with a specific crisis or conflict can seriously harm individuals who are made to repeat their traumatic stories multiple times to different people for different reasons and lead to assessment fatigue and mistrust from communities who may be left feeling used – even by well-meaning initiatives - when promises have not been fulfilled or expectations not properly managed. This can prevent other organisations to work effectively and create conflicting factual statements whose inconsistencies - if the statements or information are not excluded for that reason - can be exploited to damage the credibility of victims/witnesses in court or before other accountability mechanisms at a later stage.

Practitioners should always ask themselves: Can I find the piece of information I am looking for without having to interview victims/witnesses? Do I really need to interview this specific victim/witness? Is this in the best interest of the victim/witness and is it what s/he wants? The main point to get across here is that a survivor-centred approach requires that every effort should be made to avoid CARSV victims having to repeat their stories. Re-documentation should only take place in exceptional circumstances and after careful considerations of all applicable factors, which may include, among others, the purpose of the initial and envisaged documentation processes, the actors involved - keeping in mind that mandated documentation efforts should generally be prioritised, though only after a proper assessment of those mandated efforts in terms of their goals, reach, efficacy, etc. – and whether the initial and envisaged documentation relate to the same or different CARSV incidents. The safety, wellbeing and wishes of the victims/witnesses should always take priority over the information.

Confidentiality (slides 18-21) measures are another safeguard that participants are required to put in place to prevent or minimise potential harm to individuals and information. The trainer should highlight certain key points:

* Confidentiality is not only an ethical obligation but an operational necessity as privacy and security measures are often critical in building trust with victims/witnesses and a pre-requisite to them accepting to disclose information.
* Confidentiality may have a different meaning to different people and it is the responsibility of documenters to clarify to victims/witnesses what they mean by confidentiality and avoid any misunderstandings (e.g. what information will be kept confidential, how, who will have access to it, etc.).
* Facilities and procedures should be designed to ensure confidentiality - as will be further developed in Module 8 (Safety and Security).
* Confidentiality can however only be guaranteed to the best of one’s abilities - complete anonymity or confidentiality should never be promised as participants are not immune to information leaks or hacking.
* They may be also subject to official requests for information or court appearances from criminal justice authorities to which they may not be in a position to oppose a legal privilege; depending on the context, the consequences of a refusal to comply with a court order may include fines, suspension of activities or even imprisonment.
* As a result, in situations where there is a high risk of subpoena or court appearance order and the public disclosure of information raises serious concerns about the victim’s/witness’ safety and security, participants may have to refrain from taking the testimony, identifying information or information about the whereabouts of the victim.

The last four slides (slides 22-25) cover referrals, as the final key set of measures to mitigate harm to victims/witnesses. During the preliminary research and planning phase - which will be covered in detail in Module 9 (Planning) - practitioners should find out which support services (medical, psychological, legal and social/protection) are available to female, male and child victims of CARSV. Preliminary research may show that referral services are unavailable, or that they are not open to all survivors (for example, male survivors cannot make use of their services).  If possibly relevant for the participants' work, the trainer should elicit discussion among and provide guidance to participants on what to do in such situations before revealing the information on the slides. The trainer should also stress that referring victims to service providers should not be dependent on or be perceived to be dependent upon victims/witnesses’ participation in the documentation process.

***Training Materials on the International Protocol***

**PART IV MODULE 8 – SAFETY AND SECURITY**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Recognise the necessity of developing a global security strategy
* Identify common threats to practitioners, information, victims/witnesses and others
* Develop and put in place security protocols and other measures to prevent, mitigate or respond to identified risks

**Suggested duration of session:**  90 to 180 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 104-117; Module 2 – Understanding Sexual Violence; Module 7 – Do No Harm; Module 9 – Planning; Module 10 – Types of Evidence of Sexual Violence; Module 11 – Interviewing; Module 13 - Storing and Handling Information; Module 16 – Sexual Violence against Children; Module 17 – Sexual Violence against Men and Boys; Annex 2 – Conducting Threat and Risk Assessments; Annex 5 – Organisational Security Good Practices Checklist; Annex 6 – Grab Bag Content

Guidance on the overarching topic of safety and security and strategies to mitigate risks to practitioners, information, victims/witnesses and other people who may be at risk due to documentation/investigation initiatives are found throughout all modules. In addition, in view of the critical importance of this subject, this module specifically deals with safety and security issues and outlines minimum guidance to take into account. It is in particular closely linked to Module 7 (Do No Harm) and Module 9 (Planning) as all three modules cover essential and sometimes overlapping security considerations presented from slightly different angles. Module 7 sets out what threat and risk assessments are and the methodology to follow to conduct them, which is further detailed in Annex 2 (Conducting Threat and Risk Assessments), while Module 9 covers risks as one of the preliminary issues to research, assess and include in your CARSV documentation plan prior to embarking on any type of investigation or documentation exercise. As previously mentioned, the trainer for these modules should have experience in planning and managing documentation processes.

This module or elements of it should form part of any CARSV documentation training programme as evidence gathering exercises undertaken without having in place a robust security plan are usually doomed to failure and likely to cause serious harm to victims/witnesses as well as other individuals directly or indirectly involved in the documentation process, including victims’/witnesses’ family members and friends, and any intermediaries, interpreters and drivers.

It may be of great importance for the trainer to remind participants to do research on the law applicable to the security (including duty of care) dimensions of a particular documentation/investigation. In some countries, documenters’ or their organisations’ duty of care and/or other security-related legal obligations may be broader or narrower than what they think. Moreover, depending on the context, the law in issue may be the law of the country where the documentation or investigation takes place, the law of the country where the organisation undertaking the documentation or investigation is based or where information/evidence is held, and/or international law. In issue is not only the law, if any, in relation to the physical security of documenters and others involved in documentation or investigation initiatives, but also the law on the psycho-social and other responses for the benefit of victims of security incidents and the law on data security/ privacy. Failure to factor the applicable law into the design of a holistic security strategy (and otherwise as part of the overall documentation/investigation-planning process) may result in the legal liability, reputational damage and financial ruin of documenters and/or their organisations.

Throughout the module, the trainer should encourage participants to assess and discuss how they and their organisations are approaching security issues, whether the level of risk they themselves feel comfortable with is aligned with the way their respective organisations address security considerations, whether they have ever felt uncomfortable with certain practices, how to deal with conflicting views, and main areas for improvements. The trainer should emphasise that even if in many organisations security planning management is the responsibility of specialised focal points and outside of the remit of documenters, participants are ultimately responsible for and should take ownership of their own personal security as well as the security of their colleagues, victims/witnesses and others who may be at risk due to the documentation effort. This is an area where no one can afford to feel shy and where participants must be empowered to speak up should they feel uncomfortable at any point. For seasoned documenters used to operating in high risk environments, complacency can be their biggest enemy.

Throughout the session, the trainer should encourage participants to discuss their previous experience (if any) with security planning management or threat and risk assessments, or with the consequences of failing to properly assess risks to victims/witnesses, staff members, other people, or information. If the group does not have much experience of this issue in a professional context, they should be encouraged to think about how carefully they assess potential risks to themselves, their family and others. If they have ever taken out insurance, carried an umbrella or decided to lock the doors to their home, they have conducted a risk assessment whether they realised it or not. The trainer should emphasise that this issue is particularly important when investigating or documenting sexual violence as there may be unique threats or risks of harm that are specific to or more severe for victims or witnesses of sexual violence than other crimes (reprisal, rejection, imprisonment), or for practitioners and others involved in documenting sexual violence committed by police, armed forces (including militias), other state officials, and other powerful leaders (specific targeting, judicial harassment, administrative withdrawal of your license to operate, etc.).

Best practice requires measures taken by organisations to be mainstreamed across all areas (personal security, human resources, facilities and office security, programming, travel and transportation, communication and data, health and wellness) as further detailed in Annex 5 (Organisational Security Good Practices Checklist). The aim of security risk management is to mitigate identified risks and to reduce them to an acceptable level. What constitutes an acceptable level of risk may be different for different organisations or people and will constantly vary through time depending on various factors (changes in threats, the political landscape, personal circumstances, perpetrators investigated, etc.).

After slide 7, the module is split into three separate sections covering: A) risks to practitioners (slides 8-11); B) risks to information (slides 12-15); and C) risks to victims/witnesses (slides 16-19), although in reality a compartmentalisation is not possible and risk should be assessed and managed holistically. For example, risk to information due to poor communication security - such as mentioning victims’ names or other identifying information over unprotected emails or in public places - may expose victims to retaliation by perpetrators and rejection by their families as well as put the security of practitioners at risk.

Participants should first and foremost be aware of the risks to their physical and psychological health and well-being to which they may be exposed a result of their work (slides 8-11). Staff members and contractors (including drivers, intermediaries) who are investigating or documenting sexual violence as well as their families/friends may be targeted in a way that those working on other issues like socio-economic development or education might not. Participants should be encouraged to think about threats specifically relevant to them, colleagues, contractors and others who may be at risk due to the documentation effort, either because of the context or situation on which they work, a particular investigation or case, or who they are (e.g. if you are documenting sexual violence crimes allegedly committed by high-ranking state officials you may face attempts to silence you through intimidation, judicial harassment, arbitrary arrest and detention or even extrajudicial killing; if you are a sexual violence survivor who has become an activist you may be more prone to vicarious trauma and require ongoing psychological support to conduct CARSV documentation work).

Following the threat and risk assessments methodology presented in Annex 2 (Conducting Threat and Risk Assessments), the trainer should encourage participants to assess the risk or likelihood of specific threats materialising and look for *bespoke mitigating factors*. In addition, participants should be referred to Annex 5 (Organisational Security Good Practices Checklist) and consider *general organisational measures* that they/their organisations may want to consider taking to prevent or mitigate common threats and risks. The standards listed constitute a starting point for building strong safety and security management practices. Practitioners should keep in mind that they are not expected to cover all safety and security approaches and contexts and that there may be situations where it is not possible to meet these standards. The trainer should also flag to participants Annex 6 (Grab Bag Content) which contains a tentative list of items and equipment – which they should tailor to their specific needs - that participants may want to consider carrying with them at all times during field trips.

Information management and security (slides 12-15) is a critical component of overall risk management as confidentiality breaches may not only compromise the documentation process as such but also have serious adverse consequences for the personal safety of individuals. The trainer should underscore that in addition to more obvious *external* threats to information such as theft, surveillance, interception or hacking, it is important to keep in mind that threats can be *internal* as well and that they do not need to be malicious to have devastating effects. Generally speaking, our ability to identify digital threats is not as developed as our ability to identify physical threats, especially for people with limited computer literacy. The trainer must make sure that participants understand how important it is for them to get a good understanding of the software and other digital tools that they may use in their work and keep up to date with security updates of computers, phones and other mobile devices, apps and other software, and new tools and technologies.

For instance, some participants may use or consider using mobile apps or other digital tools specifically developed to securely take pictures and/or videos or otherwise document atrocities and send the encrypted data to a secure repository. Whilst such tools may have some extremely useful features, it is important that participants ask themselves questions such as: Will having such apps and encrypted data on smartphones or other devices not in itself draw unwanted attention? What happens to the content once it has been uploaded? Is the content encrypted automatically at the time of collection or only once it is uploaded? Who owns/controls the content’s future use once it has been uploaded? In which country is the server based and does this raise issues around privacy or government surveillance?

The trainer should ensure that participants think about potential threats and mitigating measures covering both data that is being communicated (information “*in-transit*”) (e.g. face-to-face, telephone, Skype or other internet-based conversations, emails, online chats, text or voice messages, information being uploaded or downloaded from a cloud storage and their meta-data) and data that is being stored (information “*at rest*”) (e.g. hard copies or USB keys containing documents left on desks, in vehicles or stored in filing cabinets, digital files saved on a hard drive, cloud storage or on digital devices and their meta-data). The trainer should encourage participants to think of possible steps that they/their organisations could take to protect information and highlight that: they may include measures at the *organisational level* (e.g. information sharing practices on a strictly need-to-know basis, information security policies covering access to sensitive information, data communication and storing, use of social media, their handling during documentation mission and transportation, training of staff on communication security and digital tools, absence of disciplinary repercussions in case of immediate disclosure of a confidentiality breach, etc.), but also *practical measure*s to protect office premises (e.g. secure doors and windows that can be locked, trained security personnel, fire-fighting equipment, shredders to safely destroy documents, etc.) and *behavioural measures* (e.g. not leaving electronic devices or sensitive information at home or in a vehicle if you are not there, never allowing people - cleaners, builders - in your home while you are not present, not discussing sensitive information with colleagues in taxis or in cafes, never posting pictures or information on social media about your current whereabouts, etc.).

The last component of the module (slides 16-19) covers the management of risks to victims and witnesses, including their families/friends and communities. Guidance and strategies in that respect are found throughout the Protocol, and covered in more detail in Module 7 (Do No Harm), Module 9 (Planning) and Module 11 (Interviewing). When discussing potential threats and risks to victims and witnesses (e.g. social stigma, divorce, family rejection, loss of marriage opportunities, loss of access to education or livelihood, re-traumatisation due to a lack of gender-sensitivity by poorly trained service providers, arrest and detention, etc.) the trainer may consider going back to some of the slides in Module 2 (Understanding Sexual Violence) on the impact of sexual violence and/or the visual on who may cause harm to victims (perpetrators, family and community, practitioners and institutions) in Module 7 (Do No Harm).

The trainer should stress that as part of documenters’ research of potential threats at the planning stage, they should consult with victims and witnesses to hear from them about individual, local and community risks, keeping in mind however that victims/witnesses may both not recognise threats or minimise the risks as a coping mechanism, or have unfounded fears due to past traumatic experience or a lack of information. The threats and risks may vary between men, women and children, and between individuals within each of these groups. Individuals may be much more concerned with ensuring their anonymity and protecting the security of their CARSV-related information than in relation to other types of crimes. The emotional and psychological consequences for the individual telling their story can be more severe with sexual violence than with some other crimes; in many contexts, this may be especially true for children and men.

The trainer should remind participants that for each identified threat, participants will need to assess the severity of the potential harm on victims/witnesses, the likelihood or risk of the threat materialising and look at possible mitigating measures. It may not always be possible to avoid all harm – some risks are unforeseeable, some individuals can be severely re-traumatised just by being reminded of what happened to them. The main message to get across is that if the conclusion of their threat and risk assessment is that a risk remains too high despite mitigating measures considered, then that witness or information should not be pursued or contact with a victim/witness postponed to a later stage.

The trainer should also remind participants that as documenters they should refrain from infantilising victims/witnesses by deciding on their behalf that they need protection. *Depending on the specifics of the situation*, and provided that they are *fully* aware of the risks to themselves (and others), the victim/witness remains the ultimate decision maker on his/her risk tolerance and documenters should give priority to the opinion of victims/witnesses and their willingness to participate in the documentation process.

***Training Materials on the International Protocol***

**PART IV MODULE 9 – PLANNING**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Recognise the strategic advantages of careful and dynamic planning
* Consider relevant factors to select the right interpreters and intermediaries and manage their activities
* Identify the best way to store, organise and analyse information

**Suggested duration of session:**  90 to 150 minutes

**Exercise:** Approaching Witnesses (30-45 minutes)

**Relevant sections of International Protocol:**

Pages 118-139; Module 2 – Understanding Sexual Violence; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 10 – Types of Evidence of Sexual Violence; Module 13 – Storing and Handling Information; Module 14 – Analysing Evidence and Information; Annex 1 – Evidence Workbook; Annex 2 – Conducting Threat and Risk Assessments; Annex 5 – Organisational Security Good Practices Checklist

This module should be closely linked with Module 7 (Do No Harm), Module 8 (Safety and Security) and Module 10 (Types of Evidence of Sexual Violence), as these four modules cover important topics for the planning and preparation phase of any investigation or documentation. The trainer for these modules should therefore have experience in planning and managing an investigation or documentation process and interacting with witnesses. It should be reiterated to the participants that the issues covered in Modules 7-10 will need to be carefully considered *before* conducting any inquiries in the field.

The trainer should stress that planning is an important and distinct part of the overall documentation process. The trainer should encourage participants to consider whether any of the issues covered in Modules 7-10 have been problematic for them in their work, and whether applying any of the guidance contained in the Protocol would be helpful to them, particularly for those who are already investigating or documenting sexual violence without having engaged in a separate structured and well-thought through planning and preparation phase.

The first component of this module focusses on the importance of careful planning for the success of any investigation or documentation process. The trainer should encourage as much discussion as possible and encourage participants to share their experiences of planning obstacles, planning successes and the consequences of not having a proper plan in place. The trainer should also emphasise the most important questions for any planning exercise: *Why gather information/evidence? How to gather information/evidence? To what end? And, according to which framework?* Carefully considering all these questions and including the answers in a CARSV documentation plan will require an extensive amount of research, assessment and preparation from documenters. Another key task at the planning stage is to ensure that all the members of the team – including interpreters, investigators (including interviewers), analysts, support staff (including drivers) and intermediaries - are appropriately trained and vetted to form part of sexual violence documentation/ investigation teams and efforts.

After slide 8, the module is split into three parts: A) Preliminary Research and Risk Assessments (slides 9-15); B) Information Collection Strategy (slides 16-30); and C) Procedures (slides 31-32), which represent the three main elements of a CARSV documentation plan.

The research and risk assessments phase – covered in part A of the module - provides vital background context and an overview of available information in order for documenters to assess the crimes, threats to witnesses, staff and information, available support services and alleged perpetrators, and consider how to best mitigate risks. The trainer should refer participants to Module 7 (Do No Harm) for the threat and risk assessment methodology and to Module 8 (Safety and Security) for specific guidance on how to manage risks. The research phase will also enable the documenters to find out what other organisations might be dealing with sexual violence, to ensure that their work does not obstruct or unnecessarily duplicate the work of others, and where possible and advisable, to coordinate efforts with others. Basically, the participants should give careful thought to how to make their investigation or documentation as efficient and effective as possible, ensure risks are mitigated to an acceptable level, be clear about their accountability objective(s) and ensure that they have the appropriate staffing and financial resources to achieve their objective(s).

The information collection strategy – covered in part B – should address issues such as what information is needed to meet the evidentiary requirements of the crimes or violations being documented, the rules of evidence on corroboration and other evidentiary issues, and how to gather CARSV information – in particular how to identify and approach victims and witnesses, how to transport and store information and what systems to put in place to organise information in an effective manner. The trainer should encourage participants to develop their own evidence workbook listing the individual legal elements to prove for each alleged crime or violation and the type of information that could prove each element, using the template provided as an example in Annex 1.

When covering the slides dealing with identifying victims and other witnesses (slides 18-20), the trainer should lead the discussion about how to recognise the concerns and potential risks which can discourage or prevent victims from speaking about their experiences. The trainer should highlight that often the main obstacles to victims coming forward are not internal (e.g. shame, doubt, avoidance) but come from external sources. Such contextual obstacles may include, in particular, security concerns, personal safety, fear of family or community’s reaction, and lack of trust in or corruption of police or judicial authorities.

Participants should discuss any relevant professional experiences they have, particularly examples where they could not have known beforehand that the person they were dealing with had been directly affected by sexual violence. The trainer may want to link back to Module 2 (Understanding Sexual Violence) to ensure that participants are conscious of and able to avoid common stereotypes and preconceptions about who can be a victim/survivor of sexual violence and what behaviour or emotional responses can be expected. The participants should understand two core messages: i) *everyone* they meet and interact with in the field is potentially a victim or witness of sexual violence, and ii) they may not always know in advance that the person they are speaking with has relevant information about sexual violence. They should expect to encounter victims and witnesses of sexual violence even while investigating or documenting other crimes, and should plan and prepare accordingly.

In order to identify and approach victims and witnesses, it is common to have to rely on intermediaries (slides 21-24). While intermediaries can be very effective community interlocutors, their use is not without risks and requires careful planning and management to be useful, ethical and in accordance with any applicable law. The trainer should ask participants to give examples of intermediaries that they have worked with in the past, and encourage them to think broadly about who might be considered an intermediary (i.e. local fixers, drivers, representatives). They should also discuss and give examples of the challenges and potential problems of working through a third party, from security concerns to diverging objectives. The trainer should emphasise that working with intermediaries may be unavoidable in some circumstances, but that it is the responsibility of the documentation team to make sure that anyone who is speaking or acting on their behalf does not behave in an unethical, illegal or inappropriate way. The Protocol provides some guidance on relevant factors when choosing an intermediary and highlights some common pitfalls to avoid. The trainer is encouraged to provide additional local examples where appropriate.

The trainer should also emphasise the importance of responsibly managing intermediaries and giving clear tasking instructions, particularly if the participants are likely to be using intermediaries to identify potential victims or witnesses. The trainer should explain that there is always a danger, which must be managed, that the intermediary could simply manufacture the information they want or could induce someone to give false testimony about it. Any tasking instructions to intermediaries must be clear, simple and precise, and should be phrased carefully to minimise the risk that the intermediary could improperly influence witness testimony.

For example, if the participants tell their intermediary that their documentation team is interested in speaking to people who were in Village X on a specific date, that instruction should be fine since it is clear enough for the intermediary to be able to pursue potential leads but does not lead or influence them on any specific details. If they tell the intermediary that they’re looking for people who were attacked by Commander X with a machete, it becomes easier for an intermediary to intentionally or unintentionally subvert the process, for example by coaching people to falsely say that they saw Commander X with a machete, or by asking questions in the process of securing victims/ witnesses in such a way that it gives unscrupulous people an opportunity to come forward and falsely claim that they saw Commander X with a machete.

Another important topic covered in this part of the module is how to select and work with interpreters (slides 25-27). Participants should be asked if they have any experience working with interpreters, and if so how professional or successful their experience was. The trainer should provide an example of the consequences of trying to communicate through an untrained, inexperienced or incompetent interpreter – this can be a personal anecdote or even a video clip (i.e. someone giving a long passionate speech in the dock which is just translated as “*he says he didn’t do it*”). The participants should understand that when they are working with an interpreter, the interpreter is the tool through which they communicate with an individual. If the interpreter is unprofessional, rude or insensitive, then no matter how careful your questions, the person you are speaking to may not trust or like you enough to answer them.

Likewise, if the participants do not properly brief the interpreter on what is needed and expected from them – particularly to ensure that the interpreter is capable of sensitively dealing with sexual violence – then there is a greater likelihood of losing control of their means of communication. Some of the participants may never have worked with an interpreter before, so it is important for them to understand what is good and bad professional practice. Additional guidance on how to work with interpreters is dealt with in Module 11 (Interviewing).

The final topic to be addressed in the information collection strategy is how to manage information (slides 28-30). It is designed to get participants to think carefully in advance about the volume of information their investigation or documentation process might collect, about any legal requirements that attach to that information (i.e. protection of personal data, necessary authority to collect evidence, requirements for admissibility in court), about how to physically store and manage that information, and about how to sort, organise and analyse the information once it has been collected.

Electronic databases are a good way of doing this, but may not be available to everyone engaged in this kind of work. Participants should be asked what information management systems they use or have experience with. The answers might range from a filing cabinet or a simple Microsoft Excel sheet to advanced evidence management software, but the participants should be encouraged to think creatively about this. They may not have a dedicated electronic evidence database, but do they have access to Microsoft Excel or any other spreadsheet software? If so, they can use that as a system to electronically record and monitor certain categories of information and to ensure their records are standardised and searchable. If they do not have the capacity to physically store any information or electronically organise it, should they make a strategic decision *not* to pursue certain lines of inquiry?

If they can store the information right now but are not sure what the results of their investigation or documentation mission will ultimately be used for (advocacy, prosecution, international accountability mechanisms), will they be able to continue to store the information until it is eventually used or only for a limited period of time? If their investigation or documentation mission is a success and they uncover huge amounts of information, how will they classify and sort that information so that it does not become unmanageable or overwhelming? The important thing is to think about and prepare for these issues in advance, rather than when they are already on their way to the field, or home with a box full of potential evidence.

Finally, the last part of the module – part C - and an element of a CARSV documentation plan deals with relevant procedures and policies to put in place (slides 31-32), from codes of conduct, standard operating procedures to self-care procedures. The trainer should ask participants what kind of procedures and policies are in place in their respective organisations and encourage them to critically assess whether they are appropriately equipped to deal with the specific challenges of CARSV documentation. Key principles to cover in codes of conduct and that are particularly important when working with CARSV victims and witnesses include: complying with the Do No Harm principle; following a survivor-centred approach; prioritising the safety and well-being of the victim over the evidence; and treating all victims - regardless of their sex, gender, sexual orientation, age, ethnicity or any other relevant factor - with dignity and respect.

**Exercise instructions**

For the ‘Approaching Witnesses’ exercise, depending on the number of participants and the time available for this module, the trainer should split the participants into working groups (at least three). The trainer should try to make sure that any participants with field or investigation expertise are spread out throughout the groups to help guide their fellow participants. The specific scenarios from the Protocol highlighted in the slide are just intended as examples – the trainer should research and select scenarios that are relevant to and represent the local context (i.e. from newspaper stories or NGO reports), and make sure to include a mixture of male and female victims/witnesses among the examples. Whichever factual scenarios are chosen, they should be assigned to each of the groups to read and discuss. They should focus on three main issues: i) how they would go about identifying and approaching that victim or witness; ii) what additional information they would need for their planning and risk assessment; and iii) what form any contact should take (i.e. directly or through an intermediary, by phone or in person).

The trainer should make sure that enough time is scheduled to allow the groups to discuss all three of these issues, and that there is enough space in the training area for them to split up and work comfortably within the groups. Each group should be given paper or a whiteboard to make notes of their discussions and conclusions. When the discussion time is finished (at least 20 minutes is recommended) the trainer should re-assemble all the participants into one large group and ask representatives from each of the groups to report back on their findings. The different examples selected should help the participants to understand the range of circumstances that can affect survivors or witnesses, the different concerns which might be relevant when choosing the most suitable approach to any individual survivor or witness, and the importance of selecting the most appropriate method to contact or interact with a victim or witness without intimidating or endangering them.

***Training Materials on the International Protocol***

**PART IV MODULE 10 – TYPES OF EVIDENCE OF SEXUAL VIOLENCE**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Identify the different categories of CARSV evidence
* Recognise the impact of applicable evidentiary and procedural requirements
* Understand the professional, ethical and other limitations on evidence collection

**Suggested duration of session:**  60 to 90 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 140-159; Module 4 - Individual Criminal Responsibility; Module 5 – State Responsibility; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 11 – Interviewing; Module 13 – Storing and Handling Information; Module 14 – Analysing Evidence and Information; Annex 1 – Evidence Workbook; Annex 3 – Reasons not to Collect Physical Evidence; Annex 4 – Sample Sexual Assault Medical Certificate; Annex 9 – Chain of Custody Form

This module is closely linked with Module 7 (Do No Harm), Module 8 (Safety and Security) and Module 9 (Planning), and constitutes the last module of Part IV of the Protocol dealing with the planning and preparation phase of an investigation or documentation process. It provides detailed information about potential types of information/evidence and risks associated with collecting different types of evidence. It is also closely linked with Module 11 (Interviewing) and Module 12 (Collecting Additional Information). It is essential for participants to understand the professional and ethical requirements for evidence collection, and to consider whether they have the relevant authority, professional training and/or resources to safely collect and store each type of evidence before gathering it. The trainer for this session should have experience in planning and managing an investigation or documentation process and dealing with witnesses and various forms of evidence. As already mentioned, the issues covered in Modules 7-10 will need to be carefully considered *before* conducting any inquiries in the field.

Throughout the module, the trainer should encourage the participants to discuss the types of information that they are already collecting, who in their organisation does so and how, where and how it is stored, whether they could consider collecting other types of evidence (e.g. information posted on social media), whether they have procedures in place for mitigating the risks associated with handling and storing different types of evidence, whether they have the necessary authority or professional training to do so, and/or what additional skills, equipment and/or resources they would need to do so safely. Participants should also discuss any applicable law, including how rules of procedure and evidence (RPE) applicable in their context compare with RPE applicable before international courts and tribunals, and what the importance is of any differences in applicable or potentially relevant law (including, for example, differences concerning the need for or not of corroboration evidence and the use or not of hearsay evidence).

The module first presents the four main categories of evidence (testimonial evidence, documentary evidence, digital evidence and physical evidence) and highlights the critical importance of applicable RPE. The trainer should in particular emphasise that applicable standards of proof may vary depending on the legal system and the purpose of documentation: standards of proof applicable in criminal prosecutions are usually higher than those applicable to other forms of accountability. The trainer should also stress that participants should find out what type of evidence or proof of sexual violence needs to be provided for civil, criminal or other claims as appropriate and which organisations and individuals are permitted to collect and/or store certain categories of evidence in the context in which they are operating. They should refrain from collecting evidence if they don’t have the necessary authority or training to do so as they may otherwise mishandle the information and make it inadmissible in court. The trainer should also highlight that applicable RPE may not be in line with international standards and may impact upon access to justice for CARSV victims. For instance, in certain national jurisdictions, the testimony of a victim of sexual violence alone is not sufficient to obtain a criminal conviction, and there is a requirement – whether formal or informal – for such testimony to be corroborated by medico-legal and/or other evidence. In some contexts, a CARSV victim must first report a sexual assault to the police in order to obtain an official medical certificate from a government approved doctor. These requirements can constitute a significant barrier to accessing justice for victims, in particular where the crimes were committed by government officials (e.g. army, police), where the victim was not able to report the crime or see a doctor immediately after the assault, or where the victim did not sustain physical injuries. An absence of ano-genital trauma or sperm in the victim’s body does not mean that sexual violence did not occur.

The trainer should warn the participants that in many CARSV contexts, because the crimes were committed far in the past, because of deterioration or tampering with evidence, because of the lack of medical services during contexts of mass atrocities, or due to other factors, there may not be any documentary, physical, medical, or audiovisual evidence.  This may be more common than not.  However, the trainer should also emphasise that an absence of documentary, forensic, physical, medical or audiovisual evidence does not necessarily mean that there can be no justice for those crimes.  It should be highlighted that in international courts such as the International Criminal Court physical and forensic evidence is not necessary to prove sexual violence as an international crime, and that international crimes can be established solely on the basis of victim and witness testimony.  Even in jurisdictions where it is uncommon or would be a new practice, the relevant authorities may gradually evolve to accept witness testimony where no other evidence exists.  This evolution will ultimately be necessary if the jurisdiction seeks to provide access to justice for CARSV crimes. The trainer should urge the participants to look for additional corroborating evidence where possible (as corroborating evidence is always useful) or where necessary, if the relevant legal system demands that, but also to consider information obtained directly from victims and witnesses as a central and critical component of their investigation/documentation efforts.

After slide 9, the module is split into four main sections: A) Testimonial evidence (slides 10-14); B) Documentary evidence (slides 15-17); C) Digital evidence (slides 18-21); and D) Physical evidence (slides 22-26).

The collection and handling of each type of evidence requires specific skills and experience. In addition, some jurisdictions have standards in place for the collection and exploitation of digital evidence and most provide that physical evidence can only be collected and handled by trained law enforcement investigators or health professionals complying with strict chain of custody requirements to be admissible in court. The trainer should reiterate that considering the sensitivity of the topic and unique risks faced by CARSV victims/witnesses (e.g. stigma, family rejection, imprisonment), taking witness testimony from CARSV victims/witnesses can only be done by practitioners with specific experience and skills. While these training materials on the Protocol, including Module 11 dealing with interviewing techniques, can be used to enhance the capacity of practitioners in that respect, participation in a training on the Protocol will not automatically and instantly make participants experts in the field. Participants without any prior experience dealing with CARSV victims/witnesses should only approach and interview CARSV victims after receiving additional mentoring and/or under the close supervision of more experienced colleagues. Dealing with male victims and child victims/witnesses require additional expertise as discussed in further details in Module 16 (Sexual Violence against Children) and Module 17 (Sexual Violence against Men and Boys).

In the section on testimonial evidence (slides 10-14), the trainer should in particular discuss the different categories of witnesses (survivors/victims; eyewitnesses; corroborating witnesses; insider witnesses; expert witnesses; and overview/pattern witnesses) and what elements of international crimes they are most likely to help establish. For instance, overview/pattern witnesses (e.g. doctors, nurses, military or human rights observers) can provide extremely valuable information to help establish the common elements of international crimes and contextualise sexual violence. The trainer should highlight that approaching co-perpetrators and other insiders is a risky business and can only be done by trained investigators. It is also important to stress the need to discuss with victims/witnesses *all* the crimes that they may have experienced or witnessed, in order to show how the sexual violence fits within a broader campaign of violations. Finally, the trainer should emphasise the fact that in international courts and tribunals corroborating evidence in the form of physical and forensic evidence is not legally necessary to prove an international crime (but usually is very helpful), that international courts and tribunals rely heavily on witness testimony and that cases built almost exclusively on witness testimony have led to successful prosecutions and convictions.

In the section on documentary evidence (slides 15-17), the trainer should encourage participants to discuss the different types of official and non-official documentary evidence that they may or may not already be collecting, where they can find them and their role. The trainer should ensure that participants understand that when talking about documentary evidence, the actual evidence is the information recorded in the physical document, as opposed to the document itself. The document itself can sometimes also constitute physical evidence and be subject to chain of custody requirements, for instance if it has an official stamp or signature which can help authenticate it. When talking about medical certificates and other health records, the trainer should highlight that these documents cannot be obtained without the informed consent of victims and that many health providers will choose not to share medical records due to privacy concerns. The trainer should also highlight here that anonymous clinical records, statistics and other programmatic data - showing for instance changes in the number of unwanted pregnancies, fistula surgeries or spikes in sexually transmitted diseases over a given period - can provide useful clues or substantiate evidence establishing specific patterns of abuse.

In the section of the module dealing with digital evidence (slides 18-21), the trainer should encourage participants to discuss different forms of digital evidence (e.g. emails, text messages, pictures and videos taken with electronic devices or posted on social media), where to find them, which ones they are already collecting, and specific risks associated with extracting and handling digital evidence. For non-mandated actors, taking pictures and/or videos of sites of violations or injuries is likely to be the most straightforward and appropriate way of documenting CARSV by using digital evidence. The trainer should emphasise that open-source information such as photos and videos posted online will need to be carefully authenticated by digital experts to ensure they are not fabricated and actually represent the events they purport to document.

In the section dealing with physical evidence (slides 22-26), the main message to get across is that – contrary to common belief - physical evidence is not necessarily the best evidence, that it is generally useless unless it is accompanied by explanatory evidence, including from expert witnesses, and that unless participants have the legal authority, professional capacity and adequate resources to safely store, transport and preserve physical evidence, they should stay away from it. Participants should be encouraged instead to document physical evidence by taking notes, sketching, photographing and video-recording it as further discussed in Module 12 (Collecting Additional Information) and contacting someone appropriately mandated, qualified and equipped to collect the physical evidence.

In relation to forensic evidence, the trainer should underline two key points: i) that relevant forensic information about sexual violence can be much broader than just biological or medical evidence, and can overlap with physical, documentary and even digital information (e.g. clothing, ropes/ligatures, photographs, mobile phone records, bullet casings); and ii) that the collection and proper storage of forensic evidence should only be done with the assistance of trained professionals, since physical or forensic evidence which has not been handled or stored properly may degrade and become useless or may not be admissible in subsequent court proceedings.

***Training Materials on the International Protocol***

**PART V MODULE 11 – INTERVIEWING**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Recognise the advantages and potential challenges of interviewing
* Identify helpful interview techniques and appropriate questions
* Explain how to create a supportive, comfortable and encouraging atmosphere

**Suggested duration of session:**  150 to 240 minutes

**Exercise:** Interview Planning (45-90 minutes)

**Relevant sections of International Protocol:**

Pages 160-185; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 10 – Types of Evidence of Sexual Violence; Module 13 – Storing and Handling Information; Module 16 – Sexual Violence against Children; Module 17 – Sexual Violence against Men and Boys; Annex 1 – Evidence Workbook; Annex 7 –Interview Checklist; Annex 8 – Template for Personal Data to be Collected from Victims/Witnesses

This module builds on the principles in Modules 7-10 and provides more detail on key planning and ethical considerations for interviewing and dealing with CARSV victims and other witnesses. The trainer for this session must therefore have professional experience in conducting investigative interviews with victims and witnesses of sexual violence, particularly in a local context. They should ideally be a recognised and experienced trainer on interview techniques and have specific qualifications related to interview skills and training.

The trainer should make clear that the International Protocol is not an investigative interview handbook, and that the participants should ideally receive additional professional training or mentoring on specific interviewing techniques, but that there are certain basic principles which can be helpful when interacting with survivors, witnesses or others affected by sexual violence. The trainer should emphasise that interviews can be a distressing or re-traumatising experience for victims and witnesses as interviews force them to relive and remember very upsetting events, but that if handled correctly, interviews can also have the potential to empower and engage victims and witnesses and give them a sense of agency and control. The trainer should emphasise that an interview is not the same thing as an interrogation. The atmosphere the participants create as interviewers will be vital to the success or failure of the interview – they must create a rapport with the interviewee, establish trust and respect, provide a comfortable and secure environment and behave in a calm, patient and respectful way in order to give the interviewee the confidence and reassurance to speak about what happened to them. If the interviewee does not like or trust the interviewer, interpreter or other team members, they will not open up.

The first section of the module explains some of the advantages and potential drawbacks of interviewing as a means of obtaining information. The trainer should encourage participants to discuss their experiences with interviewing, the challenges they encountered and any approaches that they have found particularly successful. The next section of the module sets out a useful potential framework for the participants to use to plan and structure their interviews according to the PEACE model (slides 5-10). The trainer should ensure that they are familiar with the elements and stages of the PEACE framework and capable of answering any questions that the participants may have on the topic. The PEACE framework and interview checklist (Annex 7) can be used as a skeleton around which to build the details of a specific interview. The trainer should ensure that the participants understand the progression between the different phases of the interview – planning, engage and explain, account and clarification, closure and evaluation – and which actions or techniques are appropriate or necessary at each of the different phases.

The next section deals with interview settings (slides 11-13), and the trainer should ask the participants about their experiences in this regard. Some may only have interviewed in offices or clinics, some may have conducted interviews under trees in refugee camps or in dry river beds. The participants should understand that the perfect interview location will often not be available to them, and that they must prioritise the comfort, security and convenience of the interviewee when choosing the interview setting. The participants should consider not only the overall location (its neutrality; not linked to SGBV or torture to avoid stigmatisation; auditory and visual privacy; accessibility for interviewee; and transport options), but also the particular space in which the interview will take place (indoors or outdoors; seating arrangements; and cultural considerations).

Slides 14-16 deal with special considerations when working with and through interpreters. The trainer should refer participants to Module 9 (Planning) covering how to select interpreters and ensure that they have the appropriate skills and sensitivity to work with CARSV victims/witnesses. The trainer should reiterate the fact that the interpreter is the tool through which they communicate with victims/witnesses (not a participant in the conversation nor an active member of the team, rather a conduit for the work of the team) and that if the interpreter is unprofessional or insensitive, they themselves will look unprofessional or insensitive and the victim/witness will not open up.

The trainer should emphasise certain core principles for professional interpreters doing this work. Interpreters must: use direct speech only (i.e. “*How old are you*?” not “*She wants to know how old you are*”); recognise and flag (if the investigator is not aware or does not recognise them) euphemisms and linguistic/cultural signals around sexual violence that will need clarification (i.e. “*they hurt me*” or “*he disrespected me*” to describe rape or sexual assault) – but not freely translate into different words other than those used by the interviewee; and understand that they must clarify any expression that they don’t fully recognise, whether it is said by the interviewee or a member of the documentation team, rather than changing the meaning to what they think the person meant or omitting it as irrelevant. The trainer can explain that although people often instruct interpreters to translate “word for word”, the differences between languages can make this impossible. If there is no direct equivalent of a word or phrase in the language they are translating to, the interpreter may have to change the exact words used by the witness to fit the closest possible translation. The crucially important thing is that the *meaning* of what the interviewee or interviewer said is maintained and not changed or altered by the interpreter. If the interpreter is unsure about what the interviewee or interviewer meant, that should be clarified.

Slides 17-19 deal with key points to cover during the “Engage and Explain” and “Closure” phases. Participants should be referred to Annex 7 (Interview Checklist) which provides further details about the minimum actions and essential behaviours to adopt during an interview.

The next section deals with types of questions and potential subjects for questioning (slides 20-26). The trainer should be familiar with productive question styles – open questions, TED questions (tell me, explain to me, describe for me) and use of WH questions (what, when, where, who, how and how do you know/what lead you to that conclusion) – and less helpful styles to be avoided such as leading or opinion/statement questions, multiple questions or forced-choice questions. The trainer should flag that many other guidelines also contain “why” questions as part of the WH mnemonic, but that the Protocol advises against their use. “Why” questions can easily invite an opinion response rather than a fact-based response and they can also be stigmatising or blaming (e.g. “*Why didn’t you escape*?”). The trainer should be able to provide multiple examples of each type of question and provide more detail on the circumstances under which they would or would not be appropriate to use. The trainer should also ask or help participants to reformulate inappropriate questions and - provided there is sufficient time - this could be turned into a small exercise within the module as appropriate.

Generally speaking, participants should aim to use only open-ended questions inviting a narrative answer. Closed questions should generally be avoided as they do not encourage the interviewee to open up and provide a full account, and they are often leading. Closed questions can exceptionally be appropriate at a later stage in the interview for clarifying specific details or when dealing with an evasive or uncooperative witness. They should be used as a last resort where (i) you really need a definitive yes or no answer to something specific, (ii) all other relevant information has been given freely by the witness, (iii) and all other open ways of asking for this information have not given you an answer (bearing in mind that the answer could be “*I do not know*” or “*I do not remember*”). The trainer should also encourage the participants to think very carefully about how to phrase questions when dealing with children, since they can often be very suggestible, interpret things literally or try to provide an answer which they think will mollify or please an adult. If the trainer or any of the participants have specific experience with interviewing children, they should share those experiences and any advice or lessons learned with the rest of the group. Specific guidance about interviewing child victims/witnesses of CARSV is provided in Module 16 (Sexual Violence against Children). In addition, Module 17 (Sexual Violence against Men and Boys) covers additional considerations when dealing with male victims. Participants should be discouraged from interviewing children unless they have the necessary knowledge and expertise.

Make sure that the participants remember the importance of asking questions about all the elements of sexual violence as an international crime or violation – specific, common and linkage – and not just the specific act(s) of sexual violence, as well as questions about the harm caused to the victim/witness, his/her family and community (impact evidence, and other evidence that may be relevant for reparations). The trainer may want to refer to guidance or certain slides of the legal modules (Modules 3-6). The trainer should also highlight the detailed examples of such questions provided in the International Protocol. It is important for the participants to understand the difference between the language of specific legal elements which must be proven (i.e. penetration, however slight) and the best way to phrase a question in order to elicit information that could satisfy that element, rather than a conclusion or assertion from the interviewee (i.e. *“What did they do to that part of your body?”* rather than *“Were you forcibly penetrated?”*). They must also remember to avoid leading or influencing the witness with their questions (“*Was it the same commander you saw earlier?”)* or making any assumptions themselves about what the answers should or are likely to be.

Slides 27-32 deal with interviewing techniques, and each slide addresses a specific aspect of the interview process, from choosing questions to interviewer demeanour, preparing for common emotional responses and avoiding damaging or patronising stereotypes. The trainer should deal with each issue carefully, allow plenty of time for questions and reinforce links to related issues in other modules such as the Do No Harm principle, confidentiality and informed consent, working with interpreters and key planning topics.

The trainer should also specifically highlight the issue of the gender composition of the interview team, as this will require careful consideration at both the planning and interview stages. Some of the participants may believe that female victims of CARSV will only be comfortable speaking to female interviewers, or that male victims will only open up to a male interview team. The trainer should emphasise that this is not always the case, and that an interviewer who is competent, professional, kind and non-judgemental may be able to establish a better rapport with a survivor than someone who is just the same gender as them. If possible, the interviewee should always be given a choice about whether they would prefer to be interviewed by a male or female interviewer or interpreter. Although limited staff or resource considerations may mean that this is not always a possibility, it is an important issue to consider at the planning phase when identifying the most suitable approach for that victim/witness and when putting together the most appropriate interview team.

The final section relates to recording and storing interview information (slides 33-36), and should be linked to the principles contained in Module 13 (Storing and Handling Information). The trainer should underscore the point that the participants must consider their responsibility and capacity to securely store information *before* deciding to proceed with the interview, at the planning and preparation phase. The trainer should also make clear that asking to record personal data or the contents of an interview might be a stressful or upsetting experience for the interviewee, particularly if they have had a bad experience under interrogation before. If the interviewee becomes anxious or distressed about recording information at the engage and explain phase, it may be better to move on with the interview, continue to build rapport and trust with the interviewee, and return to the issue again at the closure phase. The participants should be conscious that, like many other aspects of interviewing, obtaining informed consent for the recording or storage of personal information is a sensitive issue and will depend on the degree of trust and confidence they can inspire in the interviewee. Participants should also consider how they will record the information obtained by the victim/witness (first person/third person). The Protocol supports common guidance to record information in the first person, but only for actors acting with an official mandate. Practitioners without an official mandate should carefully consider how to avoid creating an authoritative record of events which could potentially conflict with official statements taken by duly mandated actors at a later stage, or be used to challenge a victim/witness credibility. They may want to consider recording information as interview notes taken in the third person instead and avoid getting the notes signed by the victim/witness or avoid using audio or video-recording.

Aside from whether a particular legal system may legally require that interviews be audio or video-recorded, many professional interviewers strongly advise against the use of audio or video-recording, as most interviewees usually feel uncomfortable being recorded. This is an important aspect which the trainer may need to discuss with participants. An element of this issue is whether documenters have the capacity/ resources to acquire and maintain recording equipment, transcribe and check recordings, and securely travel with and store them over time.

**Exercise instructions**

For the ‘Interview Planning’ exercise, the trainer can use either the suggested scenarios from the Protocol or the same scenario they used for the ‘Approaching Witnesses’ exercise in Module 9 (Planning). The scenarios from the Protocol are only intended as examples; the trainer should consider using victim/witness statements from local newspaper or NGO reports.

The participants should be split into working groups and should be asked to prepare a detailed interview plan for that victim or witness. They should use the PEACE model as a framework and plan for what actions or techniques would be required at each of the different phases of the interview. They should consider the specific individual needs and context of that interviewee, possible coordination and referral issues and the most appropriate composition and profile of the interview team. The trainer should remind them that, if possible, the interviewee should be given a choice about the gender of their interviewer and interpreter (which may have resource or staffing implications) but that they may not automatically prefer/be more comfortable with someone of the same gender.

The participants should also consider practical and logistical arrangements, including transport to and from the interview location (for the interview team and interviewee), timing and likely duration of the interview, contingencies in case the interviewee is hungry/tired/unwell, and whether multiple interviews may be necessary. The groups should then present their completed interview plan to the rest of the group and deal with questions and feedback from the trainer.

***Training Materials on the International Protocol***

**PART V MODULE 12 – COLLECTING ADDITIONAL INFORMATION**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Identify procedures for processing/recording documents and sites of violations
* Explain how to best photograph, video-record and sketch sites of violations, physical evidence and injuries
* Understand basic requirements for maintaining chain of custody

**Suggested duration of session:**  90 to 120 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 186-201; Module 2 – Understanding Sexual Violence; Module 4 – Individual Criminal Responsibility; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 10 - Types of Evidence of Sexual Violence; Module 13 – Storing and Handling Information; Annex 3 – Reasons not to Collect Physical Evidence; Annex 9 – Chain of Custody Form

This module builds on Module 10 (Types of Evidence of Sexual Violence) and provides the participants with detailed information on the correct way to process and record CARSV information with a view to enhancing its evidentiary value for accountability purposes. The trainer for this session must therefore have professional experience in dealing with evidence and, ideally, processing crime scenes or other sites of violations. The trainer should refer back to Module 7 (Do No Harm), Module 8 (Safety and Security) and Module 9 (Planning) to emphasise that the participants will have to carefully consider and plan for the types of information/evidence they may need to collect, and whether they have the necessary authority, staff and resources to do so without risking or causing unnecessary harm.

The trainer should also remind participants about the crucial principles of confidentiality and informed consent explained in Module 7 (Do No Harm) and the practical requirements outlined in Module 13 (Storing and Handling Information), and should make absolutely clear that the participants should not collect any evidence or information if that were unlawful, or which they cannot safely and appropriately store and maintain, potentially over a long period. The trainer should also research and highlight relevant information about the legal and evidentiary requirements under the law applicable to the work of the participants, and should flag to the participants what types of evidence or proofs of sexual violence need to be provided for civil or criminal claims and which organisations or individuals are permitted to collect or store it. The law on evidence and related procedures differs between jurisdictions.

It is made clear throughout this module, Module 10 (Types of Evidence of Sexual Violence) and Module 13 (Storing and Handling Information) that there are certain types of evidence – particularly physical and forensic evidence – which may require specific legal authorisation to collect and/or which should only be processed, handled or stored by trained professionals. If the participants do not have the necessary training or authority, they should not collect such information but may try to record or document it in other ways. The trainer should also emphasise that for many types of investigation and documentation (particularly those for advocacy or non-judicial purposes), it will not be legally or evidentially necessary to collect physical or forensic information, and that it may be possible to prove the same facts or elements using documents, photos or victim/witness testimony. The participants should understand that, although they may encounter physical evidence at crime scenes or other sites of violations in the field, they should only collect it in genuinely exceptional circumstances (such as if they have no other means of recording or documenting the evidence and if they believe it may be imminently removed or destroyed, and only provided that they can collect, transport, store and manage it properly and securely).

The trainer should remind the participants that if they are not able to process or store physical or forensic information safely and competently, or if they do not need to provide it as part of their legal or evidential requirements, they should not collect it. The trainer should encourage the participants to consider and discuss whether it is necessary for them to collect physical or forensic evidence as part of their investigation or documentation process, and whether they would have the relevant capacity, resources or authority to do so. In the vast majority of cases, although it may seem that a piece of physical evidence might be of evidentiary value, it will not in fact be of value if collected without the proper authority and technical means to protect and store the evidence.

The trainer should ask participants if they have any experience with documentary evidence or sites of violations, and should encourage them to share their professional experiences and any useful lessons they have learned. The trainer should bring the participants through the suggested procedure for processing and recording documents and sites of violations (slides 7-12) and ask them how this compares to their current practice. The trainer should make very clear that without a statement from the source or from someone who can give evidence as to the contents of a document, the document will have little evidentiary value.

Slides 13-18 deal with photographing, video-recording and sketching sites of violations, physical evidence and injuries. It should be emphasised that, in order to be relevant and useable, any photos or video-recordings must be clear, in focus and visually comprehensible. The trainer should provide examples of the three types of photos discussed in the Protocol – overall, context and close-up – to show how the combination of all three gives a better sense of the detail of the object and how it relates to its broader surroundings. Without including a scale or other means of measurement in the photo, it may not be possible to gauge the relative size or distance of objects or to properly represent the scene. The trainer should also include some examples of blurry, unfocussed or poorly composed photos and videos, to show the difference in the amount of useful or reliable information which can be identified depending on the clarity and consistency of the footage (i.e. a blurry photo of a four-legged creature could be a dog or a lion, an out-of-focus shot of a man wearing red could be Santa Claus or a member of the Arsenal football team). The participants should also be encouraged to find out more information about camera settings, light readings and using metadata from their photographs to maintain a photo log. Slide 16 provides additional guidance when photographing physical injuries, slide 17 deals specifically with video-recording and slide 18 covers guidance to sketch sites of violations as an alternative or in addition to taking photographs.

The last part of the module deals with chain of custody (slides 19-23). The trainer should ask participants if they know what maintaining chain of custody means, if this is a process that they are familiar with and to share their experience in that respect if appropriate. The trainer should explain that trained professionals who have the mandate to collect documentary and physical evidence need to be able to demonstrate the authenticity and integrity of a piece of evidence to ensure it is admissible in court and given its due evidentiary weight. In order to do so, they need to record (i) how a document or physical item was first collected (ii) and, as the case may be, whether and how such document or item was transferred between different individuals and/or organisations before coming in their possession. The aim is to show that the item/document is genuine and that it has not been tampered with or been contaminated.

The trainer should run participants through the key basic steps to follow in order to maintain chain of custody, while highlighting that participants collecting physical/documentary evidence need to be aware of applicable legal requirements concerning chain of custody in their jurisdiction - which may be different for different types of items.

***Training Materials on the International Protocol***

**PART V MODULE 13 – STORING AND HANDLING INFORMATION**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Understand the obligation to safely handle and store information
* Recognise that storage limitations have implications for collection of information
* Identify the different legal and other requirements for physical, digital and forensic evidence

**Suggested duration of session:**  60 to 90 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 202-209; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 –Planning; Module 10 – Types of Evidence of Sexual Violence; Module 11 – Interviewing; Module 12 – Collecting Additional Information; Annex 4 – Sample Sexual Assault Medical Certificate; Annex 9 – Chain of Custody Form

The trainer for this module should have professional experience dealing with witnesses and evidence in an investigation or documentation context, and should ideally have specific expertise in information storage and management. This is the last module of Part V of the Protocol – Documentation in Practice: Gathering Information, and it brings together numerous issues from the previous modules – Do No Harm, confidentiality, risk assessments, planning, identifying victims/witnesses and other sources of information. These issues all continue to matter even after the investigation or documentation process is over, because the team still has an obligation to maintain the security and confidentiality of the evidence or information they have collected. This obligation may last for decades.

However, the trainer should emphasise that the participants cannot wait until the end of the process to start thinking about how to safely store and manage their information. From the planning and preparation phase and throughout the whole process, they need to think carefully about the purpose of their investigation or documentation, what kind of information is necessary or appropriate for them to collect, the different forms that information might take (testimony, documents, physical material, digital or audio-visual, forensic), whether they have the relevant training or authority to collect that type of information, whether it will be practically feasible for them to document, collect or transport that information safely, and whether they can store the information securely and to the required standard over a long period of time. The trainer should make this point clearly at the beginning of Module 7/Part IV – Documentation in Practice: Preparation, and should emphasise it repeatedly throughout all subsequent modules. Planning and consideration of storage requirements is a vitally important issue and must happen from the very beginning of the investigation or documentation process, before the participants have collected any information or commenced any investigative or documentation activities. The trainer must ensure that they understand that it is too late to consider transportation, storage and maintenance after they have already collected the information.

For each of the types of information covered in this module – documentary and physical, digital and forensic – the trainer should ask the participants to consider how likely they are to be collecting that type of information, and whether their current facilities (such as office, computer or external hard drives, cloud storage) would have the physical space, digital space (memory) or other necessary resources to be able to store and protect it long-term. If they are already collecting and storing this kind of information, the trainer should encourage them to discuss (in general terms) what security measures they have in place to keep the information safe and confidential, what restrictions their organisation imposes on who can access the information and for what purpose, and whether they have ever encountered problems with personal or sensitive information which was not stored correctly or appropriately. All organisational decisions regarding these matters should be documented in a policy document that can be later consulted and updated if necessary, and which could later be provided to judicial officials who may need to understand the data handling and storage procedures in order to use the information as evidence.

Depending on the background and experience of the participants, the answers might range from a bicycle lock on a filing cabinet to a bolted evidence room, but the important thing to emphasise is that they are responsible for finding a way to make sure that the information continues to be protected. Regardless of the size and resources of their organisations, they need to be aware that without a specific plan for the storage and management of sensitive information, promises they have made and steps that they have taken in good faith to respect the principles of confidentiality, Do No Harm and informed consent when dealing with a victim or witness can be undermined or undone completely if, for example, one of their colleagues later releases or misuses that information or if the information is stolen or damaged. The trainer should also emphasise that the more sensitive the information (i.e. personal or identifying details, photos or recordings, information about security threats or protective measures), the greater the responsibility to keep it safe and confidential.

Practitioners can use a manual storage system, a digital storage system or a combination of both. After slides 5 and 6 dealing with storing and handling general principles, the trainer should highlight specific requirements to manually store documents or other physical items (slide 7) – hard copy case files, printed photographs of injuries or a memory key/card containing a video-recording of a crime scene – as well as minimum steps and considerations to ensure the security and integrity of information stored digitally (slides 8-10) - scans of documents, recordings, digital pictures. The trainer should encourage participants to consider and discuss the advantages and disadvantages of using a digital system, as opposed to a manual storage system. During the discussion about advantages of digital storage (uses less physical space, easier to search, analyse and generate reports from, easier to keep multiple copies in different places) and the possible use of electronic databases, the trainer could flag that these can be particularly helpful to identify patterns of violations, as covered in more details in Module 14 (Analysing Evidence and Information).

In relation to forensic and medico-legal information (slides 12-14), the trainer should refer back to Module 10 (Types of Evidence of Sexual Violence) and Module 12 (Collecting Additional Information) and underline that forensic medical examinations/collection of medico-legal evidence should only be done by trained professionals, ideally at the same time as the provision of medical care and by the same person. If the participants are not able to process or store forensic information safely and competently or if they do not need it to prove specific facts, they should not collect it. The trainer should establish whether there are any forensic requirements for establishing sexual violence in the relevant jurisdiction (i.e. need for physical or biological evidence/medical examination for a criminal trial, producing statements or medical certificates to be granted civilian victim status) and should ask the participants if they have any experience in collecting or preserving that kind of material, particularly over long periods of time.

***Training Materials on the International Protocol***

**PART VI MODULE 14 – ANALYSING EVIDENCE AND INFORMATION**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Understand basic analysis skills – how to organise, evaluate and strengthen evidence
* Identify gaps in information to inform documentation strategy
* Recognise and establish patterns of violations

**Suggested duration of session:**  60 to 90 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 210-229; Module 4 – Individual Criminal Responsibility; Module 5 – State Responsibility; Module 7 – Do No Harm; Module 9 – Planning; Module 10 – Types of Evidence of Sexual Violence; Module 11 – Interviewing; Module 12 – Collecting Additional Information; Module 13 – Storing and Handling Information; Module 15 – Trauma; Module 16 – Sexual Violence against Children; Annex 1 – Evidence Workbook

The trainer for this module should have professional experience dealing with witnesses and evidence in an investigation or documentation context and should have specific expertise in information management and analysis.

This module, and the Protocol chapter on which it is based, offer a very basic overview of analysis. Depending on the specifics of the training course, the content will have to be supplemented to comprehensively cover analysis in more depth.

This module builds upon the methodology presented in Module 4 (Individual Criminal Responsibility) and Module 5 (State Responsibility) to establish the legal elements of international crimes or violations as further developed in the Evidence Workbook. It brings together numerous issues discussed in previous modules such as Do No Harm, information collection strategy and other planning considerations, and organising, storing and handling information. This module is also closely linked to Module 11 (Interviewing), the last phase of the PEACE framework on evaluating the impact and significance of a witness’ interview on the documentation plan, and Module 15 (Trauma) dealing with the effects of trauma on witnesses’ memory and testimony.

While conducting advanced evidence analysis is a specialist skill beyond the scope of the guidance included in the Protocol, it is important that anyone collecting CARSV information should be able to understand and apply basic evidence analysis skills and be in a position to know how to organise, evaluate and strengthen information collected. This is an essential skill in order to appropriately assess the credibility of witnesses’ testimony and the authenticity and reliability of other evidence, identify evidentiary gaps and redirect documentation efforts where they are most needed. Giving due weight to witnesses’ testimony – keeping in mind that a witness can be simultaneously traumatised *and* credible – is also important to avoid doing harm by conducting unnecessary interviews with witnesses where information collected is already strong enough.

The trainer should encourage participants to discuss the methods, steps and possible tools – whether they have access to advanced technologies or rely on more basic methodologies - that they or their organisations may be using to analyse evidence and information gathered, or the consequences of failing to properly assess information throughout the documentation process. Even participants who may feel that they do not have much experience with this topic probably already apply some sort of basic assessment and analysis to their work without realising it. When you ask a witness to clarify a point that does seem odd or does not fit with other parts of his/her story, or get a gut feeling that a document or video that someone hands out to you looks too good to be true, you are applying your innate analysing skills. The more methodically you apply those skills, the stronger your evidence will be. However, there is also a risk that viewing such matters through our own cultural or communal lenses might lead us to analyse credibility incorrectly; this risk must be mitigated through internal procedures.

The first part of the module (slides 3-6) covers why it is important to constantly evaluate and analyse information and provides a basic framework consisting of four key steps: (i) evaluating the information, (ii) establishing the elements, (iii) strengthening the information and (iv) establishing patterns. The trainer should emphasise that the process of collecting and analysing information is generally not strictly sequential but happens concurrently in some circular form. Ongoing evaluation of information gathered and analysis of evidentiary gaps lead to additional information gathering which requires further analysis. Evaluation of information may somehow take place instinctively at a very basic level but methods and tools may help to structure this process to achieve the best evidence possible.

After that, the module is split into four sections covering the four steps to follow: A) Step 1: Evaluating information (slides 7-14), itself split between evaluating testimonial evidence (slides 8-12) and evaluating documentary, physical and digital evidence (slides 13-14), B) Step 2: Establishing elements (slides 15-16), C) Step 3: Strengthening evidence (slides 17-20) and D) Step 4: Identifying patterns (slides 21-28).

Evaluating information implies answering two distinct questions to assess the credibility of the source and the validity of the information: (i) is the source trustworthy (*credibility*) and (ii) does the information accurately reflect the truth (*validity*)? The trainer should stress that is it important to assess the credibility of the source and the reliability of the information separately to avoid automatically associating a credible source with reliable information, and vice versa. The trainer should ask participants to discuss real or hypothetical examples where the source may be credible but the information inaccurate, or the other way round. The trainer should also stress that participants documenting CARSV will primarily be evaluating testimonial evidence – assessing the witness’ credibility and attempting to explain possible inconsistencies within the testimony itself or between the testimony and other evidence. Proper evaluation of documentary, digital or physical evidence is usually done by forensic experts or other trained professionals and is beyond the scope of the Protocol. The trainer should remind participants here that it is essential that they keep notes of their evaluation separate from the evidence itself to ensure it is considered as work product and not disclosable.

The trainer should ask participants to think about factors and criteria that may be relevant to assess the *credibility* of a witness (e.g. who provided the testimony and their possible affiliation to any political, social or other group; in which capacity they are testifying; what their motivations are and any vested interest that they may have in shaping a particular narrative; how the witness was identified and by whom). For instance, the I-DOC database (developed by Case Matrix Network CMN) identifies a list of criteria which can help practitioners in categorising and evaluating the credibility of testimonial evidence. The trainer should reiterate that participants need to make sure not to judge the credibility of witnesses based on their own assumptions, mindsets and cultural outlook.

When assessing the *validity* and accuracy of information, the key message to put across is that inconsistencies and contradictions are very common. Inconsistencies and contradictions do not necessarily (and often do not) mean that the witness is lying or dishonest, or that the information is unreliable.

What is important is that practitioners keep an open mind and, if becoming aware of an inconsistency during an interview, address it during the clarification phase of the PEACE interviewing process. If practitioners become aware of inconsistencies in witnesses’ versions after interviews, they should seek, if possible, to involve the witnesses in the clarification process as they may be able to provide a valid explanation or other information to support their version.

The trainer should stress that not all inconsistencies necessarily are of concern, and that some inconsistencies may not only be expected, but also can be consistent with how people recall and describe events. Actual or seeming inconsistencies can be the result of many different cultural, psychological, practical and other factors (e.g. misunderstandings, poor interpretation, embarrassment to share details, fear of retaliation, intimidation by family or community members, influence.). It is the responsibility of practitioners to create a safe space in which victims/witnesses feel comfortable and empowered to share their whole experience as they recall it.

Inconsistencies in children’s testimonies may result from any of these factors as well as factors specifically linked to a child’s age and development. Children are generally more sensitive to badly framed suggestive questions and they might also give an answer even if they do not know the answer in order to please the interviewer. In addition, they - and especially young children - may find abstracts concepts (e.g. times, dates, ages, frequency, size, height, weight, numbers, for instance of perpetrators) difficult to understand which can result in them giving information which may not be consistent with other information provided by others. Strategies to minimise this risk are further discussed in Module 16 (Sexual Violence against Children).

Evaluating documentary, physical and digital evidence can be complex and usually requires the involvement of forensic experts. That said, non-expert practitioners can sometimes conduct a basic lay assessment of a piece of evidence to get a preliminary determination about its authenticity and reliability by answering simple questions, obtaining a similar type of document for comparison and/or assessing the reliability of the source. The trainer should re-emphasise that a piece of evidence may be genuine (e.g. an authentic medico-legal report) but unreliable (e.g. conducted by an inexperienced clinician using an unsound medical protocol, negative psychological assessment undermining a victim’s credibility based on myths and stereotypes about how a “normal” victim should behave).

Slides 15-16 cover the second step of the process consisting of mapping all the pieces of information gathered with the legal elements that you must satisfy to establish a CARSV crime or violation, and identifying any additional information that may be required to avoid leaving any evidentiary gaps. The trainer should stress the importance of using a structured framework and methodology and encourage the participants to use the Evidence Workbook as a template to develop their own evidence grid.

Slides 17-20 cover the third step of the process consisting of strengthening the evidence gathered through *corroboration* and *contextual information*. The trainer should remind participants that, as previously explained, corroboration is not a legal requirement for proving sexual violence and other crimes under international law, but that domestic rules of procedure and evidence may require corroboration even when sexual violence is being investigated as an international crime. Regardless, corroborating evidence is always useful to strengthen a case. That said, finding additional information to support a victim’s testimony, in whatever form, may sometimes be challenging for allegations of sexual violence. The trainer should emphasise that even if you cannot corroborate the act of sexual violence, corroborating the victim’s timeline of events, their movements and behaviour before and after the attack can be extremely useful to establish the overall credibility of the victim.

Evidence can also be strengthened with the testimony of experts who can provide authoritative explanations on a variety of topics (e.g. customs, use of language to describe sexual violence, the impact of stigma in a particular community as an explanation for silence or denial), or other forms of evidence which can provide political, social, racial, ethnic and cultural histories and descriptions to help understand a particular context, country or population.

The last section of the module and step of the process of analysing information (slides 21-28) consists of trying to establish patterns of crimes and violations. The trainer should encourage participants to think about and discuss why finding common features between separate incidents or otherwise establishing patterns might be important (e.g. spikes in SDT testing or unwanted pregnancies in a specific areas may be a clue that sexual violence is or was taking place; similarities in the profile of victims, perpetrators or the modus operandi may help to establish certain legal elements and prove that an act of sexual violence was part of a widespread or systematic attack, or help link the act to remote perpetrators).

The trainer should ask participants if they are familiar with methods and tools to establish patterns (e.g. identifying typologies of crimes/violations, searchable databases, statistical analysis and crime mapping). While certain of these tools may use advanced technologies (e.g. geographic information systems (GIS) used to visualise and organise spatial data which can help plot troop movement on a map against areas where rapes occurred and other geospatial technologies), the trainer should highlight that documenters without access to these technologies can also use more basic tools and questions to establish patterns.

The trainer should encourage participants to discuss their experience using specific methods, software and other tools, which ones they found useful, what features were particularly helpful and what the potential down sides were. New analytical tools are constantly being developed as technology evolves, and the sharing of information among the group about these can, as the case may be, constitute an important part of the module.

Looking for shared features between separate incidents in an attempt to create typologies of crimes/violations can be done by looking for similarities in (i) the profile of victims targeted, whether public statements have been made targeting specific individuals or groups, whether legislation or other state measures exist against specific groups or individuals (e.g. minority ethnic group, women human rights defenders), (ii) the profile of perpetrators, (iii) modus operandi/methods of attack across multiple incidents (e.g. type of violation such as gang rape, genital mutilation, sexual slavery; rights and freedoms violated; time and location of incidents; factors triggering victimisation such as being a single woman or a girl attending a secular school; and overall circumstances such as kidnapping, use of drugs, group attacks) and whether particular methods have been used by known groups or forces before, and (iv) similarities in place and time.

In addition to looking for common features between incidents, practitioners can also use other methodologies and tools to conduct crime pattern analysis, such as using searchable databases to store and organise their information. Statistical analysis (e.g. analysis of census data, prison records or other official data, or analysis of statistical records kept by health professionals regarding the number/type of interventions, gender, age of patient, type of injuries), can also be a useful tool to quantify the number of victims and type of violations, when and where victims were attacked, the harm caused and the profile of victims.

***Training Materials on the International Protocol***

**PART VII MODULE 15 – TRAUMA**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Understand the mental health impact of CARSV on victims/witnesses, families and communities
* Identify protective and risk factors impacting on individual resilience to trauma
* Recognise the potential effect of trauma on witness description of experiences

**Suggested duration of session:**  60 to 90 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 230-243; Module 2 – Understanding Sexual Violence; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 11 – Interviewing; Module 14 – Analysing Evidence and Information; Module 16 – Sexual Violence against Children

The trainer for this module should have professional experience dealing with victims and witnesses in an investigation or documentation context and should ideally have specific expertise on the impact of trauma on the manner in which they might describe a traumatic event and surrounding circumstances.

This module is the first module of Part VII of the Protocol dealing with cross-cutting issues, namely Module 15 (Trauma), Module 16 (Sexual Violence against Children) and Module 17 (Sexual Violence against Men and Boys). Strategies on how to mitigate the risk of re-traumatisation of victims/witnesses are found throughout the Protocol, especially in Module 7 (Do No Harm), Module 8 (Safety and Security), Module 9 (Planning) and Module 11 (Interviewing) and the trainer may want to refer back to some of the guidance presented in these modules as appropriate. In addition, this module dealing specifically with trauma is closely linked to Module 2 (Understanding Sexual Violence) and Module 14 (Analysing Evidence and Information), as a good understanding of the psychological impact of sexual violence on victims/witnesses and how trauma may affect the accounts of some victims/witnesses is necessary in order to properly assess the credibility and reliability of their testimony.

Conducting proper clinical assessments of the impact of trauma on victims’/witnesses’ testimony is not the role of documenters and investigators and requires specialist training and skills. Nevertheless, it is important that documenters interviewing potentially traumatised victims/witnesses of CARSV have a basic understanding of how a traumatic experience *may* affect victims’/witnesses’ testimony, be in a position to recognise signs of trauma and put in place appropriate strategies to mitigate any risk of re-traumatisation during interviews.

Throughout the session, the trainer should encourage participants to discuss their experiences interacting with victims/witnesses of traumatic experiences, in particular: what possible reactions traumatised victims/witnesses may have had during interviews, what the triggers might have been, how they reacted and consider whether they could have put in place additional safeguards or behaved differently based on the guidance provided in the Protocol.

The trainer should also promote discussion among participants about their views regarding actual or seeming inconsistencies, and/or lack of detail and/or coherence in victim/witness testimony, challenge assumptions that participants may have that traumatised victims/witnesses cannot provide credible and reliable evidence and consider how they reacted to lack of detail, consistency and/or coherence in specific instances (e.g. did they believe that the victim/witness was lying or voluntarily keeping information from them, affecting their assessment of the witness credibility; did they become impatient or aggravated; did they consider these as normal; did they seek a medical assessment from a trauma expert to support the victim’s/witness’ testimony?).

The first part of the module (slides 3-7) covers in broad terms what trauma means and the type of events or environments – typically situations involving threats to life or physical integrity - that may cause exceptional stress and be traumatising for those who experience or witness them. The trainer should emphasise that trauma can result not only from specific *natural or man-made incidents and disasters* (e.g. being the victim of a car crash, rape, torture or other physical assault, witnessing the physical assault of others, surviving a terror attack, an earthquake) but also from *chronic or repetitive experiences* (e.g. concentration camps and other forms of detention, sexual slavery, enduring deprivation, combat and violence associated with war, child abuse, neglect, domestic violence).

The trainer should also highlight that trauma is very subjective and that different people can have different responses to the same violent or life-threatening experience. Some may be able to recover and positively adapt relatively quickly and easily, while others might be deeply traumatised and unable to ever lead a “normal” life. The trainer should encourage participants to think about factors *before*, *during* and *after* a violent experience which may either contribute to personal resilience to trauma, or to the contrary, constitute factors increasing the risk of re-traumatisation during interview and long-term psychological harm.

Generally speaking, documenters have no or limited control over risk factors in relation to victims/witnesses (e.g. previous abuse by a victim’s partner or parent, permanent disability or chronic physical injury as a result of the sexual violence, ostracism by community) or conditions before or during the traumatic experience which may act as protective factors (e.g. having grown up in a loving and supporting family, self-confidence and self-esteem, faith in god or life). Although it is beyond the role of documenters to provide professional psycho-social care and treatment to victims/witnesses, documenters can contribute to strengthening victims’/witnesses’ resilience by adequately facilitating the addressing of their needs *after* a traumatic experience (e.g. enabling access to medical and psychological support, protection, housing, employment, vocational training) and working according to a trauma-informed approach.

After this general introduction, the module is split into three sections covering: A) sexual violence and war-related trauma (slides 8-15), B) strategies to mitigate the risk of re-traumatisation during interview (slides 16-21), and C) the effect of trauma on victims’/witness’ description of experiences (slides 22-26).

Slides 8-15 cover the nature and impact of sexual violence-related trauma and war-related trauma and their compound effect – “war-rape” trauma - on survivors of CARSV. As sexual assault (committed in peacetime) and the violence associated with conflict (even in the absence of sexual violence) are considered individually as some of the most destructive experiences of all, it is unsurprising that their combined effect often causes devastating harm to CARSV survivors. Sexual violence does not happen in isolation. CARSV victims are likely to have experienced or witnessed other forms of extreme violence (e.g. loss or disappearance of loved ones, destruction of their homes, shelling, displacement, violent death or extreme suffering of others, food deprivation, torture, detention, persecution of their community) and suffer from *cumulative trauma*.

The trainer should remind participants that having been a victim of sexual violence – however violent and traumatic – may not always, *from a CARSV victim’s perspective*, be the “worst” part of their experience (e.g. a victim might be much more concerned about finding a child or parent separated from them during flight and displacement than about their own sexual assault). The trainer should also emphasise that a CARSV victim may be severely traumatised even in the absence of penetration/rape, as the physical invasion of one’s body is only one of many extreme stress factors which together contribute to causing sexual violence-related trauma. Other factors include pain, humiliation, powerlessness, dehumanisation, destruction of identity, fear of being killed or injured and torture, whether physical or mental.

The trainer should highlight some typical consequences of CARSV trauma (e.g. anxiety, depression, acute stress reactions, substance misuse, post-traumatic stress disorder (PTSD)) and symptoms which may be encountered in different phases following a traumatic experience (e.g. crying but also laughing or seeming unaffected, sleep disturbances, phobias, sexual dysfunction). The trainer may want to refer back to some of the slides in Module 2 (Understanding Sexual Violence) about debunking myths and assumptions about CARSV victims and how they should react or behave and ensure that participants understand that there is no “right” way to react. Different individuals may develop different coping mechanisms in the face of extreme violence and it is important to respect and factor this into the documentation process.

Slides 16-21 cover the risk of re-traumatisation during interview and strategies to work according to a trauma-sensitive approach. The trainer should highlight that certain behaviours, environments, words, smells or sounds may act as triggers and result in the victim re-experiencing the events and feelings of the original trauma. It is therefore important for documenters to avoid specific actions or behaviours based on the prior research and understanding of a victim’s experience (e.g. refraining from wearing strong perfumes if information available about the victim or gathered from other victims refers to nauseating odours associated with the alleged perpetrators, or law enforcement officials refraining from wearing uniforms which may remind the victim of uniforms worn by alleged perpetrators).

Key strategies to mitigate the risk of re-traumatisation are found throughout the Protocol and can be grouped under the following aims: (i) ensuring victims’/witnesses’ physical and emotional safety prior to, during and after an interview, (ii) promoting trustworthiness, (iii) “giving back” to victims/witnesses a sense of agency and control by offering them choices, (iv) ensuring that the process is collaborative and participatory and (v) empowering victims. Providing evidence can be a cathartic experience. While victims/witnesses may become very emotional during testimony, this does not necessarily mean that they are in distress or that the interview must be stopped. A professional, collaborative, respectful and empowering evidence gathering process will respect a person’s wish to continue even if they are showing a lot of emotion (e.g. crying). The trainer should prompt participants to reflect on the strategies presented and to share additional ones that they may have used in their work and found particularly useful.

The last section (slides 22-26) deals with the potential effect of trauma on victims’/witnesses’ description of experiences. The trainer should emphasise that the memories of traumatised individuals (whether they are suffering from PTSD or other psychiatric disorders or not) *can* - not necessarily will - lack detail (especially peripheral details which may relate to, for example, evidence of contextual or common elements of war crimes, crimes against humanity and genocide), consistency and coherence.

The trainer should underscore that: whether the account of a particular victim/witness is reliable and credible must be determined on a case-by-case basis; inconsistency, lack of detail and/or problems with memory recall do not necessarily point to credibility issues (this is true for all victims/witnesses, not only those who may be or are suffering from, for example, PTSD or other psychiatric disorders); there is no necessary correlation between trauma and credibility; and collecting evidence from CARSV-traumatised victims/witnesses is not necessarily more difficult than collecting evidence from victims/witnesses of other crimes or from victims/witnesses who are not traumatised as a consequence.

The core message is that documenters need to approach every victim/witness, and assess the credibility and reliability of the account of every victim/witness, with equal professional skill and care, regardless of whether they are victims/witnesses of CARSV or other types of crimes and violations, and regardless of whether they may or may not be suffering from trauma, PTSD, etc.

The trainer should encourage discussion of whether medical assessment of traumatised victims/witnesses should, if possible, be sought and submitted as evidence in cases of alleged CARSV even where such assessment is not a legal requirement. Such assessment may not only be unnecessary but also counter-productive and perpetuate damaging myths about the reliability and credibility of victims of sexual violence. That said, such assessment may in some circumstances be important for other reasons.

When discussing these topics, the trainer may want to refer back to some of the slides in Module 14 (Analysing Evidence and Information) as appropriate, and should be able to provide examples of instances where courts and tribunals have reached the conclusion that traumatised victims/witnesses are both credible and reliable despite inconsistencies and/or lack of coherence in their testimony.

***Training Materials on the International Protocol***

**PART VII MODULE 16 – SEXUAL VIOLENCE AGAINST CHILDREN**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain the forms, scope and impacts of sexual violence against children and their specific needs
* Identify the legal, ethical and practical requirements applicable to engaging with child victims and witnesses
* Recognise helpful techniques to interview children of different ages and levels of maturity

**Suggested duration of session:**  90 to 150 minutes

**Exercise:** None

**Relevant sections of International Protocol:**

Pages 244-263; Module 2 – Understanding Sexual Violence; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 11 – Interviewing; Module 17 – Sexual Violence against Men and Boys; Annex 7 – Interviewing Checklist; Annex 8 – Template for Personal Data to be Collected from Victims/Witnesses

General introductory notes: *Interacting or engaging with children* in the documentation or investigation of CARSV (and other crimes and violations) *for accountability purposes* in accordance with international law and best practice requires knowledge and expertise that are extremely rare at present. The international community’s understanding of if and how to do that without harming child victims or witnesses when undertaking documentation or investigation in the kinds of resource-constrained environments usually marking contexts of crimes against humanity, war crimes, genocide, systemic and grave human rights violations and conflict-affected countries more generally, although growing, is still very limited. The long overdue and increasing attention on CARSV and other crimes and violations under international criminal, human rights and humanitarian law against or otherwise involving children - including the Protocol chapter on this topic - must not be mistaken as a signal that the required knowledge, expertise and resources to properly involve children directly in such documentation or investigation processes in those kinds of environments currently generally exists.

Chapter 16 of the Protocol and this related training module must be read in the light of the foregoing cautionary notes, cautionary notes that the said chapter perhaps do not sufficiently stress.

Accordingly, trainers should stress the great importance of documenting and investigating CARSV (and other crimes and violations) against and otherwise involving children, but accentuate the knowledge, expertise and resources required to interact or engage with children in the process and expressly discourage participants from thinking that they should or could document or investigate crimes or violations against or otherwise involving children by interacting or engaging with children unless they have the necessary knowledge, expertise and resources. Trainers should also encourage participants to discuss possible ways of documenting or investigating such crimes and violations *without interacting or engaging with children* where documentation or investigation teams do not have the necessary knowledge, expertise and resources.

Module-specific notes: This module specifically deals with sexual violence against children and useful techniques when interviewing child victims and witnesses of CARSV (aspects of it will also be relevant when dealing with child perpetrators.) It builds in particular upon the principles covered in Module 7 (Do No Harm), Module 9 (Planning) and Module 11 (Interviewing), highlighting critically important additional considerations when dealing with child victims/witnesses. Most of the information contained in this module is not stand-alone and the trainer will need to link back to information contained in previous modules as necessary.

As noted earlier, approaching and interviewing child victims/witnesses of CARSV requires specific skills and experience that very few seasoned CARSV investigators have. It is a highly specialised area, littered with pitfalls, especially in resource-constrained environments. Those environments include conflict-affected contexts where there are no or limited medical, psycho-social or other support services for children, or where family or other community support networks for children are weak or absent. Refugee and IDP camps would ordinarily present significant obstacles in this regard, but the situation may be even worse outside such camps in conflict-affected areas. Depending on the specifics of a documentation or investigation initiative, such environments may also not allow, or make it very difficult for, practitioners to properly assess whether a particular child victim or witness could or should be engaged and to map and assess whether children to be engaged are and would be sufficiently cared for during and in the wake of such documentation or investigation. The trainer should be prepared to discuss any views among participants that children are less reliable and credible than adults. Like adults, children can provide highly credible and reliable evidence. As with adults, the ability of documenters or investigators to create the interview conditions necessary to elicit such evidence from children is critically important.

The trainer for this module must have professional experience conducting investigative interviews with child victims and witnesses of sexual violence, *particularly in such resource-constrained and local contexts*. They must be an experienced trainer on interview techniques with specific qualifications and expertise to sensitively interview child victims/witnesses of sexual violence.

The trainer must make clear upfront that participation in this module only aims at highlighting basic principles which can be helpful when approaching, interviewing or referring CARSV child survivors and witnesses but is by no means sufficient by itself to equip participants with the necessary skills and techniques to interview or otherwise interact with CARSV child victims/witnesses. Participants lacking the necessary experience and knowledge must not feel encouraged by the module or the trainer to undertake this specialised work.

The trainer should highlight that children are not a homogeneous group and that child interviewing skills are age-sensitive and should take into account that interacting with very young children requires different skills from those required when dealing with adolescents. In addition, interviewing boys as opposed to girls requires different considerations as further developed in Module 17 (Sexual Violence against Men and Boys).

Participants who intend to professionally and ethically interview or otherwise interact with child victims/witnesses of sexual violence should receive additional age-appropriate professional training and/or mentoring. Such training/mentoring should include an important practical component, which could consist of both role plays and participation as an observer in real interviews with child victims/witnesses of sexual violence of the relevant age group.

The trainer should ask participants if any of them has experience working with children (and, as the case may be, which age group) and whether they have been specifically trained and have sufficient experience to interview or otherwise interact with children *for accountability purposes* and how. As the case may be, such participants should be encouraged to share their experience with the group, including challenges they may have faced and useful approaches they may have used, and consider how the guidance in the Protocol may help them in their work. The trainer must carefully moderate this discussion and not allow the impression that practitioners without specialised knowledge and expertise could or should interview or otherwise interact with children for accountability purposes (which is different than working with children for child-protection, care-provision and humanitarian reasons).

The general principles presented in Module 7 (Do No Harm), Module 9 (Planning) and Module 11 (Interviewing) are applicable to all CARSV victims/witnesses, regardless of age and gender and the trainer may want to refer back to some of the associated slides as appropriate. That said, dealing with child survivors/victims is different than dealing with adult victims on various levels and requires taking into account additional considerations and proceeding with specific sensitivity, care and skills to ensure no additional harm is done, as further discussed below.

The first section of the module deals with the forms and scope of CARSV against children (slides 3-6). While children are vulnerable to sexual violence in all settings due to the inherent power imbalance linked to their age and size, children are at a heightened risk in conflict and displacement settings when family and community protection structures break down. The trainer should highlight that it is difficult to get a full picture of the scale of CARSV against children as CARSV data is often not disaggregated by age, and therefore fails to distinguish between victims under or above the age of 18. In addition, any statistics available will only represent a portion of the reality due to the lack of reporting. Despite the scarcity of data regarding CARSV against children generally – and its almost non-existence regarding boys specifically – some research shows that in certain contexts children make up between 50-70% of CARSV victims. This means that a documentation effort which ignores children as victims from the outset could potentially deny access to justice and reparation to more than half the actual victims. Participants are therefore in a position to increase access to justice for child survivors – but only if handled with skill and care.

The trainer should ask participants to think about which categories of children may be particularly vulnerable to sexual violence (e.g. children associated with armed groups, child refugees or IDPs separated from their families, children living in child-headed households) and situations which could indicate that CARSV against children may be taking place (e.g child marriage, detention or child recruitment, which are red flags that sexual violence against adults and children might be taking place). The trainer should also emphasise that although adolescent girls represent a majority of CARSV child victims in most contexts, girls and boys of all ages, including babies, may be CARSV victims (e.g. the practice of “bacha bazi” involving the sexual exploitation of boys by men in Afghanistan targets boys specifically; some ritualistic practices based on the belief that sex with virgins will make fighters “bullet proof” or bring them luck may specifically target preteen girls).

Perpetrators may include not only members of armed forces and groups, including peacekeepers, but also humanitarian workers and other civilians, family members and acquaintances as well as other (usually older) children. In short, children with or without family or other community protections may be targeted for exploitation – including sexual exploitation – by virtually anyone, including by their guardians and other minders and carers (which is an important matter for documenters and investigators to look into when planning their potential engagement with children).

When talking about the impact of CARSV on children (slide 8), the trainer may want to refer back to some of the slides in Module 2 (Understanding Sexual Violence). Children who experience sexual violence usually face physical, psychological and socio-economic consequences similar to adults as well as distinct or more severe forms of harm due to their physical size, age, mental developmental stage and social environment (e.g. more severe injuries leading to increased mortality risk, honour killings, normalisation of abuse, inability to trust, loss of education triggering a cycle of poverty).

Slides 9-10 cover the legal and procedural framework applicable to CARSV and other crimes against children. The key message to convey is that like any other CARSV victims, children have a right to access justice and obtain reparation and may be empowered by participating in such a process, *provided that those rights and interests can be realised without harming the children involved*. The trainer should research whether any armed forces or groups have been listed in the UN Secretary General’s Annual Report on Children and Armed Conflict, as well as any other child-specific reporting or coordination mechanisms which may exist in the country/ies relevant to the participants’ work. As the case may be, the trainer should ask participants if they are familiar with the UN Monitoring and Reporting Mechanism (MRM), explain the type of data collected and how such information may be useful when documenting CARSV against children.

The next section of the module (slides 11-26) deals with ethical considerations and provides guidance on how to weigh children’s need for protection whilst recognising a child’s capability based on his/her age and maturity, and their right to participation and access to justice. The trainer should encourage a discussion among participants about whether they believe children should be included in CARSV documentation processes, what additional requirements and challenges this may entail, why it is important, whether child-friendly justice mechanisms and procedures are in place or could be put in place in their context, and challenge possible assumptions that participants may have about the value and credibility of children’s testimony.

The paramount principles which must guide anyone interacting with children include *non-discrimination*, the *best interest of the child* and the *right of the child to express his/her views on all matters affecting them* and have those views listened to and taken into consideration. These principles are enshrined in the UN Convention of the Rights of the Child which has been ratified by virtually all countries in the world except for the USA, and in other international instruments. Trainers should ask participants to discuss whether those instruments were developed with the variety of circumstances in which documentation and investigation may take place in mind, and how such principles and undertakings could be applied - without doing harm - in resource-constrained environments.

Slides 13-24 deal with mitigating measures and Do No Harm considerations specific to interacting with children (i.e. informed consent and assent, threat and risk assessments, child-specific coordination mechanisms, confidentiality issues and referrals), and complement general principles covered in Module 7 (Do No Harm) and Module 9 (Planning). Key points for the trainer to emphasise/reiterate include: (i) the fact that approaching, interviewing and referring children sensitively requires age-specific training and experience (ii) the importance of obtaining the *informed consent* of the child (which may be sufficient for older adolescents) or the child’s *informed assent* in addition to, where necessary and appropriate, his/her parent’s/guardian’s informed consent, and respect his/her autonomy and wishes regarding his/her involvement in a documentation process and/or referral to support services and (iii) the fact that confidentiality may be further limited when dealing with child victims of CARSV due to possible mandatory reporting obligations to the police, social services or other authorities and the requirement to obtain the parent’s/guardian’s informed consent as appropriate. Parents and guardians too can and often are perpetrators of sexual violence against their children or others under their care. Practitioners need to properly factor this into their planning and management of the documentation or investigation process; thorough research on each potential victim and witness to be engaged should identify such risks.

The trainer could ask participants working with children to share an example of case where the best interest of the child challenged mandatory reporting requirements and how they dealt with that tension. Mandatory reporting may raise ethical and safety concerns in humanitarian settings, where government structures are weak and laws are not supported by appropriate implementing measures and processes. Where established and safe mechanisms to report child sexual abuse might not exist and where security can be unstable, mandatory reporting may trigger a chain of events that can potentially expose the child to further risk of harm, and as such not be in the child’s best interest (e.g. reporting might lead to law enforcement officials or social workers to turn up at a child’s home, therefore potentially breaching a child’s confidentiality at the family or community level and exposing the child to stigma, rejection or retaliation). Practitioners need to think hard at the planning stage about how they would navigate such a situation and have clear protocols in place to avoid putting child victims at further risk of harm.

Slides 25-26 cover children’s right to participation and documenters’ obligation to recognise a child’s agency and capacity based on his/her level of maturity to decide whether or not to participate in a documentation process. Like adults, some children may find the experience of sharing their story and obtaining truth, justice and reparation empowering and, circumstances permitting, documenters should refrain from making decisions about what is or is not in a child’s best interest on behalf of a child without taking into account their personal views and wishes. Depending on the specifics, it may be difficult or impossible for documenters to engage with children to determine their views and wishes on such matters without actually or potentially harming them.

The last section of the module (slides 27-36) covers practical considerations to take into account before deciding to interview child victims or witnesses of CARSV. Questions to consider include: Why do you need or want to engage particular child victims or witnesses? Do you and your team have the necessary skills, expertise and resources to engage them? If you do, which age-group of children do you intend to approach? Are interviewers and interpreters appropriately trained to interact with children of that specific age-group? Can you develop age/gender-appropriate referral pathways if properly vetted ones do not already exist? If necessary or advisable, could you get the same information or evidence from other sources? What impact will your decisions have on your overall planning? Will this trigger a need for additional resources and can you cover the associated costs (e.g. to create a child-friendly interview environment)?

The trainer should ask participants who already work with children to share with the group their experience about useful techniques and approaches to help a child feel comfortable and relaxed (e.g. sitting at eye-level with the child, non-threatening or formal attitude/posture/body language, law enforcement wearing civilian clothes, having a trusted support person present, having colouring pens or toys available, using drawings to help children describe events and tell their story). As with all such discussions drawing on the personal children-related experience of participants, careful moderation will be required. Support persons for victims/witnesses should generally be outside of the interview room to provide support during breaks. If necessary, they can be present during the Engage and Explain phase (of the PEACE interviewing model) only, except in the case of children who can have a (vetted and) trusted adult present during the entire interview if this really helps them. That said, even with children, you should ideally avoid to have parents or anyone else present in the same room during the Account and Clarification and Closure phases.

Slides 32-36 deal with interviewing techniques when interviewing child victims or witnesses of CARSV. The trainer should emphasise that while general interviewing principles and techniques are the same whether you deal with adult or child victims/witnesses, these must be adapted to the child’s age and maturity to take into account how children’s memories, their understanding of concepts and cognitive reasoning develop. Children must also be allowed to feel bodily sensation and emotions (e.g. trembling, shaking and crying) in order to avoid internalising negative feelings and re-traumatisation. Documenters should be ready for such reactions from children and reflect on how these might impact documenters too.

The trainer may want to refer back to Module 11 (Interviewing) and the PEACE model, which is a useful framework to conduct investigative interviews with adults and children alike. The trainer should highlight that practitioners should take as much time as necessary to build rapport and trust with a child. The interview’s duration should be adapted according to the child’s age and other relevant factors to avoid the child getting overtired but rough recommendations are 1 hour for 15-18 years old, 45 minutes for 10-14 years old and 30 minutes for 6-9 years old. Practitioners may therefore have to meet a child first to establish the necessary trust for him or her to open up and assess their level of development, and have a separate meeting with the same interviewer/interpreter to actually interview the child. Depending on the specifics of the training course, it may be important for the trainer to moderate a discussion among participants about whether the circumstances in which they ordinarily document or investigate and the resources usually available to them allow for more than one interview, or for a set of interviews that would be sufficient.

The trainer should highlight that during the Engage and Explain phase, practitioners should explain the purpose and process of the interview in a language appropriate to the child’s age and maturity level, including what the “rules” of the interview are (e.g. child should tell the truth, say if they do not understand or do not know the answer, correct the interviewer if something is wrong), and use examples as necessary to ensure that the child understands these instructions. It may be useful to ask the child to repeat in his/her own words what the rules are, to ensure s/he as fully understood.

 A useful technique to build rapport with children is to use a positive activity appropriate to the child’s age/level of maturity (e.g. drawing, building a den) or ask the child to share a positive experience in his/her life (e.g. happy family memory). This can also be a good opportunity for the interviewer to assess a child’s language use and his/her ability to produce and articulate information. As part of or in addition to this, it may be helpful to ask the child to identify a positive past experience and ask the child questions about this event, so the child gets used to answering your questions on a

neutral topic and understands the level of detail that you will require when discussing more difficult or distressing experiences later.

Finally, the trainer should emphasise that the way interviewers frame their questions is particularly important when interacting with children. They should use clear, simple, open-ended and non-suggestive questions (no complex, multiple questions). They should also stick to the purely descriptive words used by the child (e.g. for instance to describe body parts or events reported by the child) and avoid qualifying an act as sexual assault or abuse to avoid unduly influencing the child’s story and recollection.

***Training Materials on the International Protocol***

**PART VII MODULE 17 – SEXUAL VIOLENCE AGAINST MEN & BOYS**

**Session objectives:**

By the end of the session, participants should be in a position to:

* Explain the forms, scope and specific impacts of CARSV against men and boys
* Recognise common myths and indicators of male-directed sexual violence
* Identify the legal and practical obstacles faced by male victims
* Identify helpful approaches to overcome challenges during documention

**Suggested duration of session:**  60 to 90 minutes

**Exercise:** Exploring personal assumptions about sexual violence against male victims (30-45 minutes)

**Relevant sections of International Protocol:**

Pages 264-281; Module 2 – Understanding Sexual Violence; Module 7 – Do No Harm; Module 8 – Safety and Security; Module 9 – Planning; Module 11 – Interviewing; Module 16 – Sexual Violence against Children; Annex 7 – Interviewing Checklist; Annex 8 – Template for Personal Data to be Collected from Victims/Witnesses

This module specifically deals with sexual violence against men and boys and key considerations for documentation processes intending to take male victims of CARSV into account. It is the last module of Part VII of the Protocol on cross-cutting issues and final module of these training materials. This module is closely linked to Module 7 (Do No Harm), Module 9 (Planning) and Module 11 (Interviewing). It highlights additional considerations throughout the documentation process when dealing with male victims of CARSV, and in relation to boys its content is subject to and must be read with Module 16 (Sexual Violence against Children). Most of the information contained in this module is not stand-alone and the trainer will need to link back to information contained in previous modules as necessary.

The trainer for this module must have professional experience planning documentation processes and conducting investigative interviews with male victims of sexual violence, particularly in a local context. They should ideally be an experienced trainer on interview techniques with specific experience to sensitively interview male victims of sexual violence.

The trainer should ask participants with experience approaching and interviewing male victims of sexual violence to share their experience with the group. They should in particular consider whether they found this different to interacting with female victims of sexual violence, and as the case may be how, as well as specific challenges they may have faced and useful approaches they may have used to overcome those challenges.

The general principles presented in Module 7 (Do No Harm), Module 9 (Planning) and Module 11 (Interviewing) are applicable to all CARSV victims/witnesses, regardless of gender and age, and the trainer may want to refer back to some of the associated slides as appropriate. As opposed to dealing with children – which requires truly specific age-appropriate professional training and skills - approaching, interviewing and referring male and female survivors of CARSV require essentially similar professional skills and attitudes. That said, those intending to identify, adequately document and address male-directed sexual violence must be mindful of any pre-conceived ideas and gender assumptions that they or their colleagues may have. In addition, there are some unique legal and practical obstacles to consider when dealing with male survivors which may require specific experience to effectively navigate and address, as discussed below.

As opposed to other modules where the suggested exercises take place at the end of the session, for this module it is proposed to start with a short exercise to debunk common myths and stereotypes about sexual violence against men.

**Exercise instructions**

For the “Exploring personal assumptions about sexual violence against male victims” exercise, the trainer can use as a basis or adapt the statements from Box 1 of Chapter 17 of the Protocol (some of which appear on slide 3), as well as use other relevant gender stereotypes for the context in which the participants are working.

The participants should be split into working groups and each group asked to consider a different set of statements. It is suggested to write or print each statement in big font on a piece of paper, which will later be stuck on a wall or otherwise be placed with “True” statements on one side and “False” statements on the other side. Participants should be asked to discuss in groups whether they find each statement to be true, mostly true, or false (about 10-15 minutes depending on the number of statements distributed). After that, the session should continue in plenary and each group should be asked to place their statements with the “True” or “False” statements, or somewhere in between.

The purpose of the exercise is to explore common myths and assumptions about sexual violence against men and boys and give participants insight about their own pre-conceived ideas on this topic and how this may impact on their ability to appropriately identify and document male-directed CARSV. Sexual violence against men and boys remains a controversial topic in many contexts. Cultural norms about masculinity and deeply rooted gendered assumptions in many societies can make it difficult for even highly educated individuals to contemplate men as victims of sexual violence. It is not unusual for people to assume that a man who was forcibly involved in same-sex acts is homosexual and must have “wanted it”, which is a way of blaming the victim. Competition over limited resources and funding, and other reasons, may also lead women’s advocates to underestimate and marginalise the issue. The trainer should be ready for a possible heated discussion and should aim to challenge participants’ possible misconceptions, which will require tact and patience. The trainer should ensure that participants understand that sexual violence – whether directed against male or female victims - is a crime of power, not sex. If they fail to recognise this key premise, participants are likely to overlook entire categories of possible victims (e.g. men, disabled individuals, old people), and possibly also perpetrators (e.g. heterosexual men).

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After this introductory activity, the module is split into three main sections, namely the scale and forms of sexual violence against men and boys, its impacts on victims and how to respond to it (slides 5-13), legal obstacles to accessing justice faced by male victims (slides 14-15) and key considerations to document male-directed sexual violence (slides 16-22).

In the first section, the main message to convey is that despite the lack of comprehensive statistical data regarding male-directed CARSV, some available studies indicate that the disparity in number between male and female victims is not as large as many people would assume. The UN Security Council explicitly recognised men and boys as victims of sexual violence in conflict for the first time in UNSCR 2106 of June 2013.

The trainer should emphasise the following key points: (i) the international community is only just starting to pay attention to this phenomenon; (ii) sexual violence against men and boys is likely to take place in most, if not all, conflict situations where sexual violence is taking place but documenters are unlikely to find evidence of it unless they actively look for it; (iii) male-directed sexual violence is seriously under-reported - most victims do not come forward as they, for example, fear being disbelieved, labelled as homosexuals and/or arrested in countries where same-sex acts are criminalised; (iv) lack of appropriate support services and safe spaces for male victims act as a further deterrent to reporting; (v) like women and girls, men and boys are vulnerable to sexual violence in any situation where power can be exercised with impunity, and male victims are mainly found in detainee, combatant and refugee populations; (vi) perpetrators mostly belong to armed groups and forces (e.g. prison staff, police, army, militia groups, peacekeepers); (vii) sexual violence against men and boys is not limited to anal rape and can take many other forms (e.g. forced oral sex or intercourse between detainees or with relatives, forced nudity, sexual torture and mutilation, forced sterilization, sexual slavery, forced marriages).

When talking about the impact of CARSV on male victims (slides 11-12), the trainer may want to refer back to some of the slides in Module 2 (Understanding Sexual Violence). In addition to the physical, psychological and socio-economic consequences faced by victims regardless of gender, specific impacts for males may include: chronic back and rectum pain as a result of anal rape; malnutrition when victims avoid eating to minimise further rectal damage or pain; confusion about their sexual identity, especially where a man was penetrated; and challenge to their masculinity for those who, because of the sexual violence, cannot do physical work and fulfil their (socially-assigned) traditional roles as providers and protectors for women and children. The trainer should ask participants if they are familiar with physiological responses and, as the case may be, how they reacted to evidence of reflexive erections and ejaculations by male victims (similar to physiological responses displayed by women who may lubricate when they are being raped). Male victims are unlikely to be aware that these reactions are involuntary and perfectly normal and this may contribute to additional feelings of guilt and confusion about their sexual identity. Participants will need to provide particular reassurance to the victim in that respect and be able to explain the normality of this type of reaction to their family, community and service providers.

The trainer should also stress that the stigmatisation of the victim by his community is likely to be experienced by his family as well, and that victim-centred responses should aim to work not only with male victims, but also with their partners, families and communities. Finding appropriate referral avenues for male victims is often challenging and where advisable victims should be encouraged to join or establish self-help associations to get support from peers and break their isolation. Those willing to document and address male-directed sexual violence should be ready to face not only practical obstacles (e.g. lack of medical facilities equipped to cater for male specific injuries, services providers supporting homophobic views that male victims are gay) but also resistance from individual or community levels up to the institutional levels.

Slides 14-15 deal with legal obstacles to accessing justice for male survivors. The trainer should research in advance of the training the applicable legal framework in the countries relevant to the participants’ work and establish, for example: (i) whether domestic definitions of rape or other forms of sexual violence are gender neutral and recognise men and boys as potential victims (and/or women as potential perpetrators), and (ii) whether homosexual activity is criminalised regardless of whether the conduct was consensual or not (meaning that men who report sexual abuse may themselves be prosecuted) and the consequences of a guilty verdict (e.g. fine, imprisonment, death penalty). In countries where definitions of rape or other forms of sexual violence recognise males as potential victims, the trainer should encourage participants to document acts falling within these categories as rape or other sexual offences (potentially in additional to other relevant offences) in order to reflect the sexual nature of the violence. When this is not the case, participants may still document relevant acts as torture or other serious offences of a non-sexual nature.

The last section of the session (slides 16-22) discusses the impact that these issues are likely to have throughout the documentation process. The trainer should reiterate that the lack of reference to sexual violence against male victims in reports, discussions or other information gathered during the *preliminary research and analysis phase* of investigation planning does not mean that such type of violence did not happen. Evidence of the existence, nature and scale of such type of violence is unlikely to emerge unless trained professionals actively look for it and integrate it in all aspects and stages of the documentation process. This will imply in particular to: look for specific indicators (e.g. detention or other situations of particular vulnerability, clinic records showing spikes in men complaining from sexual dysfunction or chronic back pain); research community attitudes towards male victims and applicable domestic laws; and map and vet formal and informal support services to refer male survivors. Practitioners may have to refrain from or postpone approaching male victims until suitable referral avenues are in place.

In terms of *planning*, integrating male-directed sexual violence in a documentation process will require documenters to consider the following: (i) possible extra time spent in the field as it may take longer to properly identify and document, and as multiple interviews may be required to establish the necessary trust of male victims so that they would disclose such type of violence, (ii) careful selection of members of the documentation team to ensure they have the necessary skills and attitudes, and endeavour to have a sufficiently diverse team to accommodate victims’ preference in terms of investigators’ and interpreters’ gender, age, ethnic background or other relevant factor, and (iii) whether different or additional resources may be required and their associated cost. While the inclusion of CARSV against men and boys may sometimes result in longer, more challenging and expensive documentation processes requiring extra caution in terms of privacy and confidentiality issues, this is not always the case. Practice also shows that well-trained and sensitive investigators who are not perceived as judgemental by victims do not find more difficult to elicit evidence of sexual violence from male victims, compared to female victims, once rapport and trust have been established.

The trainer should ask participants to share any experience they may have *interviewing* male victims of sexual violence, including specific challenges they may have faced and useful approaches used. As previously mentioned, general guidance presented in Module 11 (Interviewing) remains applicable regardless of the gender and age of the victim, and specific guidance mentioned in Module 16 (Sexual Violence against Children) should be applied as appropriate when interviewing boy victims of CARSV.

The trainer should encourage participants to think about and recognise verbal and non-verbal signs and clues that an interviewee may have been a victim of sexual violence (slides 21-22), such as taking frequent toilet breaks, making statements emphasising the gender of perpetrators (e.g. saying “*I was tortured by men*” rather than identifying them as “soldiers”), expressing a strong preference for the gender of the interviewer/interpreter, or complaining of back pain, while making sure that they recognise that they may also deal with a male victim even if he does not exhibit any of these signs. The main message to convey is that interviewing male victims is not fundamentally different from interviewing female victims. As with any other victim, building rapport and trust will be key and interviewers should be ready to spend as much time as necessary to ensure victims feel comfortable enough to open up. They should provide plenty of reassurances that the victim is not to blame, especially if the victim was forced into sexual acts with others (e.g. father forced to rape his daughter, or detainee forced to sexually abuse another detainee) and fears to be perceived by third parties or the law as a perpetrator. When dealing with men and boys having spent time in detention or other vulnerable settings, interviewers should let the victim know that it is safe to talk with the interviewer and may specifically ask them at a later stage of the interview if they have experienced or witnessed sexual violence if this topic has not yet come up.

**Wrap-up and conclusion session**

As this is the last of the modules, the trainer should schedule a final session to go back over what the participants have learned and discussed during the training. If the participants have any remaining questions about any of the modules or exercises, they can have them answered during this session. The trainer should ask the participants whether they feel they have a better understanding of how to investigate or document conflict and atrocity-related sexual violence than they did at the beginning of the training, and whether they will be able to use the International Protocol and the training materials as a guide in their work in future. If the trainer is going to conduct more trainings with these materials, they should also ask the participants for feedback about which modules or exercises were most useful to them and whether they would have liked more or less time for the training or for specific sessions. That will help the trainer to adjust their approach and timings for future trainings.

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1. The Training Materials may be linked from this FCO page: <https://www.gov.uk/government/publications/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict>. [↑](#footnote-ref-1)
2. At the time of writing, the Protocol had been translated into Albanian, Arabic, Bosnian/Croatian/Serbian, Burmese, French, Kurdish, Lingala, Serbian, Spanish, Swahili and Tamil. The English version can be found at <https://www.gov.uk/government/publications/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict>. Albanian, Arabic, French and Spanish were about to be launched and posted on that website, while the launch of the earlier mentioned language versions is expected to follow by the end of 2018. [↑](#footnote-ref-2)
3. Where PowerPoint facilities are unavailable, the slides can also be printed, if possible, as handout for participants. [↑](#footnote-ref-3)
4. The Protocol Supplements can be found at <https://iici.global/publications/> and at https://redress.org/resources/publications/. [↑](#footnote-ref-4)
5. IICI did not produce the International Protocol and does not necessarily agree with all of the Protocol’s content. [↑](#footnote-ref-5)
6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984. [↑](#footnote-ref-6)
7. Inter-American Convention to Prevent and Punish Torture adopted by the General Assembly of the Organization of American States on 9 December 1985. [↑](#footnote-ref-7)