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# The Mainstreaming of a Survivor-Centred Approach:

An Analysis of Civil Society War Crimes Documentation Guidelines in  
Syria & Ukraine

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“I’m doing this for the criminals, to send a message: whatever you do, someone will be there to record it and tell the world what you’ve done.”

– Mstyslav Chernov (*Ukrainian visual journalist*)

## Abstract

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This thesis explores the incorporation of a “survivor-centred approach” in civil society war crimes documentation practices in Syria and Ukraine. Through a qualitative study based on the analysis of six documentation standardisation initiatives and guidelines, aimed at and created by civil society organisations (CSOs), this research has prompted a reckoning of what it truly means to be survivor-centred. The thesis is divided into three main analysis chapters, addressing sub-questions related to the standardisation of war crimes documentation practices, the motivations for including a survivor-centred approach, and the practical implementation of such an approach in Syria and Ukraine. The decolonial lens adopted throughout this research has made it clear that a continued openness to local, traditional or “alternative” approaches to documentation and justice is key to limiting the risk of harm during documentation. Ultimately, the research contributes to the literature on transitional justice mechanisms and processes, emphasising the potential of survivor-centred approaches led by grassroots organisations to positively shape future civil society documentation efforts.

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**Keywords:** survivor-centred, accountability, war crimes, truth-telling, transitional justice, civil society, Syria, Ukraine

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## List of Acronyms

CCL	Center for Civil Liberties
CJA	Center for Justice and Accountability
CRSV	Conflict-related Sexual Violence
CSO	Civil Society Organisation
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice
IHL	International Humanitarian Law
ICI	Institute for International Criminal Investigations
IIM	International, Impartial and Independent Mechanism
IO	International Organisation
PILPG	Public International Law & Policy Group
SJAC	Syria Justice and Accountability Center
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
VDC	Violations Documentation Center

# 1. Introduction

Since the February 2022 full-scale invasion of Ukraine, Russian authorities and armed forces have allegedly committed over 80,000<sup>1</sup> war crimes in the form of deliberate acts against civilian targets, massacres, torture and conflict-related sexual violence (CRSV).<sup>2</sup> In response, global dialogues about international criminal justice and accountability have been reignited, an unprecedented joint effort of evidence collection is underway, and trials addressing war crimes have commenced in Ukrainian courts.<sup>3</sup> ICC investigators, Ukrainian authorities, journalists and civil society<sup>4</sup> have been urgently documenting these war crimes, for a myriad of reasons.<sup>5</sup> However, this trend is not a new one. Despite the recent media and international attention on documentation efforts in Ukraine, large-scale documentation of war crimes by civilians has been taking place in Syria since 2011, when a full-scale war broke out between President Assad’s regime and anti-government rebel groups.<sup>6</sup>

Despite being one of the greatest humanitarian disasters of the twenty-first century, the protracted conflict in Syria is receiving less funding and attention as time goes on and has become a tragic stalemate with no sign of a dramatic shift in the political or military balance.<sup>7</sup> Amidst the rising number of casualties and lack of a robust international response that could

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<sup>1</sup> This is the latest reported figure as of July 2023. See: Doug Cunningham, “Ukraine Official Tells U.S. Congress of 80,000 War Crimes Cases against Russia,” UPI, April 19, 2023, [https://www.upi.com/Top\\_News/US/2023/04/19/Congress-hears-Russian-war-crimes-testimony/5971681929699/](https://www.upi.com/Top_News/US/2023/04/19/Congress-hears-Russian-war-crimes-testimony/5971681929699/).

<sup>2</sup> Although not all civilian casualties can be attributed to war crimes, there is a wealth of credible evidence documenting instances where they have been deliberately targeted by Russian forces on the streets, such as the tragic events in Bucha. See: “How Russian Soldiers Ran a ‘cleansing’ Operation in Bucha,” AP NEWS, November 3, 2022, <https://apnews.com/article/bucha-ukraine-war-cleansing-investigation-43e5a9538e9ba68a035756b05028b8b4>.

<sup>3</sup> Julia Geneuss and Florian Jeßberger, “Russian Aggression and the War in Ukraine: An Introduction,” *Journal of International Criminal Justice* 20, no. 4 (September 1, 2022): 783–86, <https://doi.org/10.1093/jicj/mqac055>.

<sup>4</sup> There are numerous understandings and definitions of what civil society is. However, for the purpose of this thesis, a civil society organisation (CSO) is defined as any non-profit, voluntary citizens’ group which is organised on a local, national or international level that engage in forms of public participation and action around shared interests, purposes or values. See: “The UN and Civil Society,” United Nations, accessed July 3, 2023, <https://www.un.org/en/get-involved/un-and-civil-society>

<sup>5</sup> The terms ‘fact-finding’, ‘investigating’, and ‘information-gathering’ are also used to describe these documentation efforts.

<sup>6</sup> Although there are numerous cases throughout history illustrating prior attempts at civil society documentation—ranging from Vietnam to Rwanda and Bosnia—it is important to note that none of these instances compare to the sheer magnitude of the efforts unfolding in Syria and now Ukraine.

<sup>7</sup> United Nations, “Following 12 Years Filled with War, Sanctions, Syria Faces Worsening Humanitarian, Economic Crisis of ‘Epic Proportions’, Special Envoy Tells Security Council,” January 25, 2023, <https://press.un.org/en/2023/sc15182.doc.htm>.

successfully hold perpetrators accountable, Syria has fallen out of the global spotlight leaving the situation “on the verge of becoming yet another forgotten crisis.”<sup>8</sup>

Despite this diminishing attention over the past few years, the growing availability and access to mobile phones equipped with high-resolution cameras has contributed to a surge in citizen journalism and has increased the number of individuals involved in documenting and investigating serious human rights violations in Syria.<sup>9</sup> As a result, civil society actors seeking to engage with accountability mechanisms are no longer limited to human rights groups with specific training and preparation.<sup>10</sup> The work of civil society organisations (CSOs) significantly transformed how war crimes were documented in Syria—transforming the conflict into, what is arguably, the most extensively documented war in history.<sup>11</sup> More recently, however, these trends have been replicated in Ukraine—resulting in speculation that the conflict is setting a new benchmark for large-scale CSO documentation.<sup>12</sup>

### *Drivers of Documentation*

Documentation is dangerous and gruelling work, which then begs the question: why do so many people feel compelled to take part? Individuals and groups are motivated to document human rights violations in conflict zones for a number of reasons including, but not limited to: collecting evidence of human rights violations for truth-telling purposes; contributing to archives that help war-affected communities know more about what happened to—and in—their country; advocating for policy changes related to human rights standards; establishing a collective memory that fosters community building and prevents denial; facilitating justice and

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<sup>8</sup> As warned by Assistant U.N. Secretary-General for Humanitarian Affairs Joyce Msuya in April 2022. See: United Nations, “Warning ‘Future Looks Bleak’ for Syrians Living through Twelfth Year of Crisis, Top United Nations Officials Urge More Resources, Focus on Conflict,” April 26, 2022, <https://press.un.org/en/2022/sc14870.doc.htm>.

<sup>9</sup> Brianne McGonigle Leyh, “Changing Landscapes in Documentation Efforts: Civil Society Documentation of Serious Human Rights Violations,” *Utrecht Journal of International and European Law* 33, no. 84 (2017): 44–58.

<sup>10</sup> Federica D’Alessandra et al., “Handbook on Civil Society Documentation of Serious Human Rights Violations: Principles and Best Practices” (Public International Law & Policy Group (PILPG), 2016).

<sup>11</sup> Cristina Roca, “Long Read: How the Syrian War Changed How War Crimes Are Documented,” *The New Humanitarian*, June 1, 2017, <https://deeply.thenewhumanitarian.org/syria/articles/2017/06/01/long-read-how-the-syrian-war-changed-how-war-crimes-are-documented>.

<sup>12</sup> Lauren Baillie, “How to Achieve Accountability for Atrocities in Ukraine,” United States Institute of Peace, April 21, 2022, <https://www.usip.org/publications/2022/04/how-achieve-accountability-atrocities-ukraine>; Kelli Muddell and Anna Myriam Roccatello, “Reflections on Victim-Centered Accountability in Ukraine” (International Center for Transitional Justice, February 2023), <https://www.ictj.org/resource-library/reflections-victim-centered-accountability-ukraine>.



accountability processes; and with the hope of receiving reparations.<sup>13</sup> Moreover, it is important to note that motivations not only differ between individuals in the same conflict but also across different conflicts. Syrian CSOs, for instance, may be motivated to create a record of those who are missing and/or disappeared and be part of an effort to drive for an international mechanism for enforced disappearances.<sup>14</sup> In Ukraine, certain CSOs assert their determination to document evidence for a potential special tribunal to prosecute the crime of aggression—a “leadership crime” from which all the crimes, casualties and harms of war flow—among other potential war crimes, crimes against humanity, and genocide.<sup>15</sup> Understanding these variations in motivations is essential in developing transitional justice (TJ) processes and approaches that address the diverse needs and desires of those impacted by the conflict.

Given that documentation cannot wait until after a conflict is over—as information may be lost, damaged or destroyed—there are a significant number of untrained and unofficial investigators currently documenting human rights abuses unfolding in Syria and Ukraine.<sup>16</sup> While civil society actors regularly make tangible contributions to TJ and accountability processes, their involvement and practices can be problematic, as both the quality of the information and the way in which it was collected may be questionable.<sup>17</sup> Consequently, there is a growing need to examine the potential harm that can be inflicted upon victims and survivors taking part in accountability, truth-seeking and TJ processes.<sup>18</sup>

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<sup>13</sup> Maaïke Matelski, Rachel Dijkstra, and Brianne McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar: The Potential for Accountability and Truth-Telling,” *Journal of Human Rights Practice* 14, no. 3 (November 1, 2022): 794–818, <https://doi.org/10.1093/jhuman/huac031>; James Meernik et al., “The Impact of Human Rights Organizations on Naming and Shaming Campaigns,” *Journal of Conflict Resolution* 56, no. 2 (April 1, 2012): 233–56, <https://doi.org/10.1177/0022002711431417>; Iva Vukušić, “Archives of Mass Violence: Understanding and Using ICTY Trial Records,” *Comparative Southeast European Studies* 70, no. 4 (December 1, 2022): 585–607, <https://doi.org/10.1515/soeu-2021-0050>.

<sup>14</sup> The United Nations has recently established the Independent Institution on Missing Persons in Syria to uncover the fate of thousands of people who remain missing in Syria. See: “General Assembly Adopts Resolution Establishing Independent Institution on Missing Persons in Syria, as Speakers Debate Text’s Merit,” United Nations, June 29, 2023, <https://press.un.org/en/2023/ga12514.doc.htm>.

<sup>15</sup> Jennifer Trahan, “Why a ‘Hybrid’ Ukrainian Tribunal on the Crime of Aggression Is Not the Answer,” *Just Security*, February 6, 2023, <https://www.justsecurity.org/85019/why-hybrid-ukrainian-tribunal-on-crime-of-aggression-is-not-the-answer/>; Center for Civil Liberties “About,” accessed May 24, 2023, <https://ccl.org.ua/en/>. Given the limited jurisdiction of the ICC and other states there is an intensive debate about the establishment of a special tribunal for the crime of aggression. See: Geneuss and Jeßberger, “Russian Aggression and the War in Ukraine.”

<sup>16</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>17</sup> Olympia Bekou, “Doing Justice for the Liberian Victims of Mass Atrocity: NGOs in Aid of Universal Jurisdiction,” *Journal of International Criminal Justice* 13 (June 9, 2015), <https://doi.org/10.1093/jicj/mqv006>; Matelski, Dijkstra, and McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar”; McGonigle Leyh, “Changing Landscapes in Documentation Efforts”.

<sup>18</sup> It is important to note that re-traumatisation throughout the truth-telling process is not guaranteed for all survivors, as the effects can differ greatly from individual to individual. *Echoes of Testimony* provides a

## 1.1 Research Question, Academic & Societal Relevance

Scholars, pundits, and policymakers have acknowledged a growing need for guidelines and practical assistance dedicated to recognising, collecting, managing, storing and utilising information related to serious human rights violations.<sup>19</sup> This changing landscape has led to an increase in local, regional, and international documentation standardisation initiatives aimed at guiding CSOs to minimise the risks associated with the documentation of war crimes. This trend of civil society documentation has also sparked a new dialogue about the role of victims and survivors in TJ and questions about their motivations to take part in accountability, truth-seeking, and justice processes. Moreover, an increasing number of TJ processes and guidelines claim to be “victim/survivor-centred”—an approach which was initially primarily directed towards survivors of CRSV but has now expanded to encompass survivors of other international crimes. The increasing adoption of this approach reflects a growing recognition of the importance of centring the experiences and needs of victims and survivors in TJ.

Amidst these developments, the question remains: why exactly is a survivor-centred approach being incorporated into war crimes documentation initiatives, and what does a survivor-centric approach look like in practice? Within the field of TJ, only a handful of scholars have explicitly explored the concept of a victim/survivor-centred approach, and thus there is a lack of material on the concrete implementation of such approaches.<sup>20</sup> In line with this perspective, Robins contends that there remains a “dearth of praxis” that interrogates how a victim-centred approach in TJ is driven by grassroots organisations.<sup>21</sup> Furthermore, despite an increasing volume of literature on the subject of decolonising peacebuilding, development, and

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powerful insight into the individual experiences of witnesses at the ICTY. See: Kimi King et al., “Echoes of Testimonies: A Pilot Study into the Long-Term Impact of Bearing Witness before the ICTY” (University of North Texas (UNT) Victims and Witnesses Section (VWS) at the International Criminal Tribunal for the former Yugoslavia (ICTY), October 2016), [https://www.icty.org/x/file/About/Registry/Witnesses/Echoes-Full-Report\\_EN.pdf](https://www.icty.org/x/file/About/Registry/Witnesses/Echoes-Full-Report_EN.pdf).

<sup>19</sup> Eurojust and Office of the Prosecutor at the International Criminal Court (ICC), “Eurojust and ICC Prosecutor Launch Practical Guidelines for Documenting and Preserving Information on International Crimes,” September 21, 2022, <https://www.eurojust.europa.eu/news/eurojust-and-icc-prosecutor-launch-practical-guidelines-documenting-and-preserving-information>; Federica D’Alessandra et al., “Handbook on Civil Society Documentation”; McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>20</sup> Janine Natalya Clark, “Beyond a ‘Survivor-Centred Approach’ to Conflict-Related Sexual Violence?” *International Affairs* 97, no. 4 (July 1, 2021): 1067, <https://doi.org/10.1093/ia/iab055>.

<sup>21</sup> Simon Robins, “Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal,” *International Journal of Transitional Justice* 5, no. 1 (March 1, 2011): 76, <https://doi.org/10.1093/ijtj/ijq027>.

international relations, there is still a notable gap in the scholarship that provides a decolonial critique of TJ mechanisms and processes.<sup>22</sup>

This thesis aims to fill this gap and contribute to the aforementioned scholarship, by answering the following research question:

*Why and how is a “survivor-centred approach” incorporated into civil society war crimes documentation practices in Syria and Ukraine?*

To answer this question, this thesis will be divided up into three chapters dedicated to analysis—following this introduction and a chapter on theory and concepts—with each addressing a specific sub-question which will contribute to answering and understanding the main research question. The sub-questions are as follows:

1. *Why and how are CSOs attempting to standardise civil society war crimes documentation practices?*
2. *Why is a “survivor-centred approach” included in civil society war crimes documentation practices?*
3. *How is a “survivor-centred approach” included in civil society war crimes documentation practices in Syria and Ukraine?*

Through a comparative research methodology, I seek to explore how a survivor-centred approach is included in different war crimes documentation guidelines and standardisation efforts both *aimed at* and *created by* Syrian and Ukrainian CSOs.

Understanding both why and how a survivor-centred approach is incorporated in civil society war crimes documentation initiatives holds not only academic significance—where it addresses the current gap in the literature on the implementation of such an approach—but is also of great societal relevance. Understanding the motivations and methods used by international organisations (IOs) and CSOs in their engagement with victims and survivors is paramount to advancing the field’s knowledge of accountability mechanisms in the pursuit of justice, while simultaneously increasing the understanding of how to best limit the harm that can be inflicted

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<sup>22</sup> See: Meera Sabaratnam, "IR in Dialogue ... but Can We Change the Subjects? A Typology of Decolonising Strategies for the Study of World Politics," *Millennium - Journal of International Studies* 39, no. 3 (2011): 781–803; Linda Tuhiwai Smith, *Decolonizing Methodologies Research and Indigenous Peoples*, 2nd ed. (London: Zed Books, 2012).

upon victims and survivors during the documentation process. By providing a decolonial critique of current approaches, this research cautions against the hierarchy of knowledge production in documentation standardisation initiatives. It also contributes to the literature that explores how a survivor-centred approach that is rooted in local knowledge and led by grassroots organisations has the potential to positively shape future CSO documentation efforts.<sup>23</sup>

## 1.2 Research Approach, Methodology & Terminology

In this section, I outline my methodological framework used to analyse the six documents that are at the core of this research.

This thesis is based on a combination of epistemological and methodological approaches that aim to increase understanding of the experiences and needs of survivors during TJ processes. By doing so, I aim to generate knowledge that can have a positive influence on survivors' experiences and reduce the risks associated with documentation. TJ is often criticised for being a global discourse which is far removed from the experiences of conflict survivors.<sup>24</sup> Furthermore, research on and implementation of TJ initiatives and mechanisms is often conducted by individuals who do not live in or come from post-conflict areas.<sup>25</sup> With this in mind, I approach the TJ and war crimes documentation discourse through a decolonial lens. Following the work of feminist epistemologists and decolonial scholars throughout this research has allowed me to centre historically marginalised voices and challenge colonial practices of normative knowledge production.<sup>26</sup>

My intersectional, decolonial approach largely motivates both my research topic and qualitative methodological framework. The methods I use to gain an empirical understanding of the world in this thesis—the close reading and analysis of documents related to war crimes documentation by CSOs in both Syria and Ukraine—reflect my interpretivist approach. My ontological and epistemological position provides the basis for my methodological strategy.

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<sup>23</sup> See: Clark, "Beyond a 'Survivor-Centred Approach' to Conflict-Related Sexual Violence?"; Robins, "Towards Victim-Centred Transitional Justice."; <sup>23</sup> Dustin Sharp, "Transitional Justice and 'Local' Justice," in *Transitional Justice: Theories, Mechanisms & Debates* (London: Routledge, 2021), 168–85.

<sup>24</sup> Rosemary Nagy, "Transitional Justice as Global Project: Critical Reflections," *Third World Quarterly* 29, no. 2 (2008): 275–89. <https://www.jstor.org/stable/20455040>.

<sup>25</sup> Briony Jones, "Stories of 'Success': Narrative, Expertise, and Claims to Knowledge," *Canadian Journal of Law and Society / La Revue Canadienne Droit et Société* 30, no. 2 (August 2015): 293–308, <https://doi.org/10.1017/cls.2015.13>.

<sup>26</sup> Mary Hawkesworth, *The Handbook of Feminist Research* (Los Angeles: SAGE Publications, 2012); Gayle Letherby, *Feminist Research in Theory and Practice* (Buckingham: Open University Press, 2003).

Epistemologically, this thesis aims to increase understanding of the topic of victim and survivor rights, the potential harm that can be done during CSO war crimes documentation and look at approaches that could limit this harm.

Ontologically, my standpoint is that knowledge cannot be objectively determined; rather, I adhere to the notion that it is socially constructed and heavily influenced by the meaning people attach to things—as a way of making sense of their lives and experiences.<sup>27</sup> Throughout this research, I strive to ensure the experiences of victims and survivors are at the centre of my study. In doing so I aim to demonstrate that the personal is political and that individual experiences are crucial in recognising and challenging structures of oppression.<sup>28</sup> More specifically, by focusing on a survivor-centred approach, I aim to explore one, of many, potential strategies that advocate for limiting the potential harm that can be done to victims and survivors.

### *Victim/Survivor Terminology*

*“It’s not just about remembering the victims. We must remember the survivors.”<sup>29</sup>*

The terms “victims” and “survivors” are both used in TJ literature; however, they can have vastly different meanings in different settings and languages. While the International Criminal Court’s (ICC) Rome Statute defines victims as “those who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court”, including war crimes, crimes against humanity, aggression, and genocide,<sup>30</sup> some scholars and activists argue that societies have imbedded the term with moral notions of innocence and lack of agency.<sup>31</sup> In contrast, the term survivor/s is considered most empowering in feminist literature on the topic.<sup>32</sup> Therefore,

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<sup>27</sup> Jennifer Mason, *Qualitative Researching*, Third (London: SAGE Publications Ltd, 2018), 8.

<sup>28</sup> Liz Stanley and Sue Wise, *Breaking Out Again: Feminist Ontology and Epistemology*, 2nd ed. (London: Routledge, 1993).

<sup>29</sup> Munira Subašić, “Collective Memory: How to Remember the Missing and the Dead” (Srebrenica Collective Memory Conference, Srebrenica, Bosnia and Herzegovina, July 10, 2023).

<sup>30</sup> UN General Assembly, “Rome Statute of the International Criminal Court (Last Amended 2010)” (1998), <https://www.refworld.org/docid/3ae6b3a84.html>.

<sup>31</sup> Luke Moffett, “Victims, Victimology & Transitional Justice,” in *Transitional Justice: Theories, Mechanisms & Debates* (London: Routledge, 2021), 30–53.

<sup>32</sup> Kaitlin M. Boyle and Kimberly B. Rogers, “Beyond the Rape ‘Victim’–‘Survivor’ Binary: How Race, Gender, and Identity Processes Interact to Shape Distress,” *Sociological Forum* 35, no. 2 (2020): 323–45, <https://doi.org/10.1111/socf.12584>; Jennifer L. Dunn, “‘Victims’ and ‘Survivors’: Emerging Vocabularies of Motive for ‘Battered Women Who Stay’,” *Sociological Inquiry* 75, no. 1 (2005): 1–30, <https://doi.org/10.1111/j.1475-682X.2005.00110.x>; Liz Kelly, Sheila Burton, and Linda Regan, “Beyond Victim or Survivor: Sexual Violence, Identity and Feminist Theory and Practice,” in *Sexualizing the Social: Power and the Organization of Sexuality*, ed. Lisa Adkins and Vicki Merchant, Explorations in Sociology. (London: Palgrave Macmillan UK, 1996), 77–101, [https://doi.org/10.1007/978-1-349-24549-9\\_5](https://doi.org/10.1007/978-1-349-24549-9_5).

to reflect my intersectional feminist approach, throughout this thesis I predominantly use the term survivor/s—referring to individuals of all ages, genders, and identities—reserving the term victim/s to refer to individuals or groups who have not survived the violence.<sup>33</sup> However, it is worth noting that within the existing literature on this topic, the terms victim/s and survivor/s are often used interchangeably. Therefore, to maintain clarity and respect for the choices of various scholars and CSOs, I will adopt their preferred terminology when discussing their contributions.

### *Defining a Victim/Survivor-Centred Approach*

The United Nations High Commissioner for Refugees (UNHCR) defines a victim-centred approach as “a way of engaging with victims that prioritise listening, avoids re-traumatisation, and systematically focuses on their safety, rights, well-being, expressed needs and choices.”<sup>34</sup> In a panel discussing the creation of the Murad Code<sup>35</sup>—an initiative launched by the U.K. Foreign and Commonwealth Office, Nadia’s Initiative and Institute for International Criminal Investigations in June 2020—the speakers highlight the importance of asking the survivors what they want or need; respecting survivors’ identity and control over their personal information; countering assumptions about survivors; ensuring flexibility in teams and methods to meet survivors needs; and allowing for the process to be driven by survivors.<sup>36</sup> Put simply, as defined by Robins, a victim/survivor-centred approach responds to the explicit needs of victims, as defined by victims themselves.<sup>37</sup> Grounding documentation efforts in a survivor-centred approach, that is designed and led by survivors, is considered a crucial step towards ensuring an end to harmful documentation practices that undermine wider efforts to support survivors and secure justice.

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<sup>33</sup> Although I have chosen to predominantly use the terms ‘survivor’ and ‘survivor-centred approach’ throughout this thesis, I acknowledge the importance of protecting the privacy, rights and dignity of victims who have not survived and their role in driving accountability and memorialisation efforts in the aftermath of mass atrocities.

<sup>34</sup> United Nations High Commissioner for Refugees, “A Victim-Centred Approach,” UNHCR, 2022, <https://www.unhcr.org/victim-care.html>.

<sup>35</sup> The Murad Code is named after Yazidi human rights activist and 2018 joint Nobel Peace Prize laureate, Nadia Murad.

<sup>36</sup> UN Web TV. “Survivor-Centred Documentation of Conflict-Related Sexual Violence: The Murad Code Project,” April 14, 2022, <https://media.un.org/en/asset/k1m/k1mvxcabbs>, 00:21:40.

<sup>37</sup> Robins, “Towards Victim-Centred Transitional Justice,” 77.

### 1.3 Data Collection, Analysis & Sources

The interpretivist approach outlined in my methodology will be reflected in the empirical study of this research and also informs my motivation to choose particular methods. In contrast to positivist objectives, which aim to *explain* the causes and effects, I aim to increase *understanding* of the topic. Ontologically, I hold the view that knowledge is both relative and subjective, requiring me, as the researcher, to “seek out and interpret people’s meanings and interpretations,” rather than to try and explain behaviours.<sup>38</sup>

The research question will be answered through the analysis of six documents both *created by* and *aimed at* CSOs involved in war crimes documentation efforts. I have carefully selected the *Documentation Training Guide* by the Syria Justice and Accountability Centre (SJAC)<sup>39</sup> and the training guidelines and methodology outlined on the website of the Violations Documentation Center in Syria (VDC),<sup>40</sup> both created by Syrian-led organisations. Similarly, I will provide an analysis of *War Crimes: an Investigative Methodology for NGOs* and the *Code of Conduct* created by Truth Hounds<sup>41</sup> and the practices outlined on the website of the Center for Civil Liberties (CCL),<sup>42</sup> both created by Ukrainian-led organisations. Finally, I have selected two IOs whose initiatives focus explicitly on supporting CSOs, including the International, Impartial and Independent Mechanism (IIIM) in Syria and Eurojust and the ICC Office of the Prosecutor’s *Documenting International Crimes and Human Rights Violations*

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<sup>38</sup> Laurel A. Hudson and Julie L. Ozanne, “Alternative Ways of Seeking Knowledge in Consumer Research,” *Journal of Consumer Research* 14 (1988): 508–21, <https://doi.org/10.1086/209132>; Mason, *Qualitative Researching*, 8.

<sup>39</sup> SJAC is a human rights organisation, founded in 2012, that collects documentation of violations, stores it in a secure database, catalogues it according to human rights standards and analyses it using legal expertise and big data methodologies. Although SJAC is a Syrian-led organisation, they are largely funded by the United States and based in Washington D.C. See: Syria Justice & Accountability Centre “About,” 2023, <https://syriaaccountability.org/about/>.

<sup>40</sup> The VDC, established in 2011 and now one of the largest human rights organisations with staff inside Syria, conducts documentation of human rights violations in Syria and acts as a reference for not only the media, but also for all future accountability and justice-related procedures for Syria. See: Violations Documentation Center in Syria, “About VDC,” accessed June 25, 2023, <https://www.vdc-sy.info/index.php/en/about>.

<sup>41</sup> Truth Hounds was founded in 2014 by Ukrainian human rights defenders willing to document war crimes when hostilities started with Russian Forces invading the Crimean Peninsula of Ukraine. See: Truth Hounds “About Us” accessed June 25, 2023, <https://truth-hounds.org/en/about/>.

<sup>42</sup> The CCL, a 2022 Nobel Peace Prize laureate, was established in 2007 in Kyiv, Ukraine. Initially, it advocated for Ukraine’s democratic development and the rule of law. In 2014, following Russia’s annexation of Crimea and support for breakaway regions, the centre began documenting unlawful imprisonment and abuses against civilians. After Russia’s attack on Ukraine in February 2022, the CCL focused on documenting war crimes committed by Russian soldiers in occupied areas. It is important to note that, unlike the five other organisations, the CCL doesn’t have specific civil society war crimes documentation guidelines, however, they do have a wealth of training initiatives and interviews on their website which will be used for this analysis.

See: Center for Civil Liberties “About the CCL,” accessed June 25, 2023, <https://ccl.org.ua/en/about-the-ccl/>.

*for Criminal Accountability Purposes: Guidelines for Civil Society Organisations*, aimed at Ukraine.<sup>43</sup>

### *Defining the Scope: CSOs and Standardisation Initiatives*

By including international, Syrian, and Ukrainian initiatives in my analysis, I aim to provide a broader understanding of how a survivor-centred approach is included in documentation guidelines in these conflicts, while simultaneously providing the grounds for a comparative study of approaches, strategies and outcomes. The international initiatives can provide insight into global standards, while the “local” initiatives offer insights into the practical implementation and provide contextual nuances at the Syrian and Ukrainian levels.<sup>44</sup>

I have deliberately selected these Syrian and Ukrainian CSOs as they are considered to be at the forefront of war crimes documentation in their respective regions and thus are able to speak to the tone of current documentation practices. By focusing on Syrian and Ukrainian-led organisations I aim to centre “local” voices and initiatives and add to the field of TJ literature—which up until this point has largely focused on standardisation initiatives created at the international level.<sup>45</sup> I have carefully selected two international initiatives, the IIIM in Syria and the Eurojust and ICC guidelines, created in response to the conflict in Ukraine—as they are two of the most prominent initiatives aimed at Syria and Ukraine. While only looking at six documentation initiatives does not guarantee representativeness,<sup>46</sup> this sampling of standardisation efforts offers valuable insights into the prevailing trend of organisations as they embrace a survivor-centred approach in their practices.<sup>47</sup>

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<sup>43</sup> From here onwards this initiative will be referred to as the Eurojust and ICC Guidelines.

<sup>44</sup> It is important to note that local initiatives are often funded by international donors, which influences the work that is being done.

<sup>45</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>46</sup> Gaganpreet Sharma, “Pros and Cons of Different Sampling Techniques,” *International Journal of Applied Research* 3, no. 7 (2017): 749–52.

<sup>47</sup> It is important to note that the documents and initiatives I explore in this thesis are of varying lengths, ranging from one webpage to 62 pages. This indicates a difference in comprehensiveness from going into great depth to provide a broad overview. I have taken the implications of this—such as differences in the depth of information provided and the possibility of content being omitted in shorter documents—into consideration during the analysis.



### *Defining the Scope: Time Period and Country Selection*

I have selected the time period from 2011 to the present day in Syria, and from 2014 to the present day in Ukraine, to allow for a comparative analysis of survivor-centred approaches to war crimes documentation in both conflicts. These case selections are, as Lund aptly describes, “an edited chunk of empirical reality where certain features are marked out, emphasised, and privileged, while others recede into the background.”<sup>48</sup> This time frame allows for an in-depth examination of the inclusion of survivor-centred approaches in documenting and prosecuting war crimes, and how lessons learned in Syria have informed the current situation in Ukraine.

My research focuses on Syria since 2011, when much of Syria became a no-go area for foreign correspondents, leading to a prominent rise of citizen journalism and unofficial investigation by CSOs.<sup>49</sup> The situation in Syria is also recognised as the first conflict in which technology has played a significant role in civil society documentation efforts and in enabling civilians to document the conflict and capture potential evidence that could be used in accountability efforts down the line.<sup>50</sup> Similarly, technology and social media have played a huge role in the documentation of human rights abuses in Ukraine.<sup>51</sup> For example, Mnemonic, an NGO focused on archiving, investigating, and memorialising digital information documenting human rights and international crimes, has harnessed the proliferation of user-generated content from Telegram, YouTube, Twitter and Facebook posts.<sup>52</sup> This digital data contributes to their *Ukrainian Archive* which now consists of more than three million records<sup>53</sup> of potential human rights violations and alleged war crimes since the Russian full-scale invasion of Ukraine.<sup>54</sup> Documenters in both Syria and Ukraine are harnessing social media and technology to create a record of these international crimes, providing a fascinating comparative study.

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<sup>48</sup> Christian Lund, “Of What Is This a Case?: Analytical Movements in Qualitative Social Science Research,” *Human Organization* 73, no. 3 (2014): 224.

<sup>49</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>50</sup> McGonigle Leyh; Katie Rucke, “Protecting Human Rights Activists? There’s An App For That (Video),” *MintPress News*, March 13, 2014, <https://www.mintpressnews.com/protecting-human-rights-activists-theres-an-app-for-that/186429/>.

<sup>51</sup> Joanna York, “‘Accountability and Justice’: Gathering Digital Evidence of War Crimes in Ukraine,” *France 24*, February 28, 2023, <https://www.france24.com/en/europe/20230228-accountability-and-justice-gathering-digital-evidence-of-war-crimes-in-ukraine>.

<sup>52</sup> York.

<sup>53</sup> As of February 2023.

<sup>54</sup> Mnemonic also preserves digital information from Syria, Yemen and Sudan. See: Mnemonic “Home,” accessed June 19, 2023, <https://mnemonic.org/>; York, “‘Accountability and Justice.’”

## *Document Analysis*

Document analysis requires that data be examined and interpreted to elicit meaning, gain understanding, and develop empirical knowledge.<sup>55</sup> This analytic procedure entails finding, selecting, making sense of, and synthesising the data contained in these documents.<sup>56</sup> To systematically analyse the documents I coded them using NVivo—a qualitative data analysis software—to uncover both patterns and themes, as well as to organise, analyse, and find insights in the documents that enabled me to answer my research question. The process of analysis relied on a combination of deductive and inductive coding. Initially, the codes were developed by drawing on existing theoretical and empirical literature on victims’ and survivors’ involvement in TJ, accountability, and survivor-centred approaches.<sup>57</sup> However, as the data analysis progressed, new codes emerged.<sup>58</sup> I then used NVivo to trace the number of references to each code in each document, with the goal of understanding the different ways a survivor-centred approach could manifest in standardisation initiatives and documentation practices.<sup>59</sup>

The main purpose of coding the documents through NVivo is to examine how a survivor-centred approach is included—both explicitly and implicitly—in the selected documents. Throughout this thesis, I link the findings to relevant scholarship and join the body of literature that attempts to understand and limit the potential harm done by civil society documentation.

### **1.4 Ethical Considerations & Positionality**

Ethical considerations have played a major role in both the topic of my research and my research design. My interest in the ethics of field research has led me to try and understand the potential harm that can be done when untrained individuals attempt to interview and document the experiences of victims and survivors. As will become evident through the document

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<sup>55</sup> Juliet Corbin and Anselm Strauss, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory, 3rd Ed*, Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory, 3rd Ed (Thousand Oaks, CA, US: Sage Publications, Inc, 2008), <https://doi.org/10.4135/9781452230153>.

<sup>56</sup> Glenn Bowen, “Document Analysis as a Qualitative Research Method,” *Qualitative Research Journal* 9 (August 3, 2009): 27–40, <https://doi.org/10.3316/QRJ0902027>.

<sup>57</sup> E.g., survivor-centred approach, re-traumatisation, over-documentation, re-interviewing, safety of documenter, do no harm, confidentiality, consent, survivors of CRSV

<sup>58</sup> E.g., preparation, planning, training, vulnerable groups, children, male survivors of CRSV

<sup>59</sup> A reference refers to as little as a word such as “re-traumatisation”, for example, to as much as a paragraph outlining one of the concepts above.

analysis in this thesis, the “do no harm” principle is at the centre of all ethical approaches to research and documentation.

The explicitly feminist, intersectional and decolonial nature of my chosen methodology would not be complete without a reflection on my positionality. My research is largely inspired by decolonial and feminist literature and thus I must acknowledge the power relations inherent in research.<sup>60</sup> Feminist scholar Lazar acknowledges, “when (white) scholars from the north (or west) make authoritative claims...there is danger of re-enacting historical imperialism in academic neo-imperialist terms.”<sup>61</sup> As a white, western, female researcher from the Global North, I am aware of how my positionality affects the research that I present here. Therefore, I consistently reflected upon this aspect during the research and writing process and strived to prioritise the perspectives of local actors.

## 1.5 Outline of Thesis

This thesis will proceed as follows. The *theory and concepts* chapter will provide an outline of the theoretical foundations and conceptual definitions that inform the analysis in this thesis, including a review of the literature on decolonial approaches to TJ, accountability, truth-telling, and a survivor-centred approach. Next, the *background and context* chapter provides a brief outline of the conflicts, while also mapping out the emergence of standardisation initiatives. Thereafter, I will present the analysis of the documents to answer the sub-questions surrounding *why* and *how* a survivor-centred approach is included in documentation practices. Finally, the *conclusion* will further reflect on these findings to answer the main research question, outline the limitations of this thesis, and suggest further areas for research.

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<sup>60</sup> Donna Haraway, “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective,” *Feminist Studies* 14, no. 3 (1988): 575–99, <https://doi.org/10.2307/3178066>.

<sup>61</sup> Michelle M. Lazar, “Feminist Critical Discourse Analysis: Articulating a Feminist Discourse Praxis,” *Critical Discourse Studies* 4, no. 2 (August 1, 2007): 155, <https://doi.org/10.1080/17405900701464816>.

## 2. Theory and Concepts: A Review of the Literature

This chapter will provide an overview of the theoretical underpinnings of this research, including defining important conceptual terms. First, I will outline the role of victims and survivors in TJ processes, followed by a discussion of a decolonial approach to the field of TJ. Thereafter, I will review the literature on accountability, truth-telling, and the risks of civil society war crimes documentation. Finally, I will provide a review of the literature on a survivor-centred approach.

### 2.1 The Role of Victims & Survivors in Transitional Justice

Victims and survivors play a central role in TJ, as both actors and symbols.<sup>62</sup> Bearing the brunt of conflicts, they serve as a driving force behind the pursuit of justice and accountability and thus it is unsurprising that there is a huge portion of TJ literature dedicated to the needs and involvement of victims.<sup>63</sup> There is a growing body of research that focuses on the active contribution victims and survivors can make in TJ processes. Reparations and victims' rights expert, Luke Moffett, provides important background information to my research by outlining the history of the role of victims in TJ. He recounts how the creation of the International Criminal Court, under the 1998 Rome Statute, along with a number of international tribunals since then, have included provisions for victim participation, assistance, and reparation.<sup>64</sup> However, despite these attempts at inclusion, Moffett argues that the retributive logic of international criminal proceedings—which are more concerned with the prosecution and punishment of perpetrators than those affected by such crimes—leads victims to “remain objects of concern rather than subjects of agency to shape international criminal justice to their interests.”<sup>65</sup> Moffett's contribution to the field of study emphasises the importance of actively engaging victims in TJ processes and preserving their narratives to prevent their stories from being forgotten. This lays the groundwork for my research on civil society documentation, which aims to contribute to the body of literature on the increasing involvement, agency and role of victims and survivors in TJ processes.

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<sup>62</sup> Hugo van der Merwe, Richard Chelin, and Masana Ndinga-Kanga, “‘Measuring’ Transitional Justice,” in *Transitional Justice: Theories, Mechanisms and Debates* (London: Routledge, 2021), 281–300.

<sup>63</sup> van der Merwe, Chelin, and Ndinga-Kanga, “‘Measuring’ Transitional Justice”.

<sup>64</sup> Moffett, “Victims, Victimology & Transitional Justice,” 40.

<sup>65</sup> Moffett, 40.

## 2.2 A Decolonial Approach to Transitional Justice

Decolonising both theory and practice is increasingly recognised as an incredibly important endeavour in peacebuilding, international development, and TJ. The enduring legacies of colonialism are evident in the promotion of particular forms of peace and justice and thus it is crucial to critically examine the dominant concepts in transitional justice and the inherent power imbalances they carry.<sup>66</sup> The theoretical underpinnings of colonialism in TJ challenge the dominant narrative shaped by the vaguely-labelled “international community”—which has a history of imposing external solutions without genuine consultation with local communities.<sup>67</sup> Sharp has noted that the TJ lens has gradually come to shape our sense of what it means to “do justice”, including dictating who counts as a victim.<sup>68</sup>

More recently, however, the field of TJ is marked by a notable “fascination with locality.”<sup>69</sup> The growing consideration for the incorporation of tradition-based practices and local knowledge and initiatives arises from the recognition that to accomplish its objectives, TJ must be seen as legitimate by the majority of individuals who have directly experienced the conflict—offering increased accessibility and fostering greater participation.<sup>70</sup> Colombian Arhuaco lawyer, Izquierdo, and Belgian anthropologist, Viaene, argue that local and indigenous knowledge can “transcend the limits imposed by the conceptual comfort zone and the practices of this dominant paradigm.”<sup>71</sup>

Furthermore, Parashar’s postcolonial critique of the Women, Peace and Security (WPS) agenda, provides an intriguing perspective on the problematic nature of agenda setting—which is often applied from one conflict to another without taking the specific context into account.<sup>72</sup> Furthermore, Parashar argues that while so-called “best practices” may be a useful policy term,

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<sup>66</sup> To read more about decoloniality please see: Walter D. Mignolo and Catherine E. Walsh, *On Decoloniality: Concepts, Analytics, Praxis*, On Decoloniality (Durham, NC: Duke University Press, 2018).

<sup>67</sup> Sharp, “Transitional Justice and ‘Local’ Justice”.

<sup>68</sup> Sharp, 168.

<sup>69</sup> As many TJ scholars, practitioners and policymakers are becoming more open to local, traditional or ‘alternative’ approaches to post-conflict justice, Sharp warns that we must be careful not to romanticise local justice. See: Dustin Sharp, “Transitional Justice and ‘Local’ Justice.”; Rosalind Shaw and Lars Waldorf, *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* (Stanford: Stanford University Press, 2010).

<sup>70</sup> Sharp, 170.

<sup>71</sup> Belkis Izquierdo and Lieselotte Viaene, “Decolonizing Transitional Justice from Indigenous Territories,” *Peace in Progress*, no. 34. June 2018, 4.  
<https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/SR/IPAndJustice/22-LViaene.pdf>.

<sup>72</sup> Swati Parashar, “The WPS Agenda: A Postcolonial Critique,” in *The Oxford Handbook of Women, Peace and Security*, Oxford Handbooks, 2018.

it fails to capture the intricate complexities of real-life situations on the ground.<sup>73</sup> Her work is a useful starting point for providing a critique of top-down standardisation initiatives and highlighting the importance of nuanced and context-specific approaches to conflict.<sup>74</sup> This recent recognition of the importance of local voices has opened up many new avenues of research. Consequently, this thesis addresses the current gap in the literature surrounding how this “turn to the local” is reflected in civil society war crimes documentation practices.

### **2.3 Accountability: Addressing the Past & Looking to the Future**

At the heart of TJ lies the fundamental requirement for accountability.<sup>75</sup> It is multi-dimensional in nature and has been labelled an “ever-expanding concept.”<sup>76</sup> In its most basic form, “accountability” concerns holding individuals, groups or institutions responsible for their actions and seeks to obtain justice from perpetrators and establish measures to prevent the recurrence of abuses through institutional reforms, thereby promoting the rule of law and combating impunity.<sup>77</sup> However, there is increasing recognition in the theory and practice of TJ that accountability can and does take forms other than prosecution.<sup>78</sup> In the past 30 years, discussions about accountability have increasingly included victims’ rights, with a focus on acknowledging their suffering, facilitating apology and reconciliation, and providing reparations.<sup>79</sup> This is evident in the preamble to a UNCHR report which highlights the importance of securing “the interests of the victims of violations, observance of the right to know and, by implication, the right to the truth, justice and to reparation.”<sup>80</sup> Yusuf argues that without accountability, societies will face the risk of anarchy and continued cycles of violence.<sup>81</sup> The concept of accountability provides the framework for understanding the different motivations of civil society actors and organisations in documenting war crimes.

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<sup>73</sup> Parashar, “The WPS Agenda: A Postcolonial Critique,” 832.

<sup>74</sup> Parashar.

<sup>75</sup> Hakeem O. Yusuf, “Origin, Context and Development of Transitional Justice,” in *Transitional Justice: Theories, Mechanisms and Debates* (Routledge, 2021), 1–29, <https://doi.org/10.4324/9781315760568-1>.

<sup>76</sup> Richard Mulgan, “‘Accountability’: An Ever-Expanding Concept?,” *Public Administration* 78, no. 3 (2000): 555–73, <https://doi.org/10.1111/1467-9299.00218>.

<sup>77</sup> Yusuf, “Origin, Context and Development of Transitional Justice.”

<sup>78</sup> Muddell and Roccatello, “Reflections on Victim-Centered Accountability in Ukraine.”

<sup>79</sup> Yusuf, “Origin, Context and Development of Transitional Justice.”

<sup>80</sup> Diane Orentlicher, “Report of the Independent Expert to Update the Set of Principles to Combat Impunity” (UN Commission on Human Rights, February 18, 2005), <https://www.refworld.org/docid/42d66e7a0.html>.

<sup>81</sup> Yusuf, “Origin, Context and Development of Transitional Justice.”

## 2.4 Truth-telling: What is it and what is it good for?

*“To forget would be not only dangerous but offensive; to forget the dead would be akin to killing them a second time.”<sup>82</sup>*

Truth-telling<sup>83</sup> aims to “encourage societies to develop and agree upon a shared history or collective memory of a period of widespread conflict or violence”<sup>84</sup> and may also provide an opportunity for victims to tell their stories and be heard in an official forum.<sup>85</sup> Mendeloff recognises that truth-telling is increasingly considered a vital component of the peacebuilding process.<sup>86</sup> A major study on post-conflict reconstruction proclaimed truth-telling to be one of the “four pillars of successful peacebuilding.”<sup>87</sup> The literature on TJ often argues that truth-telling and peace go hand in hand. Scholars assert that without truth-telling, “the embers of yesterday’s conflict can become the fire of tomorrow’s renewed conflict”<sup>88</sup> and that “unacknowledged injustice can poison societies and produce the cycles of distrust, hatred, and violence we have witnessed in many parts of the world.”<sup>89</sup> Taken together, these quotes underscore the significance of truth-telling and the acknowledgement of past injustices in preventing future conflict.

Levy and Williams recognise the potential value of creating a historical record through documentation and truth-telling beyond accountability purposes.<sup>90</sup> They suggest that it is an opportunity for victims and survivors to gain more information surrounding their own

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<sup>82</sup> A famous quote by Elie Wiesel, Holocaust survivor, Nobel Peace Prize Winner and author of *Night*. See: Elie Wiesel, *Night*. New York: Hill and Wang, 2006.

<sup>83</sup> Also known as truth-seeking in transitional justice literature.

<sup>84</sup> United States Holocaust Memorial Museum, “Transitional Justice Tools: Truth Seeking,” 2022, [//www.ushmm.org/genocide-prevention/simon-skjodt-center/work/ferencz-international-justice-initiative/transitional-justice/truth-seeking](https://www.ushmm.org/genocide-prevention/simon-skjodt-center/work/ferencz-international-justice-initiative/transitional-justice/truth-seeking).

<sup>85</sup> Although truth commissions are often what comes to mind when one thinks of truth-telling in an official capacity, this thesis will mainly focus on the individual level of truth-telling in the context of civil society interviewing victims and witnesses for documentation purposes. The best known of this may be the South African Truth and Reconciliation Commission, which was established to address the conflict and abuses perpetrated during the apartheid regime. See: Jay A. Vora and Erika Vora, “The Effectiveness of South Africa’s Truth and Reconciliation Commission: Perceptions of Xhosa, Afrikaner, and English South Africans,” *Journal of Black Studies* 34, no. 3 (January 1, 2004): 301–22, <https://doi.org/10.1177/0021934703258988>.

<sup>86</sup> David Mendeloff, “Truth-Seeking, Truth-Telling, and Postconflict Peacebuilding: Curb the Enthusiasm?1,” *International Studies Review* 6, no. 3 (September 1, 2004): 355–80, <https://doi.org/10.1111/j.1521-9488.2004.00421.x>.

<sup>87</sup> Mendeloff.

<sup>88</sup> Mahmoud Cherif Bassiouni, “Searching for Peace and Achieving Justice: The Need for Accountability,” *Law and Contemporary Problems* 59, no. 4 (1996): 9–28, <https://doi.org/10.2307/1192187>.

<sup>89</sup> Elizabeth Kiss, “IV Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice,” in *IV Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice* (Princeton University Press, 2010), 68–98, <https://doi.org/10.1515/9781400832033-005>.

<sup>90</sup> Jessica Levy and Paul Williams, “Documentation for Accountability,” *Case Western Reserve Journal of International Law* 52, no. 1 (January 1, 2020): 451.

experiences, while also allowing societies as a whole to recognise and acknowledge the atrocities they have endured.<sup>91</sup> They argue that the documentation, corroboration, and dissemination of evidence to the population and the establishment of historical truth are valuable tools in contentious post-conflict environments where various factions or perpetrators may deny that these atrocities happened.<sup>92</sup> Furthermore, Vukušić highlights the importance of keeping a detailed historical record of atrocities and calls attention to how this information can help war-affected communities acquire a deeper understanding of the events that unfolded.<sup>93</sup> The concept of truth-telling lays the foundation for my thesis as it not only helps us to understand the motivations of civil society documentation but also the risks to individuals involved in the truth-telling process.

## 2.5 The Risks of Civil Society War Crimes Documentation

*“Anyone here been raped and speak English?”<sup>94</sup>*

The discourse surrounding the role and outcomes of “unofficial investigations” often conducted by CSOs is more active and polarised than ever. The Public International Law & Policy Group’s (PILPG) handbook on civil society documentation outlines that on one end of the spectrum, there are optimistic voices that recognise the importance and the potential presented by increased civil society participation in documenting and investigating situations that might otherwise remain unaddressed.<sup>95</sup> These proponents of CSO documentation emphasise the valuable contributions of such efforts to the compilation of information on severe human rights violations.<sup>96</sup> On the other end, the PILPG recognises that there are concerned professionals who emphasise the importance of technical training and the expertise that is needed to comprehend the necessary standards of evidence collection—highlighting that even experienced investigators face challenges when executing their official mandates.<sup>97</sup>

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<sup>91</sup> Levy and Williams. “Documentation for Accountability.”

<sup>92</sup> Levy and Williams, 458.

<sup>93</sup> Vukušić, “Archives of Mass Violence.”

<sup>94</sup> A question shouted repeatedly by a television reporter from the UK to women and children fleeing newly independent Zaire, according to a book of that title by foreign correspondent Edward Behr. See: Jonathan Randal. 2007. “Edward Behr.” *The Guardian*, August 5, 2007, sec. Media.

<https://www.theguardian.com/media/2007/aug/06/pressandpublishing.guardianobituaries>.

<sup>95</sup> Federica D’Alessandra et al., “Handbook on Civil Society Documentation,” 13.

<sup>96</sup> Federica D’Alessandra et al. 12.

<sup>97</sup> Federica D’Alessandra et al.



As documentation typically takes place in restricted and volatile contexts, civil society documentation can pose risks to both the documenter and those interviewed. Literature on the subject has highlighted that “over-documentation”<sup>98</sup> can exacerbate many of these risks. In light of the diverse range of state and non-state, domestic, and international actors taking part in documentation efforts in Ukraine, the Prosecutor of the ICC warned of over-documentation—which is cited as a concern for two main reasons.<sup>99</sup> The *first* is related to the safety and well-being of survivors. When multiple actors are involved in collecting statements, the risk of inadequate adherence to best practices in terms of collecting and storing information is heightened. Survivors are repeatedly asked to share their stories—often without a clear understanding of who is recording their accounts and how they will be utilised.<sup>100</sup> Scholars also warn of “interview fatigue” that may occur when multiple actors collect statements, leading to negative impacts on the individual's health and well-being.<sup>101</sup> Furthermore, based on psychological research, Brounéus argues that “a contrasting expectation of truth-telling could be made, namely, that there may be risks for re-traumatisation.”<sup>102</sup>

The *second* concern is the possibility of testimonies being mishandled, jeopardising the credibility and usefulness of the potential evidence, as well as the safety of those involved.<sup>103</sup> Studies have revealed that the reliability of witness statements diminishes when they are recounted multiple times.<sup>104</sup> Lacy and Stark warn that in a courtroom, even minor memory distortions can have severe consequences.<sup>105</sup> Furthermore, in situations where multiple documenting efforts occur simultaneously, there is a risk of duplication and the possibility of

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<sup>98</sup> ‘Over-documentation’ is prominent in the case of the Rohingya refugees who sought refuge in Bangladesh to escape human rights violations by the military. See: Eva Buzo, “The Legacy of the Rohingya Overdocumentation Myth: Lessons for Ukraine,” *Opinio Juris* (blog), July 25, 2022, <http://opiniojuris.org/2022/07/25/the-legacy-of-the-rohingya-overdocumentation-myth-lessons-for-ukraine/>; Matelski, Dijkstra, and McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar.”

<sup>99</sup> IntlCriminalCourt, *ICC Prosecutor’s Speech at the Ukraine Accountability Conference*, 2022, <https://www.youtube.com/watch?v=HNIntRKcMS4>.

<sup>100</sup> Matelski, Dijkstra, and McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar.”

<sup>101</sup> Louis Bickford et al., “Documenting Truth” (International Center for Transitional Justice, 2009), <https://www.ictj.org/sites/default/files/ICTJ-DAG-Global-Documenting-Truth-2009-English.pdf>; Jelke Boesten and Marsha Henry, “Between Fatigue and Silence: The Challenges of Conducting Research on Sexual Violence in Conflict,” *Social Politics* 25 (December 1, 2018): 568–88, <https://doi.org/10.1093/sp/jxy027>.

<sup>102</sup> Karen Brounéus, “Truth-Telling as Talking Cure? Insecurity and Retraumatization in the Rwandan Gacaca Courts,” *Security Dialogue* 39, no. 1 (March 1, 2008): 55–76, <https://doi.org/10.1177/0967010607086823>.

<sup>103</sup> Levy and Williams, “Documentation for Accountability.”

<sup>104</sup> Matelski, Dijkstra, and McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar.”

<sup>105</sup> Joyce W. Lacy and Craig E. L. Stark, “The Neuroscience of Memory: Implications for the Courtroom,” *Nature Reviews Neuroscience* 14, no. 9 (September 2013): 649–58, <https://doi.org/10.1038/nrn3563>.

creating significant gaps in the resulting narratives.<sup>106</sup> While the documentation of war crimes by CSOs is commendable—and in the case of Syria, largely the only option—the process of documenting war crimes is extremely sensitive and holds a number of challenges and risks for all involved stakeholders.<sup>107</sup>

## 2.6 A Survivor-Centred Approach to Documentation

In 2019, Resolution 2467 was added to the Women, Peace and Security (WPS) Agenda calling for a survivor-centred approach in the prevention and response to CRSV.<sup>108</sup> This resolution is useful in understanding the context of my research project that explores a wider trend, largely born out of feminist scholarship and activism, that calls for survivors to be at the centre of research and documentation efforts.<sup>109</sup> The survivor-centred approach is gaining prominence in literature as victims are increasingly involved in TJ processes. In an article written about children born of wartime sexual violence, Di Eugenio and Baines utilise this concept as a way of recognising the agency of children and “their expressed desire to contribute to, and participate in, processes of social reconstruction and reconciliation.”<sup>110</sup> Similarly, Matelski and colleagues argue that in order for accountability initiatives to be truly victim-centred they do not only need to seek testimonies but should also “be transparent and sensitive to the needs of victimised communities while avoiding extractive practices.”<sup>111</sup> Moreover, Mendez recognises that the notion of “justice for victims” is at the centre of the normative developments in TJ.<sup>112</sup> Mendez argues that the participation of victims is crucial in the design and execution of all programs of truth-telling and reparation—and not simply as witnesses or recipients of reparations—ultimately reaching a consensus that institutional TJ processes should be victim-centred.<sup>113</sup>

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<sup>106</sup> Matelski, Dijkstra, and McGonigle Leyh. Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar.”

<sup>107</sup> Buzo, “The Legacy of the Rohingya Overdocumentation Myth.”

<sup>108</sup> Clark, “Beyond a ‘Survivor-Centred Approach’ to Conflict-Related Sexual Violence?”; Security Council, “Resolution 2467” (United Nations, April 23, 2019), [https://undocs.org/S/RES/2467\(2019\)](https://undocs.org/S/RES/2467(2019)).

<sup>109</sup> Clark.

<sup>110</sup> Alessia Rodríguez Di Eugenio and Erin Baines, “‘Our Place Under the Sun’: Survivor-Centred Approaches to Children Born of Wartime Sexual Violence,” *Human Rights Review* 22, no. 3 (September 1, 2021): 327, <https://doi.org/10.1007/s12142-021-00631-3>.

<sup>111</sup> Matelski, Dijkstra, and McGonigle Leyh, Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar,” 809.

<sup>112</sup> Juan Mendez, “Victims as Protagonists in Transitional Justice,” *International Journal of Transitional Justice* 10 (March 1, 2016): 1–5, <https://doi.org/10.1093/ijtj/ijv037>.

<sup>113</sup> Mendez.

### 3. A Path to Standardisation: Civil Society War Crimes

#### Documentation Efforts in Syria & Ukraine

*“Add value, or don’t do it.”*<sup>114</sup>

This chapter will provide a concise overview of the intractable conflicts in Syria and Ukraine. This thesis will proceed with the assumption that the readers possess a fundamental understanding of these conflicts, as delving into their entire histories and intricacies within the constraints of this short thesis would be impossible. With this foundation, I will answer the first sub-question: *Why and how are CSOs attempting to standardise civil society war crimes documentation practices?* By exploring the efforts of CSOs to establish standardised approaches, I aim to shed light on the underlying factors driving this work and the strategies employed to achieve it.

#### 3.1 Background & Context: The Conflict in Syria

*“There is no way to govern our society except with the shoe over people’s heads”*<sup>115</sup>

In March 2011, a powerful wave of protests swept across Syria, aligning with the broader movement of anti-government pro-democracy uprisings known as the Arab Spring, which had previously taken place in countries like Tunisia, Egypt, and Libya.<sup>116</sup> The Syrian people took to the streets, driven by a fervent desire for political reforms, expanded civil liberties, and an end to rampant corruption.<sup>117</sup> However, the peaceful protests turned violent as the Assad regime responded with force and brutal tactics, eliminating any potential for protesters to take down the authoritarian government and initiate a transition towards democracy.<sup>118</sup> Fast forward 12 years, and the toll inflicted on civilian populations by the conflict has been nothing short of

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<sup>114</sup> Murad Code Project, “Murad Code: Global Code for Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence” (Murad Code Project, April 13, 2022), 6, <https://www.muradcode.com/murad-code>.

<sup>115</sup> Dagher quotes Syrian President Bashar Al-Assad as saying this both before and after the unrest began. See Sam Dagher, *Assad or We Burn the Country: How One Family’s Lust for Power Destroyed Syria* (Hachette UK, 2019).

<sup>116</sup> For more information on the history of the Assad regime and the conflict in Syria, Sam Dagher’s book *Assad or We Burn the Country* provides a detailed account of the path to destruction. This book is unique as Dagher was the only journalist for a major Western newspaper based permanently in Damascus from 2012-2014, before being detained and thrown out. For a review of the work see Ian Black, “Assad Or We Burn the Country by Sam Dagher Review – Scoop-Filled History of Syria’s Downfall,” *The Guardian*, July 15, 2019, sec. Books, <https://www.theguardian.com/books/2019/jul/15/assad-or-we-burn-the-country-sam-dagher-review>.

<sup>117</sup> Steven Heydemann, “Tracking the ‘Arab Spring’: Syria and the Future of Authoritarianism,” *Journal of Democracy* 24, no. 4 (2013): 59–73, <https://doi.org/10.1353/jod.2013.0067>.

<sup>118</sup> Heydemann.

devastating. As Elliott aptly states, “there are few crimes in Syria which have not been committed systematically or on a large scale.”<sup>119</sup> Syrian civilians and humanitarian workers have faced arbitrary detention, torture, enforced disappearances, sexual violence, summary executions, and indiscriminate attacks on civilian areas with chemical weapons.<sup>120</sup> International involvement further complicated the situation as Russia, a long-time ally of the Syrian government, intervened in 2015 to bolster Assad’s regime. Russia has also been accused of grave and repeated violations of international law within Syria.<sup>121</sup>

As of July 2022, the UN OHCHR estimates that more than 306,887 civilians were killed between 1 March 2011 and 31 March 2021 in Syria due to the conflict—while millions more were forced to flee or are in need of humanitarian aid.<sup>122</sup> As the horrific violations of human rights law have continued to mount, the documentation efforts have reached unprecedented levels. Until recently, the scale of documentation surpassed anything witnessed in history, exemplifying the magnitude of the breakdown in international norms.<sup>123</sup>

Elliott and Rapp contribute to a growing area of research that outlines CSOs' efforts to document war crimes in Syria under an oppressive regime, with little outside help.<sup>124</sup> More specifically, Elliott argues that inaction by IOs and governments has resulted in Syrian CSOs working with “quiet determination” to collect unprecedented levels of documentation.<sup>125</sup> Their aim: to help families and communities establish the truth, seek accountability and pursue effective remedies by building compelling cases against those most responsible for the atrocities committed in Syria and beyond.<sup>126</sup> If done correctly, these efforts have the potential to catalyse and support future TJ processes.”<sup>127</sup>

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<sup>119</sup> Ingrid Elliott, “‘A Meaningful Step towards Accountability’?: A View from the Field on the United Nations International, Impartial and Independent Mechanism for Syria,” *Journal of International Criminal Justice* 15, no. 2 (May 1, 2017): 239–56, <https://doi.org/10.1093/jicj/mqx012>.

<sup>120</sup> Elliott.

<sup>121</sup> Elliott.

<sup>122</sup> OHCHR, “UN Human Rights Office Estimates More than 306,000 Civilians Were Killed over 10 Years in Syria Conflict,” OHCHR, June 28, 2022, <https://www.ohchr.org/en/press-releases/2022/06/un-human-rights-office-estimates-more-306000-civilians-were-killed-over-10>.

<sup>123</sup> Sema Nassar and Iavor Rangelov, “Documentation of Human Rights Violations and Transitional Justice in Syria: Gaps and Ways to Address Them,” Monograph (London, UK: London School of Economics and Political Science, August 2020), <http://eprints.lse.ac.uk/106206/>.

<sup>124</sup> Stephen Rapp, “Overcoming the Challenges to Achieving Justice for Syria,” *Emory International Law Review* 30, no. 2 (January 1, 2015): 155.

<sup>125</sup> Elliott, “‘A Meaningful Step towards Accountability’?”

<sup>126</sup> Elliott, 240.

<sup>127</sup> Nassar and Rangelov, “Documentation of Human Rights Violations and Transitional Justice in Syria.”

## 3.2 Background & Context: The Conflict in Ukraine

*“In this war, we are fighting for freedom in every meaning of the word. And for it, we are paying the highest possible price.”<sup>128</sup>*

The origins of the armed conflict in Ukraine date back to the Russian occupation of Crimea and the Donbas region in 2014, and arguably even earlier.<sup>129</sup> Pressure from Moscow led Ukrainian President Viktor Yanukovich to abandon negotiations and reject a deal that would have fostered closer economic ties between Ukraine and the EU. The aftermath of this decision sparked widespread protests, ultimately forcing Yanukovich to flee the country in February 2014. However, Moscow responded aggressively to these events, seizing control of Crimea and providing military support to Russian-speaking separatists in the eastern regions of the country.<sup>130</sup>

Over the course of the following eight years, Ukrainian government forces clashed with Russian-backed separatists in a battle for control over much of the two heavily industrialised regions of Donetsk and Luhansk, collectively known as Donbas.<sup>131</sup> The conflict intensified on February 24, 2022, when Russian forces launched a full-scale invasion of Ukraine, targeting military assets and cities throughout the nation. Tragically, the consequences of this aggression have been grave, as evidenced by the reports of over 80,000 alleged war crimes including indiscriminate attacks on vital infrastructure, systematic and widespread instances of torture, and forced transfers of children from Ukraine to Russia.<sup>132</sup>

According to the International Crisis Group, the armed conflict in Eastern Ukraine has claimed the lives of approximately 14,000 people from 2014 until early 2022.<sup>133</sup> The toll escalated dramatically following the large-scale armed attack launched by Russia. As of May 21, 2023, the OHCHR recorded 24,012 civilian casualties in the country since February 24, 2022—

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<sup>128</sup> Oleksandra Matviichuk, “Time to Take Responsibility” (The Nobel Peace Prize, Oslo, Norway, December 10, 2022), <https://www.nobelprize.org/prizes/peace/2022/center-for-civil-liberties/lecture/>.

<sup>129</sup> Geneuss and Jeßberger, “Russian Aggression and the War in Ukraine.” For more information on the history of the conflict in Ukraine see: Serhii Plokyh, *The Gates of Europe: A History of Ukraine* (New York, NY: Basic Books, 2015), which provides a detailed account of Ukraine’s history as a nation that lies between the East and the West.

<sup>130</sup> “War in Ukraine,” Global Conflict Tracker, March 16, 2023, <https://cfr.org/global-conflict-tracker/conflict/conflict-ukraine>.

<sup>131</sup> “Conflict in Ukraine’s Donbas: A Visual Explainer,” International Crisis Group, accessed May 24, 2023, <https://www.crisisgroup.org/content/conflict-ukraines-donbas-visual-explainer.ict>

<sup>132</sup> OHCHR, “War Crimes, Indiscriminate Attacks on Infrastructure, Systematic and Widespread Torture Show Disregard for Civilians, Says UN Commission of Inquiry on Ukraine,” OHCHR, March 16, 2023, <https://www.ohchr.org/en/press-releases/2023/03/war-crimes-indiscriminate-attacks-infrastructure-systematic-and-widespread>.

<sup>133</sup> International Crisis Group. “Conflict in Ukraine’s Donbas.”

however, they suspect that the actual figures may be much higher.<sup>134</sup> In response to the ongoing crisis, the documentation landscape in Ukraine includes a very diverse range of state, non-state, domestic, and international actors.<sup>135</sup> In parallel with efforts by CSOs, a website was set up by the office of Ukraine’s Prosecutor General calling for submissions of detailed evidence from civilians.<sup>136</sup> Koenig underscores how the dedication and collaboration between jurisdictions, sectors and disciplines, both inside and outside of the country to document, investigate, and prosecute these grave allegations has arguably become one of the most striking features of the war in Ukraine.<sup>137</sup> Furthermore, building on the works focusing on war crimes documentation in Ukraine since 2014, Koenig provides the important legal context in which documentation takes place and outlines how the majority of justice will need to be achieved elsewhere, other than the ICC, as the court only has jurisdiction over the highest level perpetrators and only where states are unwilling or unable to act.<sup>138</sup>

Documenters have drawn important lessons from the Syrian conflict, informing their approach to conducting effective investigative responses in Ukraine.<sup>139</sup> Ishaan Tharoor acknowledges that “as the war drags on, the parallels deepen,” recognising that “the ruthless tactics and bombing campaigns that Russia unfurled across the Middle Eastern nation served as something of a trial run for the Russian war effort in Ukraine.”<sup>140</sup> Reporting suggests that understanding and learning from the Russian tactics in Syria can help Ukraine and its allies counter the current attacks and it also means that Ukrainian civil society is better equipped to document these war

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<sup>134</sup> Delays in receiving information from certain conflict zones and the pending corroboration of many reports have hindered accurate assessments. See: “Ukraine: Civilian Casualty Update 22 May 2023,” OHCHR, accessed May 24, 2023, <https://www.ohchr.org/en/news/2023/05/ukraine-civilian-casualty-update-22-may-2023>.

<sup>135</sup> OHCHR, “UN Commission Has Found an Array of War Crimes, Violations of Human Rights and International Humanitarian Law Have Been Committed in Ukraine,” United Nations, OHCHR, October 18, 2022, <https://www.ohchr.org/en/press-releases/2022/10/un-commission-has-found-array-war-crimes-violations-human-rights-and>.

<sup>136</sup> Officer of the Prosecutor General, “Criminal Liability for #RussianWarCrimes!,” 2022, <https://warcrimes.gov.ua>.

<sup>137</sup> Although the primary responsibility for investigating and prosecuting international crimes will ultimately reside with Russia and Ukraine, that responsibility has been assumed by a number of non-state actors. See: Brianne McGonigle Leyh, “Ukraine Symposium - Documentation and Investigation Responses to Serious International Crimes,” Lieber Institute West Point, July 13, 2022, <https://lieber.westpoint.edu/documentation-investigation-responses-serious-international-crimes/>.

<sup>138</sup> Alexa Koenig, “From ‘Capture to Courtroom’: Collaboration and the Digital Documentation of International Crimes in Ukraine,” *Journal of International Criminal Justice* 20, no. 4 (September 1, 2022): 829–42, <https://doi.org/10.1093/jicj/mqac046>.

<sup>139</sup> McGonigle Leyh, “Ukraine Symposium - Documentation and Investigation Responses to Serious International Crimes.”

<sup>140</sup> Ishaan Tharoor, “Analysis: The Echoes of Syria Grow Louder in Ukraine,” *Washington Post*, April 13, 2022, <https://www.washingtonpost.com/world/2022/04/13/syria-russia-ukraine-assad-parallels/>.

crimes and crimes against humanity.<sup>141</sup> In both cases, Syrian and Ukrainian officials recognise that the role of digital tools to crowdsource evidence of Russian atrocities extends beyond war crimes trials in the Hague. They see it as a defence against a flood of disinformation and the creation of a historical record that will help hold the guilty responsible and provide restitution for the victims.<sup>142</sup>

### **3.3 Why are CSOs attempting to standardise civil society war crimes documentation?**

The changing landscape of civil society documentation—marked by technological advancements and the emergence of citizen journalism and unofficial investigations—has led to the proliferation of international documentation initiatives focused on assisting local actors within civil society.<sup>143</sup> The objective of these initiatives is twofold: to offer practical guidance and support in recognising, collecting, managing, storing and using information regarding grave human rights abuses, while also emphasising the need to mitigate risks associated with documenting human rights violations. In this chapter, I provide an overview of the international initiatives driving the standardisation of civil society documentation, spearheaded by a diverse array of IOs. Subsequently, I will delve into the specific “standardisation” practices adopted by CSOs in Syria and Ukraine.

#### *Why standardise?*

Three decades ago, the task of civil society documentation primarily fell on grassroots organisations, often operating with limited resources and minimal support from international entities.<sup>144</sup> Despite playing a critical role in the fight for accountability, these groups’ ability to achieve meaningful results was limited.<sup>145</sup> When IOs saw the potential in the work of these groups, they intervened to collaborate and provide vital support.<sup>146</sup> By leveraging the power of

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<sup>141</sup> Emma Beals, “How the Lessons of the Syria War May Safeguard Lives in Ukraine,” Carnegie Middle East Center, April 27, 2022, <https://carnegie-mec.org/2022/04/27/how-lessons-of-syria-war-may-safeguard-lives-in-ukraine-pub-87005>.

<sup>142</sup> Vera Bergengruen, “How Ukraine Is Crowdsourcing Digital Evidence of War Crimes,” *Time*, April 18, 2022, <https://time.com/6166781/ukraine-crowdsourcing-war-crimes/>.

<sup>143</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>144</sup> Fernando J. Bosco, “Place, Space, Networks, and the Sustainability of Collective Action: The Madres de Plaza de Mayo,” *Global Networks* 1, no. 4 (2001): 307–29, <https://doi.org/10.1111/1471-0374.00018>; McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>145</sup> McGonigle Leyh.

<sup>146</sup> McGonigle Leyh.

the global media, harnessing modern technologies, and facilitating access to much-needed funding, these partnerships transformed the landscape of civil society documentation.<sup>147</sup> This collaborative approach has been praised for launching a ground-breaking new chapter in civil society documentation.<sup>148</sup> Today, this spirit of collaboration is even more prominent, with a surge in standardisation and professionalisation initiatives led by IOs specifically targeting CSOs doing documentation work in conflict zones.

In order to understand this trend in standardisation, it is first vital to ask the question: why exactly are IOs and CSOs striving to standardise civil society documentation practices? The answer lies in the research and literature that emphasises the benefits of such standardisation and professionalisation, presenting it as a crucial objective for all those engaged in addressing grave human rights violations. IOs are guided by extensive research and trends in best practices that underscore the advantages of standardised approaches. Comparably, local organisations have long been aware of the need to make their work valid and replicable—to help prevent duplication of efforts or potentially contradictory activities and information.<sup>149</sup> Scholars discussing standardisation underscore the importance of collaboration with others active in the same space as a way of improving the effectiveness, reliability, and credibility of their documentation efforts, while also limiting the potential harm that can be done in the process.<sup>150</sup>

### *Ensuring the Quality of Information Collected*

According to scholarship on the topic, standardisation helps to ensure that the information collected meets the rigorous criteria that ensure it could be used down the line—whether for criminal investigations or truth-telling purposes.<sup>151</sup> Given the high standards of admissible evidence, a vast amount of the information that is gathered will not be used.<sup>152</sup> A handbook on assisting international criminal investigations states that in order for information to be admissible in court “the material must be handled and processed correctly from the time of

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<sup>147</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>148</sup> Dustin Sharp, “Prosecutions, Development, and Justice: The Trial of Hissein Habré,” *Harvard Human Rights Journal* 16 (2003): 147–49.

<sup>149</sup> Matelski, Dijkstra, and McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar,” 810.

<sup>150</sup> Maaïke Matelski, Rachel Dijkstra, and Brianne McGonigle Leyh.

<sup>151</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts.”

<sup>152</sup> Muddell and Roccatello, “Reflections on Victim-Centered Accountability in Ukraine.”



collection until its transfer to the custody of the appropriate investigative organisations.”<sup>153</sup> By adopting standardised approaches, people risking their lives to document grave human rights violations can ensure that their efforts are not futile, while potentially saving time and resources if or when the information becomes relevant down the line.

The foreword of the guidelines jointly issued by Eurojust and the ICC’s Office of the Prosecutor outlines their aim of assisting civil society in collecting and preserving information that may ultimately become admissible in court.<sup>154</sup> The guidelines underscore the significance of conducting documentation efforts in a manner that safeguards the integrity of information and evidence, while also enhancing the ability of national and international accountability processes to draw upon the collected information.<sup>155</sup> Similarly, the CCL places great emphasis on the meticulous documentation of severe human rights violations as a means to convert information into evidence for the future prosecution of war criminals, and it has publicly expressed its support for the establishment of an international tribunal to hold Putin accountable.<sup>156</sup>

### *Saving Lives & Preventing Re-traumatisation*

According to McGonigle Leyh, a prominent scholar who is at the forefront of the discourse on standardisation, there exists a compelling argument that initiatives and best practices can promote the ethical conduct of documentation practices.<sup>157</sup> These initiatives, which encompass principles such as do no harm, consent, confidentiality, and address protection concerns, have the potential to safeguard the lives of those involved in documentation efforts.<sup>158</sup> Furthermore, standardisation plays a crucial role in equipping documenters with the proper training and procedures to identify signs of trauma.<sup>159</sup> Consequently, in theory, documenters are better positioned to discern when an interview should be continued or discontinued, aiming to prevent the inadvertent re-traumatisation of survivors.<sup>160</sup> Many of these initiatives, underpinning the

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<sup>153</sup> Maria Nystedt, Christian Axboe Nielsen, and Jann K. Kleffner, “A Handbook on Assisting International Criminal Investigations” (Folke Bernadotte Academy, 2011), <https://fba.se/en/about-fba/publications/a-handbook-on-assisting-international-criminal-investigations/>.

<sup>154</sup> Eurojust and Office of the Prosecutor at the International Criminal Court (ICC), “Eurojust and ICC Prosecutor Launch Practical Guidelines for Documenting and Preserving Information on International.”

<sup>155</sup> Eurojust and Office of the Prosecutor at the International Criminal Court (ICC).

<sup>156</sup> Center for Civil Liberties, “About”.

<sup>157</sup> McGonigle Leyh, “Changing Landscapes in Documentation Efforts,” 54.

<sup>158</sup> McGonigle Leyh.

<sup>159</sup> McGonigle Leyh.

<sup>160</sup> Maaïke Matelski, Rachel Dijkstra, and Brianne McGonigle Leyh, “Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar.”

documentation work, place the utmost importance on ensuring the safety and psychological well-being of survivors. Notably, the Murad Code stands out as an explicit example of an initiative that places survivors' rights and the prevention of re-traumatisation at its core.<sup>161</sup> The foreword of the Murad Code underscores the motivation behind the standardisation of systematic CRSV documentation.<sup>162</sup> It emphasises the need to provide the necessary information and guidelines to investigate, document, and record survivors' experiences in a manner that prioritises their safety, well-being, and agency.<sup>163</sup> Similarly, *The Protocol of Cooperation*, signed by the Head of the International, Impartial and Independent Mechanism (IIIM) and 28 Syrian CSOs, establishes a set of overarching principles to guide their collaboration.<sup>164</sup> This protocol aims to foster mutual understanding and facilitate engagement between the IIIM and the signatory Syrian CSOs. The ultimate objective of this collaborative effort is to ensure justice, accountability, and redress for victims of crimes committed in Syria, a shared goal of both parties.<sup>165</sup>

### **3.4 How are CSOs attempting to standardise civil society war crimes documentation?**

In addition to understanding the motivations behind the standardisation and professionalisation of documentation practices by CSOs, it is essential to explore the various strategies employed by these organisations to achieve this goal.

#### *Standardisation Initiatives by International Organisations*

Recently, several IOs have unveiled initiatives that seek to improve the practices of CSOs involved in documenting a wide range of potential international crimes. These initiatives encompass guidelines, training, and practical resources aimed at empowering CSOs in their documentation efforts. An illustrative example is the aforementioned comprehensive guidelines developed by Eurojust and the ICC's Office of the Prosecutor in response to the

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<sup>161</sup> Created by the Institute for International Criminal Investigations (IICI), Nadia's Initiatives, and the Preventing Sexual Violence in Conflict Initiative of the UK government.

<sup>162</sup> Murad Code Project, "Murad Code."

<sup>163</sup> Murad Code Project.

<sup>164</sup> IIIM, "Protocol of Cooperation," accessed May 24, 2023, <https://iiim.un.org/who-we-work-with/syrian-civil-society/civil-society-protocol/>.

<sup>165</sup> IIIM, "Protocol of Cooperation."

unfolding documentation situation in Ukraine.<sup>166</sup> These guidelines serve as a valuable tool for CSOs engaged in collecting and preserving information, whether for national investigations or potential ICC prosecutions. The PILPG has also responded to the needs of civil society groups by producing handbooks, field guides, and explanatory memoranda on documenting serious human rights abuses.<sup>167</sup> Similarly, in May 2023, the Global Rights Compliance published a manual for documenting international crimes in Ukraine.<sup>168</sup>

Moreover, various IOs have launched initiatives focusing on best practices for the documentation of *specific* crimes. One such initiative is the Murad Code, which places a special emphasis on supporting survivors of systematic CRSV. The code seeks to ensure that the work carried out by CSOs in collaboration with survivors adheres to principles of safety and ethics, and is effective in upholding their human rights.<sup>169</sup> Another notable example is the Istanbul Protocol, created by the UN OHCHR, which provides specific guidance for documenting torture-related crimes and provides a standardised framework to ensure that documentation of torture meets rigorous standards.<sup>170</sup> Additionally, the Berkeley Protocol has emerged as an influential international standard for online research of violations—offering guidance on methodologies, preservation of digital information, and measures to ensure the safety of investigators and other stakeholders involved in documenting war crimes and human rights violations.<sup>171</sup> While the initiatives mentioned here represent just a sampling of the global standardisation efforts, they demonstrate the expanding landscape of guidelines being introduced to assist CSOs in their tireless efforts to document war crimes.

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<sup>166</sup> Eurojust and International Criminal Court, “Documenting International Crimes and Human Rights Violations for Accountability Purpose.”

<sup>167</sup> Federica D’Alessandra et al., “Handbook on Civil Society Documentation.”

<sup>168</sup> Global Rights Compliance, “Basic Investigative Standards for International Crimes Investigations,” May 2023, <https://globalrightscpliance.com/project/basic-investigative-standards-for-international-crimes-investigations/>.

<sup>169</sup> Murad Code Project, “Murad Code.”

<sup>170</sup> See: “Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 Edition),” OHCHR, June 29, 2022, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>.

<sup>171</sup> A collaboration between OHCHR and the Human Rights Center at the University of California, Berkeley School of Law. See: United Nations, and University of California, Berkeley, eds. *Berkeley Protocol on Digital Open Source Investigations: A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law*. New York ; Geneva: Berkeley, California: United Nations Human Rights, Office of the High Commissioner ; Human Rights Center, UC Berkeley School of Law, 2022.

## *Standardisation Initiatives by Syrian & Ukrainian CSOs*

Syrian and Ukrainian CSOs have emerged as key players in the documentation of war crimes. Although they are much less explicit in their approaches to standardisation and professionalisation compared to IOs, many have developed their own guidelines and training programs to facilitate the documentation process and ensure consistency and best practices within their respective fields.

For instance, the VDC has outlined its methodology for collecting, validating, and documenting data on its website, which aligns with international humanitarian law (IHL), human rights law, and the four Geneva Conventions.<sup>172</sup> Similarly, since 2016 the SJAC has been offering publicly available training programs as they realised many activists lacked the education and prior experience in the field necessary to collect detailed, accurate, and standardised documentation that could be used for future justice mechanisms and capacity-building within victims' advocacy groups.<sup>173</sup> They outline that these documentation courses are based on experiences gathered in the field, international best practices, and consultation with like-minded organisations.<sup>174</sup> In Ukraine, the CCL plays a crucial role in mobilising volunteers and providing them with training opportunities. Even individuals without prior knowledge of international humanitarian law or field experience are empowered by the CCL to actively participate in documentation efforts.<sup>175</sup> Similarly, Truth Hounds, another prominent Ukrainian CSO, has established a comprehensive Code of Ethics for Documenters and an investigative methodology for NGOs.<sup>176</sup> They highlight that these initiatives aim to foster trust, maintain unbiased standards, and ensure the reliability of information gathered through field research.<sup>177</sup> While these CSOs may not explicitly align themselves with the terminology of standardisation and professionalisation, these standards demonstrate a commitment to enhancing the quality and effectiveness of their documentation practices. By developing their own guidelines and offering training programs, these select Syrian and Ukrainian CSOs contribute to the broader goal of ensuring accurate and reliable documentation of war crimes.

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<sup>172</sup> Violations Documentation Center, "Our Methodology."

<sup>173</sup> Syria Justice & Accountability Centre, "About."

<sup>174</sup> Syria Justice & Accountability Centre.

<sup>175</sup> Center for Civil Liberties "About the CCL,"

<sup>176</sup> Truth Hounds, "Code of Ethics for Documenters," 2022, <https://truth-hounds.org/en/code-of-ethics-for-documenters/>; Truth Hounds, "War Crimes: An Investigative Methodology for NGOs," March 2023, <https://truth-hounds.org/en/war-crimes-an-investigative-methodology-for-ngos/>.

<sup>177</sup> Truth Hounds.

### **3.5 Conclusion**

In conclusion, the standardisation and professionalisation of civil society war crimes documentation are driven by a variety of factors and motivations. IOs, recognising the transformative potential of collaboration with civil society, have launched initiatives aimed at assisting and empowering local actors in their documentation efforts. By providing guidelines, training, and resources, these initiatives seek to enhance the effectiveness, reliability, and credibility of documentation practices. Syrian and Ukrainian CSOs, while less explicit in labelling their approaches, have developed their own guidelines and training programs to ensure consistency and best practices within their respective fields. These organisations share the common goal of improving the quality of information collected, safeguarding the well-being of survivors, and increasing the admissibility of evidence in legal proceedings. Through their initiatives, both IOs and CSOs strive to shed light on human rights abuses, promote accountability, and contribute to the pursuit of justice. In the following chapter, I will delve further into why a survivor-centred approach is included in the standardisation initiatives undertaken by these organisations. By examining these motivations in greater detail, I aim to create a deeper understanding of the principles and values that guide CSOs' efforts to document war crimes.

## **4. Unveiling the Motivations: Why a Survivor-Centred Approach is Incorporated in Civil Society War Crimes Documentation Guidelines**

It is useful to think of TJ as a spectrum with retributive approaches on one end and reparative/restorative approaches on the other.<sup>178</sup> Put simply, retributive approaches prioritise accountability with the goal of prosecuting perpetrators through domestic, international or hybrid courts,<sup>179</sup> while reparative and restorative approaches aim to address the harm inflicted on victims and rebuild trust in society and institutions—through reparation programs, truth-telling initiatives, and memorialisation.<sup>180</sup> Considering the wide range of objectives, it becomes evident that CSOs are driven by a unique set of principles, values, and goals when it comes to incorporating a survivor-centred approach into their documentation practices.

There have been increasing calls for TJ processes to be survivor-centred, with growing expectations for these mechanisms to genuinely meet the needs of those who have endured mass atrocities.<sup>181</sup> In addition to several UN agencies—UN Women, UNICEF, UNHCR and the UNODC<sup>182</sup>—several other organisations are embracing a survivor-centred approach. The Global Rights Compliance, the International Center for Transitional Justice (ICTJ), the Center for Justice and Accountability (CJA), Nadia’s Initiative and the Institute for International Criminal Investigations (IICI), Eurojust, the International Criminal Court (ICC), and the IIM in Syria explicitly embrace a victim/survivor-centred approach.

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<sup>178</sup> It is important to note that these are not alternative, but complementary approaches that often feed off of each other. For example, criminal prosecutions and truth commissions have the potential to pave the way for restorative and reparative TJ and lay the groundwork for memorialisation efforts by granting access to the archives of legally verified facts and archived testimonies from survivors. See: Nassar and Rangelov, “Documentation of Human Rights Violations and Transitional Justice in Syria.”

<sup>179</sup> Hybrid courts encompass both national and international aspects, usually operating within the jurisdiction where the crimes occurred. Some procedures and staff can be borrowed from another legal system and at least part of the funding and support comes from international institutions or other governments. See: “Rule-of-Law Tools for Post-Conflict States: Maximising the Legacy of Hybrid Courts” (New York and Geneva: Office of the United Nations High Commissioner for Human Rights, 2008).

<sup>180</sup> Nassar and Rangelov, “Documentation of Human Rights Violations and Transitional Justice in Syria.”

<sup>181</sup> Moffett, “Victims, Victimology & Transitional Justice,” 40.

<sup>182</sup> United Nations High Commissioner for Refugees, “A Victim-Centred Approach”; “UNODC & UN Women Take a Survivor-Centred Approach to Police Services During Global Pandemic,” United Nations : Office on Drugs and Crime, 2021, [//www.unodc.org/unodc/en/frontpage/2021/February/unodc-and-un-women-take-a-survivor-centred-approach-to-police-services-during-global-pandemic.html](https://www.unodc.org/unodc/en/frontpage/2021/February/unodc-and-un-women-take-a-survivor-centred-approach-to-police-services-during-global-pandemic.html); UNICEF, “Capacity Building Training Session and Materials: Survivor-Centred Response,” Communities Care: Transforming Lives and Preventing Violence (New York, NY: UNICEF, 2014).

By closely examining the scholarship on this topic as well as war crimes documentation guidelines and standardisation initiatives, this chapter will answer the following question: *Why is a survivor-centred approach included in civil society war crimes documentation guidelines?* This question reveals the nuanced nature of a survivor-centred approach in war crimes documentation and the varying motivations driving its implementation. To address this question, my analysis has primarily centred on the Eurojust and the ICC guidelines and the International, Impartial and Independent Mechanism (IIIM) in Syria. These two initiatives explicitly adopt a survivor-centred approach and offer valuable insights into their motivations for doing so.<sup>183</sup>

This analysis uncovers three key factors as the driving forces behind their documentation guidelines and thus can contribute to an understanding of *why* organisations adopt a survivor-centred approach. *Firstly*, this approach empowers and recognises survivors' rights, agency, and dignity, ensuring their voices are heard and their experiences validated. *Secondly*, it can mitigate potential harms during the truth-telling process, safeguarding against re-traumatisation and fostering healing among survivors. *Finally*, to put it bluntly, victims and survivors are useful. They can offer valuable information that can later be turned into evidence and used in future justice and accountability endeavours, contributing to the overarching objective of combating impunity. These findings shed light on the motivations and strategies utilised by various organisations, adding to our understanding of the broader landscape of war crimes documentation trends and practices in TJ.

### *To Empower Survivors*

By adopting a survivor-centred approach in their documentation guidelines CSOs are prioritising the well-being, empowerment, and healing of survivors and moving beyond the scope of legal prosecution and punishment.<sup>184</sup> In the thought-provoking study on Rwandan youth born of genocidal rape, Kagovire and Richters shed light on the empowering potential of a victim-centred approach, highlighting how it can “can give [survivors] hope for the future

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<sup>183</sup> SJAC, the VDC, Truth Hounds and the CCL do not explicitly include a survivor-centred approach (which will further be explored in the next chapter) and thus do not include motivations for including such an approach. Therefore, these CSOs will not be included in the analysis in this chapter.

<sup>184</sup> Di Eugenio and Baines, ““Our Place Under the Sun.””

and confidence in the present.”<sup>185</sup> Furthermore, Robins argues that, if done correctly, and if victims are engaged at all levels of planning and implementation, a victim-centred approach has the potential to challenge external and prescriptive approaches in TJ and optimise addressing victims’ needs and empowerment.<sup>186</sup> This sentiment is further reflected in a number of standardisation initiatives aimed at civil society war crimes documentation.

An illustrative example of this is the IIM, which from its inception, has demonstrated a dedicated commitment to adopting a victim/survivor-centred approach (VSCA) in its work. The mechanism has a specific page on its website that outlines its VSCA and highlights the significance of such an approach as a way of prioritising the experiences and perspectives of a wide range of victims and survivors in the Syrian conflict.<sup>187</sup> The IIM clearly states that they adopt a VSCA as a means of “[maximising] the empowerment of victims while acknowledging and promoting their dignity.”<sup>188</sup> Similarly, as victims have been described as the *raison d’être* of the ICC, it is not surprising that the Eurojust and ICC guidelines on civil society war crimes documentation aim to ensure that victims of war crimes have a meaningful role and are empowered throughout the criminal justice process.<sup>189</sup> Article 68(3) in the Rome Statute enables victims of crimes falling under the jurisdiction of the Court to be represented, submit observations, and have their views and concerns presented and considered, at all phases of the proceedings.<sup>190</sup>

### *To Limit Harm & Prevent Re-traumatisation During the Truth-Telling Process*

Alongside the empowerment of survivors, the inclusion of a survivor-centred approach in guidelines and standardisation initiatives can also stem from a desire to protect the lives of those involved in documentation and help to avoid re-traumatisation of individuals who have witnessed or survived of serious human rights violations. The Murad Code, an initiative that has a survivor-centred approach at its core, underscores the paramount value of this approach

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<sup>185</sup> Marie Kagoyire and Johanna Maria Richters, “‘We Are the Memory Representation of Our Parents’: Intergenerational Legacies of Genocide among Descendants of Rape Survivors in Rwanda,” *Torture Journal* 28 (November 27, 2018): 30–45, <https://doi.org/10.7146/torture.v28i3.111183>.

<sup>186</sup> Robins, “Towards Victim-Centred Transitional Justice,” 77.

<sup>187</sup> IIM, “Victim/Survivor Centred Approach.”

<sup>188</sup> IIM, “Protocol of Cooperation.”

<sup>189</sup> Jo-Anne Wemmers, “Victims and the International Criminal Court (ICC): Evaluating the Success of the ICC with Respect to Victims,” *International Review of Victimology* 16, no. 2 (September 1, 2009): 211–27, <https://doi.org/10.1177/026975800901600205>.

<sup>190</sup> UN General Assembly, “Rome Statute.”



to minimise risks such as further exposure to trauma, loss of privacy, and stigmatisation.<sup>191</sup> Similarly, in line with UNSCR Resolution 2467, on women, peace and security, adopted in 2019, the UN also recognised that “a survivor-centred approach ensures that the safety and welfare of survivors remain paramount.”<sup>192</sup> This sentiment is also echoed in various initiatives that seek to standardise civil society war crimes documentation practices.

Acknowledging the potential for the re-traumatisation of survivors when recounting their experiences, the IIIM outlines its strong commitment to minimise these risks by planning its information collection strategy accordingly.<sup>193</sup> Comparably, the Eurojust and ICC guidelines were largely born out of the fear of “over-documentation” in Ukraine, where an unprecedented number of CSOs are working to document crimes using different standards and tools.<sup>194</sup> The guidelines explicitly state that part of their motivation behind creating the guidelines and incorporating a survivor-centred approach is to prevent re-traumatisation that can occur by the unnecessary re-interviewing of survivors.<sup>195</sup>

### *To Create Evidence & Combat Impunity*

CSOs engaged in war crimes documentation have recognised that a survivor-centred approach is not only vital for the well-being of survivors but also instrumental in creating robust evidence and combating impunity.<sup>196</sup> If done correctly, CSOs involved in documentation can avoid the “false choice” between being either survivor-centred or effective.<sup>197</sup> During a panel discussing the Murad Code, investigator, Erin Gallagher, highlights that conducting good documentation and putting the needs of survivors first are not mutually exclusive.<sup>198</sup> Studies show that when survivors feel heard, respected and supported, they are more likely to come forward and share their testimonies, leading to a stronger body of evidence<sup>199</sup> that can be utilised down the line in criminal proceedings.<sup>200</sup> Many advocates for the adoption of a survivor-centred approach also

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<sup>191</sup> Murad Code Project, “Murad Code.”

<sup>192</sup> “UN Emphasizes Importance of a Survivor-Centred Approach towards Victims of ISIL Abuses,” UNFPA Iraq, June 27, 2019, <https://iraq.unfpa.org/en/news/un-emphasizes-importance-survivor-centred-approach-towards-victims-isil-abuses>.

<sup>193</sup> “Protocol of Cooperation.”

<sup>194</sup> Eurojust and ICC, “Guidelines for Civil Society Organisations,” 6.

<sup>195</sup> Eurojust and ICC.

<sup>196</sup> Murad Code Project, “Murad Code.”

<sup>197</sup> Murad Code Project.

<sup>198</sup> UN Web TV “Survivor-Centred Documentation,” 01:14:51.

<sup>199</sup> It is important to note that not all information necessarily becomes evidence, but all evidence is collected information. See: Nystedt, Nielsen, and Kleffner, “A Handbook on Assisting International Criminal Investigations.”

<sup>200</sup> UN Web TV “Survivor-Centred Documentation.”

call to minimise the unnecessary re-interviewing of survivors as it can lead to re-traumatisation. However, beyond this benefit, not re-interviewing survivors can also serve to safeguard future justice processes by reducing the potential for inconsistent accounts that could undermine a survivor's right to access justice.<sup>201</sup> By sharing interviews, statements and testimonies with other CSOs (with informed consent and the proper security and privacy precautions in place) one is reducing the need to re-interview survivors again and again and prioritising “quality over quantity.”<sup>202</sup> The multitude of advantages associated with implementing a survivor-centred approach intersect and reinforce one another, creating a strong incentive for CSOs to embrace this approach and integrate it into their operational framework.

Many organisations conducting documentation work share a commitment and objective to transform gathered information into concrete evidence that can be utilised in courts to achieve justice in the future. For example, The IIIM's mandate is to support the facilitation of fair and independent criminal proceedings at national, regional, or international courts and tribunals, with the aim of holding perpetrators accountable for the international crimes committed in Syria.<sup>203</sup> In the section outlining their VSCA, the IIIM states that the approach aims to ensure that “while remaining focused on its criminal justice mandate [they] support broader justice and accountability objectives wherever possible.”<sup>204</sup> Similarly, the ICC is a court, with the official mandate to “try individuals and to hold such persons accountable for the most serious crimes of concern to the international community as a whole.”<sup>205</sup> Therefore, it is not surprising that the Office of the Prosecutor places a huge emphasis on creating solid evidence that can be used in the courtroom and contribute to this fight.

#### **4.1 The Mainstreaming of a Survivor-Centred Approach**

The trend of IOs and CSOs actively including and adopting survivor-centred approaches into documentation practices and standardisation efforts bears resemblance to the concept of gender mainstreaming.<sup>206</sup> Just as gender mainstreaming requires integrating a gender equality perspective at all stages and levels of policies, programs, and projects, a survivor-centred

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<sup>201</sup> Murad Code Project, “Murad Code”; Vukušić, “Archives of Mass Violence.”

<sup>202</sup> UN Web TV “Survivor-Centred Documentation,” 01:15:26.

<sup>203</sup> IIIM, “Victim/Survivor Centred Approach.”

<sup>204</sup> IIIM.

<sup>205</sup> UN General Assembly, “Rome Statute.”

<sup>206</sup> See: Mary Daly, “Gender Mainstreaming in Theory and Practice,” *Social Politics: International Studies in Gender, State & Society* 12, no. 3 (October 1, 2005): 433–50, <https://doi.org/10.1093/sp/jxi023>.

approach is now also being recognised as something that should be deeply ingrained in the core of TJ processes. It is becoming increasingly clear that regardless of the primary goal of documentation—whether it leans towards retribution or restoration/reparation—prioritising survivors' experiences can enhance the production of robust evidence and facilitate the pursuit of justice while minimising harm along the way.

It is also crucial to recognise that organisations may have motivations to adopt a survivor-centred approach which may extend beyond what is mentioned in this chapter and beyond what is explicitly outlined in their documentation guidelines and standardisation initiatives. Mechanisms and practices within TJ can often be viewed as a set of policy or intervention options that are implemented to contribute to a particular set of outcomes—such as specific donor goals.<sup>207</sup> Organisations may adopt a survivor-centred approach to align with funding considerations that prioritise survivor empowerment, participation, and well-being. Such predefined parameters lend themselves to clearly defined and often quantifiable indicators of success and failures.<sup>208</sup>

When viewed through a decolonial lens, there is a sense that a survivor-centred approach has become a routine part of a documentation checklist, conforming to a “dominant script” of TJ exported to the rest of the world, without respect for local relevance. While including survivors in the equation is undoubtedly a positive step on paper, organisations must be wary of the risk of simply adding survivor-centric language as a “box-ticking exercise.” Superficially including survivors in TJ processes or simply using survivor-centric language—akin to the “just add women and stir” approach—is insufficient to bring meaningful change and limit the potential harms of documentation by civil society.<sup>209</sup> Sharp raises concerns about “cookie-cutter” approaches in TJ that often suffer from a lack of local support or legitimacy.<sup>210</sup> Consequently, it is vital to critically examine whether the survivor-centred approach being deployed aligns with and is appropriate within the cultural context it is being implemented.

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<sup>207</sup> van der Merwe, Chelin, and Ndinga-Kanga, “‘Measuring’ Transitional Justice,” 284.

<sup>208</sup> van der Merwe, Chelin, and Ndinga-Kanga.

<sup>209</sup> The concept of “just add women and stir” is an idea used by feminist scholar Dharmapuri, who argues that a superficial addition of “women” and “gender” to post-conflict peace and security mandates, combined with limited cultural sensitivity and a lack of knowledge about the role women play in conflicts, will cause more harm than good. See: Sahana Dharmapuri, “Just Add Women and Stir?,” *The US Army War College Quarterly: Parameters* 41, no. 1 (March 1, 2011), <https://doi.org/10.55540/0031-1723.2566>.

<sup>210</sup> Sharp, “Transitional Justice and ‘Local’ Justice.”

## 4.2 Conclusion

This chapter sheds light on the growing inclusion of a survivor-centred approach into standardisation initiatives and documentation practices and uncovered the motivations that drive organisations to include such an approach in their guidelines and practices. While noting that organisations are driven by specific goals, mandates and contexts, three primary motivations have emerged from the analysis: to empower survivors, to safeguard against further harm and re-traumatisation, and to generate solid evidence to combat impunity.

Applying a decolonial lens to this trend offers an important critique of the motivations and methods of international organisations. It is crucial to bring to the forefront the power dynamics, colonial legacies, and how dominant notions of survivorship and healing might perpetuate colonial narratives and silence local knowledge and practices. As the discourse surrounding survivor-centred approaches continues to evolve, the importance of authentic inclusion and meaningful participation cannot be overstated.

While understanding these motivations is a crucial starting point, a fundamental inquiry into *how* organisations are implementing this approach in practice remains unanswered. The next chapter will delve into the ways in which CSOs incorporate survivor-centred approaches into their war crimes documentation guidelines and standardisation initiatives in Syria and Ukraine, shedding light on the tangible steps taken to attempt to ensure justice and support for survivors.

## 5. Exploring the Methods: How a Survivor-Centred Approach is Incorporated into War Crimes Documentation Practices in Syria & Ukraine

Having explored the motivations driving the adoption of a survivor-centred approach in civil society war crimes documentation initiatives, I now turn the focus to the question of: *How is a “survivor-centred approach” included in civil society war crimes documentation practices in Syria and Ukraine?* In the complex world of war crimes documentation, a survivor-centred approach can manifest in various ways, extending from explicit mentions to implicit indicators, that reveal varying degrees of commitment to prioritising the needs of victims and survivors. Through extensive research into literature on a survivor-centred approach, coupled with coding and document analysis, I have uncovered five main ways that survivor-centred approaches are incorporated into war crimes documentation guidelines: *first*, through the explicit use of “survivor-centred approach” terminology; *second*, through collaboration, feedback, and continuous dialogue with survivor groups; *third*, through adequate preparation; *fourth*, through the principles of do no harm, confidentiality, and consent; *finally*, through the recognition of vulnerable groups and diverse experiences. This analysis reveals a stark divide in how the approaches are implemented in initiatives *aimed at* and *created by* CSOs in Syria and Ukraine.

### *The Explicit Inclusion of “Victim/Survivor-Centred” Terminology*

While it may appear obvious, a key indicator of whether a guideline adopts a victim or survivor-centred approach lies in whether the organisation uses the term “victim/survivor-centred.” The IIM has made a resounding commitment to a victim/survivor-centred approach (VSCA) as evident not only through their dedicated webpage but also by the consistent use of this language throughout their *Protocol of Cooperation*.<sup>211</sup> While the Eurojust and ICC guidelines echo the significance of a victim/survivor-centred approach, it is important to note that their explicit mention of it is limited to the “vulnerable persons” section, rather than encompassing documentation as a whole—raising questions about the extent to which the approach is woven into their overall framework.<sup>212</sup>

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<sup>211</sup> A victim/survivor-centred approach was mentioned ten times in the IIM Protocol of Cooperation and the VSCA website.

<sup>212</sup> Eurojust and Office of the Prosecutor at the International Criminal Court (ICC), “Eurojust and ICC Prosecutor Launch Practical Guidelines for Documenting and Preserving Information on International Crimes.”

In contrast, SJAC's documentation guidelines only make one explicit reference to a "victim-centric approach" focusing on impartiality, setting aside "personal hatred," and avoiding undue harshness towards any side, highlighting a different interpretation of what it means to put victims first.<sup>213</sup> There are no mentions of the term "victim or survivor-centred approach" in the VDC's methodology, Truth Hounds' guidelines, or on the CCL's website. However, it is imperative to note that it is possible for guidelines to effectively support survivors without explicitly using specific survivor-centric language. Conversely, guidelines that employ survivor-centric language may not necessarily embody a survivor-centred approach in practice. A survivor-centred approach can manifest in a variety of ways which I will further outline below.

### *Collaboration & Continuous Dialogue with Survivors*

Actively involving survivors in their work demonstrates an implicit commitment to placing survivors' needs at the forefront. This commitment aligns with the fundamental principles of a survivor-centred approach outlined in the literature, which emphasises providing space for survivors' voices and prioritising their experiences.<sup>214</sup> Additionally, continuous dialogue can help ensure that documenters respond to the actual needs of survivors, rather than assumptions about what a documenter thinks they might need.

The IIM, for instance, explicitly welcomes the input and perspectives of Syrian CSOs, particularly regarding their collaboration with the mechanism.<sup>215</sup> They recognise ongoing dialogue with survivors of crimes in Syria, particularly through relevant victim/survivor associations, as an important part of their methodology.<sup>216</sup> Similarly, although SJAC is largely based in, and funded by the United States, they are a Syrian-led organisation that works closely with victims groups within Syria, actively seeking their involvement and feedback.<sup>217</sup> Moreover, SJAC offers training programs conducted in Arabic, empowering activists with the necessary skills to document incidents in a detailed and standardised manner.<sup>218</sup> This approach

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<sup>213</sup> It is thus not surprising that they use explicit survivor-centred language similar to IOs such as the IIM and Eurojust and the ICC. See: Syria Justice and Accountability Centre, "Documentation Training Guide," 2022, 32.

<sup>214</sup> See: Clark, "Beyond a 'Survivor-Centred Approach' to Conflict-Related Sexual Violence?"; Di Eugenio and Baines, "Our Place Under the Sun"; Robins, "Towards Victim-Centred Transitional Justice."

<sup>215</sup> IIM, "Protocol of Cooperation."

<sup>216</sup> IIM, "Victim/Survivor Centred Approach."

<sup>217</sup> It is thus not surprising that they use this explicit survivor-centred language similar to the IIM and Eurojust and the ICC. See: Syria Justice and Accountability Centre, "Documentation Training Guide," 2022, 32.

<sup>218</sup> SJAC, "SJAC Shares New Human Rights Training in Arabic," Syria Justice & Accountability Centre, December 17, 2020, <https://syriaaccountability.org/sjac-shares-new-human-rights-training-in-arabic/>.

enables survivors and CSOs to actively participate in the documentation process, ensuring that their voices are heard, and their experiences are accurately represented. Similarly, the VDC collaborates with and operates under the guidance of a team of Syrian human rights activists, both inside and outside Syria, and ensures transparency and the opportunity for an open dialogue with survivors by regularly publishing statistics in the form of weekly, monthly, and yearly reports about human rights violations.<sup>219</sup>

There are several victim provisions within the Rome Statute that recognise the importance of victims' involvement and interests in judicial mechanisms, reflecting a growing acknowledgement of their role.<sup>220</sup> Eurojust and the ICC's Office of the Prosecutor echo this sentiment in their guidelines, emphasising that accountability and fighting impunity can only be achieved by working with, and drawing on the contributions of victims and survivors.<sup>221</sup> Truth Hounds' guidelines further exemplify the collaborative nature between CSOs and survivors by ensuring that after the information is recorded by investigators from the survivors, the text is made available to the survivor for review and necessary corrections or additions.<sup>222</sup> Additionally, as a member of the "5 a.m. Coalition", a major alliance of more than 30 NGOs and experts on law and international human rights, Truth Hounds collaborates with several other Ukrainian groups, further expanding their reach.<sup>223</sup> Furthermore, the CCL mobilises volunteers by providing training to Ukrainian citizens who may not possess prior knowledge of international humanitarian law or field experience.<sup>224</sup> This grassroots mobilisation ensures that the voices of survivors are heard and their stories are documented.<sup>225</sup>

### *Preparation & Limiting Re-traumatisation*

Literature on local justice stresses that knowing and understanding the contexts you're working in and building competency and skills are crucial when taking part in TJ processes and

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<sup>219</sup> Violations Documentation Center, "Our Methodology," accessed May 24, 2023, <https://vdc-sy.net/our-methodology/>.

<sup>220</sup> UN General Assembly, "Rome Statute."

<sup>221</sup> Eurojust and ICC, "Guidelines for Civil Society Organisations."

<sup>222</sup> Truth Hounds, "Code of Ethics for Documenters."

<sup>223</sup> "Ukraine 5 AM Coalition," 5 AM Coalition, 2022, <https://www.5am.in.ua/en>.

<sup>224</sup> Remarkably, within just three months, the organisation has trained nearly 200 individuals who have gone on to document potential incidents of Russia's war crimes. See: USAID, "From Documenting War Crimes on Facebook to Receiving the 2022 Nobel Peace Prize," *U.S. Agency for International Development* (blog), December 9, 2022, <https://medium.com/usaaid-2030/from-documenting-war-crimes-on-facebook-to-receiving-the-2022-nobel-peace-prize-fffafaf8925d>.

<sup>225</sup> USAID.

mechanisms.<sup>226</sup> During a panel discussing the Murad Code, Miriam Lewin—survivor and journalist—highlights how preparation by the documenter is at the core of a survivor-centred approach.

“I cannot recall how many times I have been interviewed by documentary filmmakers, students, academics, and national memory archives documenters... I am always thankful when I can be spared telling the whole story over and over again.”<sup>227</sup>

Lewin condemns the practice of subjecting survivors to the ordeal of repeatedly reliving their traumatic experiences through testimony.<sup>228</sup> She illustrates this by sharing a positive experience she had with a documenter who extensively reviewed her previous testimonies before their meeting. “Instead of two, or three, or four hours of testimony, mine lasted just 15 minutes. And I was very thankful for that.”<sup>229</sup> By taking measures to avoid unnecessary repetition and instead focusing on essential aspects, documenters can play a vital role in mitigating harm and upholding a survivor-centred methodology.

This commitment manifests in documentation guidelines in several ways. Notably, the IIM’s protocol acknowledges the risk of re-traumatisation that victims are exposed to when asked to provide an account of the facts they have witnessed. The document also highlights the importance of preparation and how they are committed to “minimising such risk and will plan its information collection strategy accordingly.”<sup>230</sup> Similarly, SJAC documentation guidelines include five references to “preparation”<sup>231</sup> as well as thoroughly outlining the steps necessary to be prepared for documentation. The guidelines also emphasise the need to avoid unnecessary re-interviewing, conducting only one interview when possible.<sup>232</sup> Furthermore, the VDC methodology highlights how their documenters and activists undergo training courses and receive practical preparation on detailed modern documentation mechanisms adopted by international bodies.<sup>233</sup> The VDC states that this preparation ensures their documenters have the necessary knowledge and skills to effectively document human rights violations in a sensitive and accurate manner.<sup>234</sup>

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<sup>226</sup> Sharp, “Transitional Justice and ‘Local’ Justice.”

<sup>227</sup> UN Web TV “Survivor-Centred Documentation,” 00:31:15.

<sup>228</sup> UN Web TV “Survivor-Centred Documentation,” 00:31:40.

<sup>229</sup> UN Web TV “Survivor-Centred Documentation,” 00:31:54.

<sup>230</sup> IIM, “Protocol of Cooperation.”

<sup>231</sup> This includes stemmed words such as: prepare, preparing and prepared.

<sup>232</sup> Syria Justice and Accountability Centre, “Documentation Training Guide,” 10.

<sup>233</sup> Violations Documentation Center, “Our Methodology.”

<sup>234</sup> Violations Documentation Center.



Eurojust and the ICC display a strong dedication to tackling the risk of re-traumatisation in relation to Ukraine, recognising its significance as a key motivating factor behind the creation of the guidelines. The ICC Prosecutor recognised the risk of re-interviewing of witnesses, victims, and survivors by various actors, and of exposing those that have already suffered re-traumatisation through unnecessary recounting of their experiences.<sup>235</sup> There are 22 references to the risk of re-traumatisation, making it a prominent concern within their initiative.<sup>236</sup>

While Truth Hounds doesn't explicitly recognise the risk of re-traumatisation, their commitment to preparation is evident. Their code of ethics for documenters emphasises devoting sufficient time and attention to safety and planning to prevent harm to field researchers, colleagues, and third parties.<sup>237</sup> The CCL does not explicitly address the risk of re-traumatisation or extensively discuss planning and preparation in their documentation practices.

### *Principles of "Do No Harm," Informed Consent & Confidentiality*

McGonigle Leyh outlines three key principles in documentation efforts: do no harm, informed consent, and confidentiality.<sup>238</sup> The do no harm principle focuses on minimising any unintended negative effects and protecting victims, witnesses, and those involved in information collection.<sup>239</sup> Informed consent ensures victims and witnesses have control over their experiences and understand the potential consequences of providing information.<sup>240</sup> Finally, confidentiality is vital in safeguarding personal data and requires clear communication on its limits.<sup>241</sup>

Part of the do no harm principle addresses the potentially exploitative nature of documentation—where documenters come in for a short amount of time, collect their information and then leave, never to be heard from again. Gallagher recounts how harmful it has been for some survivors who have given testimony to see their stories on television or in a newspaper article without their consent—leading survivors to feel used and exploited and lose

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<sup>235</sup> Eurojust and ICC, "Guidelines for Civil Society Organisations."

<sup>236</sup> Eurojust and ICC.

<sup>237</sup> Eurojust and ICC.

<sup>238</sup> McGonigle Leyh, "Changing Landscapes in Documentation Efforts," 53.

<sup>239</sup> McGonigle Leyh.

<sup>240</sup> McGonigle Leyh.

<sup>241</sup> McGonigle Leyh, 54.

faith in documenters and the documentation process.<sup>242</sup> Gallagher stresses that informed consent means setting expectations and explaining what will happen to their story and their account, reviewing what they've written down (especially when working with an interpreter), and being honest and transparent about what can and cannot be achieved by providing their testimony.<sup>243</sup>

Furthermore, survivors should have the freedom to change their mind about participating throughout the documentation process and it should be clear that their participation in interviews with documenters is voluntary. During the panel, Gallagher recounts instances where survivors have felt intimidated by documenters and believed they had no choice but to comply with an interview.<sup>244</sup> Informed consent can only be obtained if survivors are fully aware of what they are agreeing to, necessitating honesty and transparency from the documenter regarding the available support and limitations. Adopting a survivor-centred approach entails explaining the subsequent steps involved in handling their story and account, ensuring transparency, and respect for their agency.

SJAC's documentation guidelines demonstrate a robust commitment to these three principles. The organisation's emphasis on consent is evident, with a remarkable 38 references, underscoring the significance of respecting individuals' autonomy.<sup>245</sup> Additionally, SJAC recognises the importance of confidentiality, as indicated by 13 references, acknowledging the sensitive nature of the information shared. Moreover, the do no harm principle holds a prominent place in SJAC's guidelines, with eight explicit references. By prioritising survivors' well-being, SJAC offers practical options to ensure their comfort and minimise distress during interviews including offering options like choosing the interview location, avoiding repeated interviews, and pausing or concluding discussions if the interviewee is distressed.<sup>246</sup> The IIIM's protocol only acknowledges informed consent three times, with its emphasis appearing to lie primarily in engaging with NGOs to comprehend how informed consent operates within diverse contexts.<sup>247</sup> Moreover, the IIIM's guidelines touch upon confidentiality only once, with no explicit mention of the do no harm principle.

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<sup>242</sup> UN Web TV "Survivor-Centred Documentation," 00:44:50.

<sup>243</sup> UN Web TV, 00:46:00.

<sup>244</sup> UN Web TV, 00:46:25.

<sup>245</sup> Syria Justice and Accountability Centre, "Documentation Training Guide."

<sup>246</sup> Syria Justice and Accountability Centre, 14.

<sup>247</sup> IIIM, "Protocol of Cooperation."

In contrast, an analysis of the Eurojust and the ICC guidelines reveals a comprehensive integration of the three principles. With eleven mentions of the do no harm principle, the guidelines underscore the importance of CSOs preventing or minimising any unintended negative effects of their documentation activities on individuals and themselves. Consent is mentioned a remarkable 129 times, with a particular emphasis on ensuring that consent is informed, contemporaneous, voluntary, and explicit.<sup>248</sup> The principle of confidentiality is mentioned 50 times, emphasising the need for CSOs to implement measures to protect the information collected—such as anonymising sources, encrypting devices, securing communications and only sharing information on a need-to-know basis.<sup>249</sup> Truth Hounds makes one mention of informed consent as part of their underlying principles in their Code of Ethics for documenters. The VDC and the CCL do not make any explicit reference to the fundamental principles of do no harm, confidentiality, or informed consent.

### *Recognition of Vulnerable Groups & Diverse Experiences*

It is critical to consider how multiple intersecting identities and social categories such as race, gender, class, sexuality, disability and other intersecting factors influence a survivor’s experiences and access to resources. The Murad Code incorporates this point expertly by emphasising the individuality of survivors and the importance of refraining from making assumptions based on the groups that they belong to or on any single facet of their identities.<sup>250</sup>

Along the same line, the IIIM’s guidelines are explicit in their inclusion of vulnerable groups and recognising those with diverse experiences—in particular children and youth, referencing this group seven times.<sup>251</sup> They also recognise victims/survivors who are in a disadvantaged position due to discriminatory gender norms, male survivors of sexual violence and persons with disabilities, who are less visible—and often invisible—in accountability efforts.<sup>252</sup> Finally, the IIIM highlights the importance of focusing on the staggering number of persons who are currently missing as a result of the Syrian conflict and their goal to develop witness interview protocols that integrate attention to missing person issues alongside issues relevant to criminal accountability.<sup>253</sup>

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<sup>248</sup> Eurojust and ICC, “Guidelines for Civil Society Organisations,” 8.

<sup>249</sup> Eurojust and ICC.

<sup>250</sup> Murad Code Project, “Murad Code.”

<sup>251</sup> IIIM. “Victim/Survivor Centred Approach.”

<sup>252</sup> IIIM.

<sup>253</sup> IIIM.

SJAC documentation guidelines make 21 references to children and argue that because they are the most vulnerable members of society they are in need of an individualised response and specific training.<sup>254</sup> Central to the guidelines is also the need to recognise the individual experiences of survivors of sexual and gender-based violence and how “documenters should not make assumptions about who might be a victim, so that documentation can better depict the diverse experiences of survivors.”<sup>255</sup> Similarly to the IIM, SJAC guidelines also include a section on documenting missing persons and recognising that unresolved missing persons cases have complex and serious repercussions for families and communities.<sup>256</sup>

By examining the documentation guidelines provided by Eurojust and the ICC, I found that “vulnerable” persons or situations were mentioned a total of 130 times. In terms of specific vulnerable groups, the guidelines identify children, with 71 mentions throughout the documents.<sup>257</sup> The guidelines outline how to protect a child’s well-being and the integrity of their account by refraining from taking accounts directly and emphasising the need for trained psychologists.<sup>258</sup> They also refer to male survivors of CRSV and state that “in some contexts, male [CRSV] can be taboo, linked to weakness and loss of “manhood,” and the failure to protect the family or community. Such beliefs and fears can make it even more difficult to document these forms of victimisation.”<sup>259</sup> Furthermore, the Truth Hounds documentation handbook makes three specific mentions of children, demonstrating a conscious effort to address their unique needs during investigations.<sup>260</sup> The VDC and CCL do not mention vulnerable people or any of the indicators of vulnerable groups or diverse experiences.

## **5.1 The Divide in Approaches: International Organisations vs. Syrian & Ukrainian CSOs**

*“Ultimately, no rule of law reform, justice reconstruction, or transitional justice initiative imposed from the outside can hope to be successful or sustainable.”<sup>261</sup>*

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<sup>254</sup> Syria Justice and Accountability Centre, “Documentation Training Guide.”

<sup>255</sup> Syria Justice and Accountability Centre, 9.

<sup>256</sup> Syria Justice and Accountability Centre, 30.

<sup>257</sup> Eurojust and ICC, “Guidelines for Civil Society Organisations.”

<sup>258</sup> Eurojust and ICC, 13.

<sup>259</sup> Eurojust and ICC, 25.

<sup>260</sup> Truth Hounds, “Code of Ethics for Documenters.”

<sup>261</sup> Secretary-General Ban Ki-moon stated this in a 2004 report. See: United Nations Secretary-General, ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, 2 UN Doc S/2004/616, 23 August 2004, para 17, 26.

Although there was an opportunity to compare the practices of CSOs in Syria and Ukraine, the research process instead revealed a stark divide between the guidelines created *within* these countries and the international organisation's guidelines *aimed at* these conflicts.

It became abundantly clear that the guidelines formulated by Eurojust and ICC's Office of the Prosecutor and the IIM in Syria were driven by the trend in scholarship that underscores the benefits of a survivor-centred approach. The inclusion of such an approach is unequivocally apparent in their documents with numerous mentions of the explicit language, while simultaneously hitting the key indicators as outlined by this thesis. In striking opposition, this analysis has revealed that the guidelines created by the two Syrian CSOs: SJAC and the VDC, and the two Ukrainian CSOs: Truth Hounds and the CCL, are not characterised by survivor-centred language in the same way as the initiatives created by the IOs and do not include as many of the indicators of said approach.

However, it would be incredibly misleading to conclude that these CSOs do not prioritise survivors or make efforts to minimise harm inflicted upon them during the documentation process. Instead, this analysis has raised a number of new questions about what it means to be truly survivor-centred, and whether that is something that can be measured using the indicators I have outlined above. When expanding the scope of analysis by examining other analysing documents, speeches and interviews with Syrian and Ukrainian CSOs, it is extremely difficult to argue that their work does not put the rights and experiences of survivors at the core.

### *What does it mean to be survivor-centred?*

While the war in Syria has faded away from the spotlight in recent years, civil society actors continue to work tirelessly and in dangerous environments to raise awareness about the serious human rights violations in the country and pursue justice. The abduction of human rights lawyers and activists serves as a notable and tragic illustration of this. The head of the VDC, Razan Zaitouneh, and her colleagues—Wael Hamada (also her husband), Samira al-Khalil, and Nazem Hamadi were abducted by a group of armed men who stormed the VDC office on December 9, 2013.<sup>262</sup> This instance highlights the heavy price civil society activists, writers, journalists and lawyers have borne during the ongoing conflict in Syria. The continued

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<sup>262</sup> Institute for War & Peace Reporting (IWPR). "Four Syrian Rights Defenders Abducted," accessed June 28, 2023, <https://iwpr.net/global-voices/four-syrian-rights-defenders-abducted>.

operation of the VDC serves as a testament to their resolute commitment and the significant risks civil society groups undertake in the pursuit of justice.

In Ukraine, several groups have been diligently engaged in these efforts long before the 2022 full-scale invasion. Oleksandra Romantsova, a human rights activist from the CCL, described answering calls providing free legal support for arrested activists from 4 a.m. to 8 a.m. before going to work.<sup>263</sup> Romantsova recounts living with her colleagues in a house with blackened windows, not going outside for more than a month, and not being able to sleep because rocket attacks mostly hit at night.<sup>264</sup> Despite experiencing post-traumatic stress disorder, physical danger, and the hardship of travelling to conflict zones, Romantsova stayed in embattled Kyiv, providing instructions and guidance to everyone who wanted to document war crimes.<sup>265</sup>

Similarly, Truth Hounds has been investigating atrocities committed since the start of hostilities in the Crimean Peninsula and the eastern Donbas region in 2014, “fuelled by a desire to see justice done on behalf of victims and their families”<sup>266</sup> Among those who joined Truth Hounds in their pursuit of justice was Victoria Amelina, a Ukrainian novelist turned war crimes investigator.<sup>267</sup> Following the full-scale Russian invasion, she travelled to areas liberated from Russian occupation to record testimonies from witnesses and survivors, as well as organising aid and cultural activities which she described as “physical sustenance” for Ukraine’s fight.<sup>268</sup> Tragically, in June 2023, Amelina was killed in a Russian missile attack in Kramatorsk, in Eastern Ukraine.<sup>269</sup> These select cases illustrate an example of the significant sacrifices made by actors within Syrian and Ukrainian CSOs, emphasising that their unwavering commitment and resolute dedication to supporting victims and survivors extends far beyond mere words on a page.

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<sup>263</sup> “From Call-Center to Nobel Peace Prize: Meet Human Rights Activist Oleksandra Romantsova,” UNDP, March 17, 2023, <https://www.undp.org/ukraine/blog/call-center-nobel-peace-prize-meet-human-rights-activist-oleksandra-romantsova>.

<sup>264</sup> UNDP, “From Call-Center to Nobel Peace Prize.”

<sup>265</sup> UNDP.

<sup>266</sup> “Ukrainian Rights Group Truth Hounds Wins Norwegian Prize,” KyivPost., March 9, 2023, <https://www.kyivpost.com/post/14063>.

<sup>267</sup> Uilleam Blacker, “Victoria Amelina Obituary,” *The Guardian*, July 7, 2023, sec. World news, <https://www.theguardian.com/world/2023/jul/07/victoria-amelina-obituary>.

<sup>268</sup> Victoria Amelina, “Victoria Amelina: Ukraine and the Meaning of Home,” *The Guardian*, July 6, 2023, sec. World news, <https://www.theguardian.com/world/2023/jul/06/victoria-amelina-novelist-kramatorsk-russia-ukraine-war-meaning-of-home>.

<sup>269</sup> Blacker, “Victoria Amelina Obituary.”

## *Awareness of Cultural Practices, Religious Beliefs & Ways of Life*

A full picture of the experiences of survivors is only possible when one makes the effort to understand the individual culture, religion, and the context in which the crime took place. In this respect, Robins stresses that victims' "needs are a product of culture and context and are highly local in nature."<sup>270</sup> Gallagher argues that if survivors perceive that the documenter has limited knowledge or is ignorant about the context or the conflict, their willingness to participate, or fully engage, will significantly diminish.<sup>271</sup> Ultimately, the responsibility lies with documenters and information gatherers to establish trust, by having a solid understanding of the context in which they are working, enabling survivors to share "the gift of their account."<sup>272</sup>

During an interview about TJ initiatives in Syria, a subject-matter expert brought to light the cultural and religious norms pertaining to justice within the country.<sup>273</sup> Specifically, it was noted that Syrian victims' groups frequently express a desire for retributive justice as opposed to alternative approaches. They pointed to a passage in the Qu'ran emphasising the importance of "just retribution" in Islam. The interviewee criticised scholars who blindly advocate for reparative or restorative approaches in Syria without considering how cultural and religious factors can shape survivors' perceptions of such a suggestion. As an example, they highlighted how, in their experience, some Syrian victims' groups have found the suggestion of reparations to be insulting.

Despite not being explicitly survivor-centred, the VDC, SJAC, Truth Hounds, and the CCL are all Syrian or Ukrainian-founded, respectively, and possess a genuine understanding of the community and the cultural, religious, and conflict-related dynamics. Their close proximity to the day-to-day realities experienced by individuals amidst the ongoing conflict provides them with a unique opportunity to engage with survivors in a manner that centres their experiences and needs.

Based on this analysis, I contend that while these local CSOs may not adhere to a "perfectly" survivor-centred approach as defined by prevailing standards, their tireless dedication,

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<sup>270</sup> Robins, "Towards Victim-Centred Transitional Justice," 77.

<sup>271</sup> UN Web TV "Survivor-Centred Documentation." 00.48.81.

<sup>272</sup> UN Web TV, 01.04.17.

<sup>273</sup> The interviewee wished to remain anonymous due to the critical nature of the comments being made about powerful institutions and groups. Additionally, it is important to note that this interview was not at the core of my analysis, but rather is complementing my research and document analysis. To read more about religion and TJ see: Daniel Philpott, "Religion, Reconciliation, and Transitional Justice: The State of the Field," SSRN Scholarly Paper (Rochester, NY, October 17, 2007), <https://doi.org/10.2139/ssrn.1417034>.

knowledge of national legal frameworks and in-depth awareness of cultural practices, religious beliefs and way of life is an incredible asset to the goal of limiting the harm done during the documentation process and centring the experiences of victims and survivors.

## 5.2 Conclusion

*“Syrians are not only people in need of humanitarian assistance. Syrians are not only victims of arbitrary detention. Syrians are also the architects of a better future for Syria.”*<sup>274</sup>

While it is essential to acknowledge the apparent advantages of standardisation and the integration of a survivor-centred approach within documentation practices and initiatives carried out by Eurojust and the ICC’s Office of the Prosecutor, and the IIM, it is also important to examine this approach critically. Through a decolonial lens, it becomes crucial to question the effectiveness and ethical implications of a prescriptive top-down approach. Sharp presents this eloquently by stating that:

“even where greater attempts have been made to ‘consult’ with various local constituencies regarding their own values and preferences—their own cultural understandings of what it means to do justice—this has all too often been a shallow and technocratic exercise carried out in the implementation rather than the design phase of transitional justice work.”<sup>275</sup>

It is essential to recognise that simply adopting a survivor-centred approach cannot guarantee the fulfilment of a survivor’s needs, nor can it ensure support and justice. Not only do survivors’ needs and motivations for seeking justice vary between conflict zones, but they also differ among individuals within the same conflict zone, village or family. Moreover, an individual’s concept of justice may evolve over time, further emphasising that there is no one-size-fits-all approach.

The analysis in this chapter raises profound questions about the value and impact of a survivor-centred approach in practice. While survivor-centred rhetoric may resonate positively in principle, it remains essential to examine whether these approaches translate into a meaningful

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<sup>274</sup> The UN Deputy Special Envoy for Syria, Ms Najat Rochdi eloquently highlighted the pivotal role of civil society. See: “Syrians Still Believe in Their Country,” European Union External Action, June 19, 2023, [https://www.eeas.europa.eu/eeas/syrians-still-believe-their-country\\_en](https://www.eeas.europa.eu/eeas/syrians-still-believe-their-country_en)

<sup>275</sup> Sharp, “Transitional Justice and ‘Local’ Justice,” 169.



and positive effect on survivors. The Syrian and Ukrainian CSOs' direct involvement in the documentation process, understanding of the cultural and contextual environment, and knowledge of legal frameworks indicate a genuine commitment to supporting victims and survivors. As such, it becomes imperative to bridge the gap between well-intentioned guidelines of IOs and the practical realities faced by those working at the grassroots level.

## 6. Conclusion

Throughout the months I spent conducting this research, I—along with the whole world—bore witness to the steady, yet alarming increase in the number of alleged war crimes committed in Ukraine. As this figure continues to rise, it is crucial to remember that behind this number lies over 80,000 victims and survivors, each with their individual stories of anguish and suffering—many of whom are now facing the aftermath of the deaths or disappearances of loved ones and the destruction of their homes. Furthermore, this increasing number of alleged war crimes also serves as a reminder of the passion and determination with which Ukrainian civilians, investigators, prosecutors, journalists, academics and CSOs work to document these atrocities and pursue accountability. In a poignant moment during her Nobel Peace Prize acceptance speech, human rights activist, Oleksandra Romantsova, representing the CCL, powerfully delivered a compelling message:

“War turns people into numbers. We have to reclaim the names of all victims of war crimes. Regardless of who they are, their social status, the type of crime they have suffered, and whether the media and society are interested in their cases.”<sup>276</sup>

Moreover, the reinstatement of Bashar al-Assad and Syria into the Arab League on May 8, 2023, served as a haunting reminder of the grave consequences that can arise from failing to hold perpetrators accountable. Mohammed Ghanem, the head of policy at the Syrian American Council poignantly expressed, that:

“Readmitting [al-]Assad into the Arab League sends a blood-soaked message: you can kill, gas, torture, detain, impoverish, and displace millions of people... and still be welcomed back with open arms.”<sup>277</sup>

The normalised relations without any accountability send a chilling message to perpetrators and dictators worldwide, perpetuating a climate where human rights violations can go unpunished.

By answering the following research question: *Why and how is a “survivor-centred approach” incorporated into civil society war crimes documentation practices in Syria and Ukraine?* I have increased understanding in the field of TJ. My research has uncovered motivations for the

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<sup>276</sup> Matviichuk, “Time to Take Responsibility”.

<sup>277</sup> Husam Hezaber Suleiman Ali Haj, “Syria’s Return to Arab League Leaves Opposition Dismayed,” May 9, 2023, <https://www.aljazeera.com/news/2023/5/9/syrias-return-to-arab-league-leaves-opposition-dismayed>.

trend in not only the professionalisation and standardisation of documentation, but also the increasing inclusion of a survivor-centred approach into said documents. These motivations include empowering survivors, mitigating harm and preventing re-traumatisation, and generating robust evidence to combat impunity. Furthermore, an exploration of various standardisation initiatives also reveals *how* this approach is included, such as through the explicit use of "survivor-centred approach" terminology; fostering collaboration, feedback, and ongoing dialogue with survivor groups; ensuring adequate preparation; upholding principles of do no harm, confidentiality, and consent; as well as recognising the experiences of vulnerable groups and diverse perspectives.

However, in answering this question, a new question has emerged. What does it truly mean to be survivor-centred? While this thesis has found that the Syrian and Ukrainian CSOs analysed are not necessarily "survivor-centred" according to my coding methodology, I have found that the grassroots-driven, unique, and local CSOs that are firmly rooted in the cultural practices, language, community, and religious beliefs that are incredibly valuable and have prompted a reckoning of what a survivor-centred approach really means. There is a humanity in the work of "local" CSOs that is difficult to replicate in a document created in an office thousands of kilometres away. The complex and specific requirements of survivors during conflict and transitional periods highlight the inadequacy of imported and rigid approaches that often overlook or misunderstand their needs.

The literature analysed in this thesis has highlighted that there are a number of benefits to standardising guidelines and incorporating a survivor-centred approach into civil society war crimes documentation practices. However, the decolonial lens adopted throughout this research has made it clear that a continued openness to local, traditional, or "alternative" approaches to documentation and justice might help to generate new and innovative ways of approaching how to limit the risk of harm during documentation. Even if local practices do not present a straightforward solution, they may at least counteract the issue of the de-contextualised, generic standardisation initiatives that suffer from a lack of local support and legitimacy.

### *Limitations*

This thesis is not a comprehensive analysis of CSO war crimes documentation practices in Syria in Ukraine, nor is it a comprehensive overview of standardisation initiatives aimed at

professionalising and guiding these efforts. Instead, this research has provided a snapshot of how a survivor-centred approach is included in select local and international initiatives.

I have noted two potential limitations to the data analysis in this thesis. *First*, the comprehensiveness of the documents and *second*, the language. My research is limited by the fact that I only looked at two CSOs in Syria, two in Ukraine, and two international standardisation initiatives. There are many CSOs operating in Syria and Ukraine that would provide a unique and compelling insight into the efforts of CSOs in conflict settings. Due to time and space limitations, I have chosen to focus on the organisations that are at the forefront of documentation efforts in Syria and Ukraine. Secondly, my research is limited because I do not speak Arabic or Ukrainian which restricts the sources and information I could gather about the work of the civil society in these countries. Although all of the standardisation initiatives are available in English online, a more in-depth understanding could have been developed with an understanding of both languages.

### *Areas for Future Research*

This research not only provides valuable insights into survivor-centred approaches to war crimes documentation but also suggests several compelling areas for future research. One avenue would be collaborating with Syrian and Ukrainian CSOs working with survivor groups, in their own languages, to assess the efficacy of documentation standardisation initiatives on the ground. It would also be incredibly interesting to research the accessibility of documentation standardisation initiatives and guidelines as individuals involved in the documentation process may have varying levels of literacy skills. There is an opportunity here to explore how to create survivors' guides and training documents more accessible by creating multiple formats, such as illustrations and videos. Moreover, an avenue for future research has emerged to develop a framework for evaluating the impact and effectiveness of technology solutions to civil society war crimes documentation. Lastly, investigating how a survivor-centred approach is incorporated into other phases of transitional justice, such as access to archives for example, offers intriguing avenues for exploration.

Through continued research, commitment to justice and by centring the voices of survivors the field of transitional justice can strive towards a more effective, inclusive, and empathetic approach to war crimes documentation that ensures the profound depths of suffering are not forgotten and that at least some perpetrators are held accountable for their crimes.

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