

# CONSOLIDATING THE PROFESSION: THE HUMAN RIGHTS FIELD OFFICER

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## Fourth Expert Consultation on Human Rights Fieldwork

### Report

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## 1. Introduction

'Consolidating the Profession: The Human Rights Field Officer' is an international, inter-institutional project that seeks to support human rights fieldwork by contributing to the enhanced professionalisation of the sector. The project is doing this by means of research, training and development of recommendations around the principles, goals and methods of fieldwork. The project partners are the University of Nottingham Human Rights Law Centre (HRLC), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the University of Pretoria Human Rights Centre, the European Inter-University Centre for Human Rights and Democratisation, the Scuola Superiore Sant'Anna di Pisa, and individual experts in human rights fieldwork who contribute in their personal capacities, Mr. Roberto Garretón M. and Professor Vitit Muntarbhorn.

The project has a research track and a training track, both of which are implemented simultaneously and in close coordination. The research track generates applied research papers that draw out core legal and operational aspects on the roles and functions of field-based human rights officers. Research papers conclude with specific recommendations to inform training activities and field practice. Expert consultations are convened periodically to review and build upon research and training outputs. Within this framework the project partners have developed and launched the *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments*.<sup>1</sup>

The Fourth Expert Consultation on Human Rights Fieldwork<sup>2</sup> was convened on 3 and 4 July 2008 at Palais Wilson, the headquarters of OHCHR, in Geneva. In parallel with the consultation, the *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments* were launched at the Palais des Nations, United Nations Headquarters, Geneva. Participants in these events included diplomats, representatives of nongovernmental organisations (NGOs), and current and former human rights field officers<sup>3</sup> (HRFOs) with experience in conflict, post-conflict and transitional settings across the globe.

This report presents key elements of the broad range of experiences and views shared during the consultation. Chatham House rule applied. The consultation agenda is at annex I. The list of participants is at annex II. Research papers and other materials circulated in advance of the consultation are available on the project website: [www.humanrightspersonals.org](http://www.humanrightspersonals.org).

This report will be widely disseminated through the project website and hard-copy publications, as well as delivered to policymakers involved in the planning and implementation of human rights field operations.

On behalf of the project partners, I would like to thank consultation participants. We are particularly grateful to the Government of Ireland for its generous financial support.

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<sup>1</sup> The *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments* are discussed below. The document is available on the project website: [www.humanrightspersonals.org](http://www.humanrightspersonals.org).

<sup>2</sup> The reports from the first, second and third expert consultations are available on the project website.

<sup>3</sup> For the purpose of the consultation a human rights field officer was understood to be an unarmed civilian deployed by an intergovernmental organisation whose primary purpose is to improve promotion and protection of human rights, including both national and international staff.

## **2. Intergovernmental human rights fieldwork: The state of professional practice**

Intergovernmental human rights fieldwork has expanded rapidly since the early 1990s. OHCHR now has over fifty human rights field presences. The Organization for Security and Co-operation in Europe (OSCE) currently has nineteen country operations that carry out human rights fieldwork. The European Union deploys field missions with human rights personnel through its Common Foreign and Security Policy. The African Union and the Organization of American States have worked in partnership with United Nations (UN) operations to conduct human rights fieldwork.

This expansion of intergovernmental organizations human rights fieldwork has been supported by the increased deployment of HRFOs. HRFOs have realized significant achievements in the promotion and protection of human rights. They have successfully performed a broad range of roles and functions, typically in challenging conflict and post-conflict settings. There is now general agreement on the principal roles and functions of the HRFO. The methodologies for carrying out these roles and functions continue to develop and evolve, and are largely determined by the specific situation in which the HRFO is deployed. Notwithstanding improvements in professional practice, HRFOs are in need of practical guidance and training to effectively confront emerging challenges.

### **2.1. 'Consolidating the Profession: The Human Rights Field Officer'**

The project 'Consolidating the Profession: The Human Rights Field Officer' carries out research, training and consultation activities to enhance the professional practice of HRFOs. It takes account of and builds upon the experiences of intergovernmental organizations since the first deployments of the 1990s.

The strategy for the project was initially conceptualised on the basis of three assumptions. The first was that there is a core professional identity of the HRFO. The second was that the primary objective of the HRFO is to empower local capacities to promote and protect human rights. The third was that the distinction between national and international HRFOs is of secondary importance.

One of the main goals of the project when it was launched was to identify the principal roles and functions of HRFOs. In 2004 a research survey of current and former HRFOs was conducted by the HRLC, in close cooperation with OHCHR, which surveyed the professional identity of HRFOs and their skills and training requirements. Participants at the First Expert Consultation adopted a set of strategic recommendations directed 'to and through' the UN High Commissioner for Human Rights for the advancement of the professional identity and skills of HRFOs.<sup>4</sup> These recommendations formed the basis for the design of research and training activities. The recommendations specifically requested the project to lead the process of developing a set of 'operational guiding principles' for HRFOs.

Following on the 2004 research survey and consultation a series of applied research papers were developed to address three of the most urgent themes confronting HRFOs.<sup>5</sup> Expert practitioners worked with the project to generate original research on:

- The overarching protection function of the HRFO;
- The local empowerment function of the HRFO; and
- The ethics of human rights fieldwork.

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<sup>4</sup> The recommendations from the First Expert Consultation are at annex III to this report. They are also available at [http://www.humanrightspersonals.org/index.php?option=com\\_content&task=view&id=23&Itemid=39](http://www.humanrightspersonals.org/index.php?option=com_content&task=view&id=23&Itemid=39).

<sup>5</sup> These research papers are available on the project website.

The Second Expert Consultation was held in Freetown, Sierra Leone in May 2006.<sup>6</sup> The Consultation was convened to present and further develop research findings, take stock of UN human rights field operations in West Africa, and assist in the development of guiding principles. Participants included active HRFOs from field operations in Afghanistan, Côte d'Ivoire, Democratic Republic of Congo, Liberia, Sierra Leone and Uganda, as well as national-level actors with deep experience engaging with field operations and experts in development and humanitarian fieldwork. Consultation participants made recommendations to enhance professional practice within the research themes, and to inform the drafting of guiding principles.

One of the recommendations that emerged from the Freetown consultation concerned a need for research that gives particular attention to the key working partnerships of the HRFO. Participants emphasized the necessity of working in constructive partnerships with civil society and other relevant actors.

The 2006 – 2007 research program fully integrated attention to partnerships. The overarching protection function of the HRFO was focused more closely on specific populations of affected persons. Expert practitioners worked with the project to generate original research on<sup>7</sup>:

- The role of the HRFO in partnership for the protection of the rights of children;
- The role of the HRFO in partnership for the protection of the rights of women; and
- The role of the HRFO in partnership for the protection of the rights of internally displaced persons.

The Third Expert Consultation on Human Rights Fieldwork was convened in Bangkok in August 2007.<sup>8</sup> Participants included current and former HRFOs with experience in Afghanistan, Bosnia-Herzegovina, Cambodia, Democratic Republic of the Congo, Iraq, Kosovo, Nepal, Rwanda, Sierra Leone, Sri Lanka, Sudan, Thailand, Timor-Leste, and Vietnam, as well as civil society actors with experience working in partnership with human rights field operations. Research papers were reviewed and discussed with specific reference to the experiences of field operations in Asia. As in previous consultations participants made recommendations to enhance professional practice within the research themes and inform the drafting of guiding principles.

Participants in the Bangkok consultation identified three emerging issues that are currently challenging HRFOs. There was agreement that the project should give the following three issues in-depth research attention in its 2007 – 2008 program of activities.

- The role of the HRFO in partnership for responses to terrorism;
- The role of the HRFO in partnership for promotion of economic, social and cultural rights; and
- The role of the HRFO in partnership for criminal justice.

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<sup>6</sup> The report on the Second Expert Consultation is available at [http://www.humanrightspersonals.org/images/stories//second%20expert%20consultation\\_report.pdf](http://www.humanrightspersonals.org/images/stories//second%20expert%20consultation_report.pdf).

<sup>7</sup> These research papers are available on the project website.

<sup>8</sup> The report on the Third Expert Consultation is available at [http://www.humanrightspersonals.org/images/final%20report\\_third%20expert%20consultation.pdf](http://www.humanrightspersonals.org/images/final%20report_third%20expert%20consultation.pdf).

### **3. Emerging challenges for human rights field officers: Responses to terrorism<sup>9</sup>**

Terrorism and counter-terrorism present HRFOs with a range of difficult challenges. Few human rights field operations report extensive work on terror-related issues. This may be due in part to the highly politicized context in which terrorism and counter-terrorism are situated. Yet HRFOs have deep experience addressing many of the human rights concerns that emerge as a result of terrorism or state responses thereto.

When responding to challenges related to terrorism, HRFOs rely on established tools and skills such as monitoring, reporting, advocacy and human rights promotion, legislative analysis, training and capacity building. This applies to the many contexts in which terrorism occurs, including internal and international armed conflict, organized crime and narco-trafficking. It also applies more broadly to any setting where a government enacts legislative, security or other measures, with a view toward preventing or otherwise countering terrorism.

A primary concern for the HRFO is the criminal law definition of terrorism in the state in which he/she is deployed. This determines against whom the state can take action, and what types of sanctions are permissible. With no widely accepted definition of terrorism, HRFOs can evaluate the state's legal definition of terrorism against relevant international standards and laws. Points of reference include the provisional definition adopted within the framework of the development of the Comprehensive Convention against Terrorism, UN Security Council resolution 1566 (2004), and Article 15 of the International Covenant on Civil and Political Rights regarding the principle of legality, as well as relevant international humanitarian law (IHL) standards relevant to conflict situations.

Analysis of laws related to terrorism should be extended to the measures that can be imposed in order to prevent terrorist acts. Often legislation related to terrorism will allow preventive measures that can have a negative impact on the full enjoyment of human rights. Particular concerns have been raised regarding special investigative powers, the use of extreme force by law enforcement officials, and prolonged detention without judicial review. HRFOs should position themselves to comment on draft laws, advocate for consistency with international human rights laws, and monitor and report on the implementation of terror-related laws.

Intensive efforts to confront terrorism have tested the absolute prohibition on torture. The HRFO should examine closely the state definition of torture. The Convention Against Torture and the jurisprudence of regional courts and commissions and treaty-monitoring bodies contain authoritative, established points of reference for this examination. Legislation relevant to torture should affirm the prohibition on returning or transferring persons to jurisdictions where that person may be at risk of torture. This affirmation should comprise a prohibition on any direct return or transfer, as well as any facilitation of such a return or transfer.

HRFOs can promote and advocate for laws, judicial processes and accountability procedures that provide the necessary framework to prevent torture. Training efforts targeted at personnel involved in the custody of suspects can prepare them to handle sensitive situations. Advocacy at the international level, with respect to specific persons believed to be at risk of torture, can be an important method of preventing torture. Additionally, it underlines the relevance of international laws and standards within the context of politically-charged discussions of national security. Monitoring places of

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<sup>9</sup> The principal research paper on this topic, by Dr. Annemarie Devereux, and commentary paper, by Ms. Liliana Valiña, are available on the project website.

detention, interviewing detainees and prison officials and reporting findings are central to HRFOs' work in this area. This may include investigating and reporting on secret prisons.

Maintaining the right to a fair trial has long been a key work area for HRFOs. Carrying out this work in relation to persons labelled 'terrorists' is especially challenging. Counter-terrorism legislation often curtails fair trial rights. Foremost is the labelling of a suspect as a 'terrorist'. This has implications for the suspect's right to be presumed innocent. Trial regimes developed and applied to such persons often impinge upon judicial independence, access to legal representation, the burden of proof, full disclosure of information – in particular information that may exculpate, the monitoring of communications between the accused and his/her lawyers, and access to the accused person and his/her trial. This is another area where HRFOs should examine relevant legislation, advocate for and promote international legal standards, and monitor and report on the situation of affected persons.

State strategies to prevent terrorism frequently raise concerns related to discrimination against specific groups of persons. Laws and practices have identified persons from particular states or religious or ethnic backgrounds as meriting increased attention. Such laws and practices may stigmatise certain groups within the broader population, leading to an atmosphere of general discrimination. They may also allow discriminatory treatment from state security services. HRFOs can highlight patterns of discrimination and bring attention to their negative impacts. Where appropriate, HRFOs can note alternative methods of identifying potential perpetrators, such as behavioural analysis.

The assertion of political or ideological ends as rationale for terrorism directly engages the right to freedom of expression. Much recent counter-terrorism law seeks to prevent terrorist acts by prohibiting 'incitement' to commit such acts. A few states have surpassed the element of incitement to include any broadly interpreted expression of support for terrorism or its perpetrators. In some cases authorities have used such provisions to condemn the work of human rights defenders. HRFOs should conduct legislative analysis to determine the impact of such laws on the right to freedom of expression, taking particular note of the definition of terrorism in the state. Suggested criteria by which to evaluate the legitimacy of such laws include the elements of intention, imminence, likelihood, and the proximity of the expression to the likelihood or actual occurrence of a terrorist act.

HRFOs must not focus narrowly on counter-terrorism measures. Terrorist acts constitute serious human rights abuses. They inhibit the capacity of the state to promote and protect human rights. HRFOs should prioritise the prevention of terrorist acts by seeking to identify and engage communities at risk. Alleviating the conditions that often give rise to terrorism and/or facilitate the recruitment of terrorists can contribute to prevention. This places the HRFO's work on terrorism within the framework of promoting and protecting human rights through rights-based approaches to development and strengthening democracy and the rule of law. The many roles for HRFOs in these areas require drawing upon the established tools and skills mentioned above. Among these activities, HRFOs should increase attention given to monitoring and reporting on economic, social, and cultural rights.

### **3.1. Responses to terrorism: Key partnerships for human rights field officers**

It has been noted that working in partnership with HRFOs on terror-related issues can engage distinct challenges. The current politicization of terrorism and the prevailing climate of fear constitute a general challenge to addressing terror-related issues from a human

rights perspective. Further, governments' responses to terror are strongly influenced by external factors. Foreign aid may be made contingent upon cooperation in anti-terror activities. This is critical as governments are primary partners for HRFOs.

Nevertheless HRFOs have deep experience working in partnership on most issues that emerge in connection with terrorism. HRFOs have partnered with national human rights institutions to examine laws related to terrorism, monitor the practical implementation of such laws, and train the security sector in interrogation techniques. They have partnered with national and international NGOs to address enforced disappearances and provide support to victims of terror-related abuses and violations. They have advocated within court systems to ensure accountability of executive powers, advise on appropriate interpretation of international human rights standards, and respond to legislation that could infringe upon human rights. HRFOs have engaged the international human rights system, harnessing the expertise and mechanisms of treaty-monitoring bodies, regional commissions and courts, and special procedures, to apply human rights laws to terrorism and state responses thereto.

### **3.2. Responses to terrorism: Recommendations to enhance the professional practice of HRFOs**

1. *Analyze, monitor, report and carry out advocacy on laws and practices related to counter terrorism, emphasizing the applicability of international human rights laws and mechanisms.*
  - a. *Reaffirm that respect for human rights is crucial in combating terrorism, and that the international human rights regime has in-built mechanisms to allow for proper measures to be taken in the interests of national security.*
  - b. *Reaffirm the absolute prohibition on torture through advocacy, training and public reporting on terror-related issues.*
2. *Seek to prevent human rights violations stemming from counter-terrorism measures. Rely on established functions and skills such as monitoring, reporting, legislative analysis, advocacy, and training and capacity building, in order to encourage the government to promote and protect all human rights.*
  - a. *Support and cooperate with national and international partners to prevent human rights violations linked to counter-terrorism measures.*
  - a. *Advise government officials on the drafting and implementation of counter-terrorism measures that are consistent with international human rights laws with particular attention given to proposed specialist regimes in the area of law enforcement, detention and trial regimes.*
3. *Monitor and report on the situation of persons detained on terror-related charges, giving special attention to cases that involve human rights defenders accused of terrorism.*
  - a. *At the highest levels possible, seek to ensure that such persons are not returned or transferred to jurisdictions where they may be at a risk of torture.*
  - b. *Monitor trials that follow from detentions, with a view toward upholding judicial independence, access to legal representation, the burden of proof, full disclosure of information and privileged communication between the defendant and his/her lawyers.*

4. *Seek to promote the rights of persons to life and personal integrity, uphold the State obligation to take steps to protect persons from terrorist attacks and promote the rights of victims of terrorism to adequate reparations.*
  - a. *Uphold the State's responsibility to protect persons from terrorist acts, and where feasible and appropriate, consider ways of enhancing 'protection' from terrorist attacks*
  - b. *Promote the rights of victims of terrorism to adequate reparations according to international standards.*

#### **4. Emerging challenges for human rights field officers: The promotion and defence of economic, social and cultural rights<sup>10</sup>**

The promotion and defence of economic, social and cultural rights (ESCRs) by HRFOs is expanding rapidly. Yet this is a work area in which HRFOs are in the early stages of developing expertise. Advancing efforts within the international human rights system to define the content of and operationalise ESCRs are helping to guide this increase in fieldwork.

HRFOs deployed in conflict and post-conflict situations must explicitly affirm the relevance of ESCRs in these settings. In the past, violations and abuses of ESCRs that often occur as part of armed conflicts were not consistently reported within a human rights framework. Common examples include the destruction of hospitals and crops and forced labor. There is a need to ensure that these and other ESCRs concerns are addressed during the conflict, as well as in peace agreements. Transitional justice mechanisms should be mandated to attend to ESCRs violations and abuses, including for the purpose of reparations. Post-conflict reconstruction efforts to build capacity for the rule of law and access to justice should incorporate specific attention to ESCRs issues.

Methodologies and resources to guide HRFO monitoring and reporting on ESCRs are improving. The concluding observations and general comments of treaty-bodies already serve as useful resources for these purposes. The indicators currently being developed by the Committee on Economic, Social and Cultural Rights should provide an authoritative framework of reference when monitoring and reporting on ESCRs. Discussion continues on whether more analysis is necessary to clarify the core minimum obligations of ESCRs. This could be helpful to determine correlating violations.

Advanced monitoring of ESCRs can include adopting a 'diagnostic' methodology, asking 'what is the problem?', 'why is it occurring?', 'what is the best solution?'. Integral to this approach is a search for root causes to ESCRs violations. Identifying the problem often requires identification of gaps between international human rights law and domestic laws and practice. An analytical focus on gaps, both at law and in practice, enables HRFOs to develop a targeted strategy to narrow or eliminate such gaps.

Domestic standards related to ESCRs are often higher than international standards. HRFOs should have knowledge of relevant domestic laws and jurisprudence. There may be roles for HRFOs to monitor and follow up on the implementation of court decisions. Similarly HRFOs can advise on litigation seeking the enforcement of domestic laws. These activities should be developed in partnership with local and national-level actors (key partnerships are discussed below).

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<sup>10</sup> The principal research paper on this topic, by Mr. Gregory Fabian, and commentary paper, by Ms. Juana Sotomayor, are available on the project website.

ESCRs advocacy with the government should begin in the early stages of deployment. A priority is to cooperate with government officials to agree on benchmarks and indicators, against which monitoring, reporting and advocacy strategies can be planned and carried out. Poverty Strategy Reduction Papers and Millenium Development Goal commitments are important resources for this process. They provide a context for establishing benchmarks and indicators, and for public and private advocacy and reporting that seeks to ensure that governments keep their commitments. Another priority for early advocacy with the government is to evaluate whether sufficient capacity exists to meet ESCRs obligations. HRFOs and government officials can cooperate to identify partners and resources to help increase capacities.

Eliminating discrimination in any form is a fundamental human rights obligation. When working on ESCRs issues it is critical to emphasise that this is an obligation of immediate effect. Through early, constructive dialogue, HRFOs should make government officials aware of the need to take immediate action to eliminate discrimination, whether *de facto* or *de jure*, direct or indirect, with respect to ESCRs. Frequently it needs to be made explicit that this extends to an obligation to secure equality between men and women. HRFO monitoring and reporting on ESCRs should contain a thorough analysis of discriminatory laws and practices. HRFO reports and advocacy should propose actions to rectify problems in this area.

The full enjoyment of some ESCRs may be achieved through progressive realisation. HRFOs should be familiar with the elements of progressive realisation, namely the obligation to take all necessary measures and to do so to the maximum extent of available resources. All necessary measures include legislative, administrative, judicial, economic, social and educational. These measures may be implemented through gradual incrementalism, reflecting a flexibility that is related to resource limitations. HRFO monitoring, reporting and advocacy should consider the extent to which governments are achieving progressive realization. HRFOs must give focused attention to any retrogression in the enjoyment of ESCRs, whether in law or practice, which must be justified by the government.

#### **4.1. The promotion and defence of economic, social and cultural rights: Key partnerships for human rights field officers**

Working in partnership with myriad actors is central to the promotion and defence of ESCRs in the field. HRFOs should draw on the deep experience of development agencies working to fulfill ESCRs. Other main international partners include the intergovernmental financial institutions, the International Labour Organization, the World Health Organization, and UN agencies that are engaged in operational fieldwork.

When working on ESCRs the government is a principal partner, in particular the legislative and judicial bodies. Setting benchmarks, creating budgets, analysing revenue and spending pattern analysis, increasing resources and capacities, evaluating and advising on legislation, and advising and following up court decisions are critical ESCRs work areas. HRFOs should seek partnerships to work constructively with government officials in these areas. There are many other groups and individuals whose activities can impact ESCRs. HRFOs can develop working partnerships with economists, teachers, medical doctors, national human rights institutions and religious organisations.

ESCRs priority issues must be identified in response to direct consultation with affected communities. HRFOs should seek to place such discussions within the framework of

the international ESCRs standards. Following consultations, HRFOs can take supporting, facilitating and advising roles to develop and implement ESCRs strategies. The affected community should determine the appropriate roles for HRFOs in such partnerships.

#### **4.2. The promotion and defence of economic, social and cultural rights: Recommendations to enhance professional practice**

1. *Promote ESCRs in conflict and post-conflict environments through monitoring, reporting, advocacy and capacity building.*
  - a. *Seek to ensure that peace agreements, in particular any institutions or mechanisms that are created by such agreements, give attention and resources to ESCRs issues.*
2. *Engage with government officials at the earliest stage possible, for the purpose of evaluating existing capacities and setting benchmarks*
  - a. *Consult and seek partnerships with affected communities, with a view toward identifying priority ESCRs issues.*
3. *Develop a working knowledge of domestic laws, standards and jurisprudence relevant to ESCRs. In close cooperation with civil society experts, monitor, report and carry out advocacy based on international law and relevant domestic laws, standards and jurisprudence.*

#### **5. Emerging challenges for human rights field officers: Criminal justice<sup>i</sup>**

Though HRFOs have long experience working on matters related to criminal justice, the increasingly common establishment of tribunals to prosecute crimes related to conflict raises important issues regarding how HRFOs carry out their work.

HRFOs advise, train and build the capacity of local and national criminal justice systems. Much of this work is based on trial monitoring and other research carried out by HRFOs. The training and capacity building of jurists in skills and knowledge related to due process, fair trials, access to justice and the rule of law is a well-established work area. HRFOs seek to improve the administration of justice by training police and prison officials in international human rights laws and standards. Additionally, they help to create, train and build the capacity of national institutions and civil society to promote and protect the rights of individuals involved in the criminal justice system.

In the context of developing or ongoing conflict, HRFO monitoring, reporting and advocacy seeks to prevent or curtail violations and abuses. Advocacy may extend from making conflict participants aware of their obligations under IHL, to offering training programmes in IHL for arms carriers, to alerting the international community to situations of grave concern. In recent years international policymakers and institutions have responded to such situations by establishing tribunals or otherwise initiating criminal justice processes. While the priority of HRFOs is to prevent violations and abuses, HRFOs have taken a major role in the increased use of criminal justice as a response to conflict.

As the deployment of HRFOs precedes the intervention of criminal justice mechanisms, HRFOs are well placed to serve as partners for criminal justice. Information gathering activities carried out for the purpose of monitoring and reporting can provide a foundation for investigations and trials. Yet the information gathering practices of HRFOs are not designed, in the first instance, for criminal justice purposes. HRFOs conduct victim

interviews and gather witness statements primarily to monitor, report and develop advocacy, training and capacity-building solutions to human rights problems. HRFOs are not trained to gather physical evidence for submission in trials. Neither do HRFOs systematically obtain consent for information gathered from victims and witnesses to be disclosed or attributed in criminal investigations or trials.

Notwithstanding differences in methodologies, the work of HRFOs contributes significantly to investigations and trials concerning international crimes. Being among the first actors 'on the ground', HRFOs are often the first to observe physical evidence and interview victims and witnesses. HRFOs may witness violations firsthand. This level of presence makes HRFOs indispensable sources of primary and secondary information. Criminal prosecutors have taken note of this. With increasing frequency HRFOs are being called upon to provide evidence and testify in trials.

Whether HRFOs participating in criminal trials will heighten the risk of human rights fieldwork in conflict and post-conflict environments is unclear. What is clear is that it raises challenging ethical and practical considerations.<sup>11</sup> Already some progress has been achieved in establishing a limited testimonial privilege for HRFOs. HRFOs have been allowed to give testimony in trial without revealing their sources of information. This helps to ensure that HRFOs can continue to gather information based on promises of confidentiality, thereby adding a level of protection to victims and witnesses, encouraging their faith in the rule of law and reaffirming the importance of the distinct roles and functions of HRFOs. Yet this has implications for the accused's right to a fair trial. Additionally, the commitments of an HRFO when in a position to exculpate an accused person have not been elucidated.

### **5.1. Criminal justice: Key partnerships for human rights field officers**

Partnering with national and local legislative and judicial authorities is critical to developing systems of criminal justice that function consistent with human rights and the rule of law. At the legislative level HRFOs can propose and advise on legislation. Within the judicial system HRFOs can cooperate with judges, lawyers and officials involved in the administration of justice, with a view toward ensuring that laws are respected and fulfilled. Where there is no functioning judicial system, HRFOs should partner with authorities to help establish and build capacity for the rule of law.

Cooperation on national criminal justice should extend to constructive partnerships with community- and national-level organisations working on related issues. The range of possibilities for such partnerships is wide. It may include national human rights institutions, victim's rights groups, law schools and legal associations, religious organisations and media organisations. HRFOs should emphasize the roles such organisations can take in holding the criminal justice system accountable for its human rights obligations.

Partnerships between HRFOs and criminal justice processes are in their early stages. They are likely to increase in frequency and complexity. This suggests that HRFO-deploying organisations and relevant tribunals, in particular the International Criminal Court, should consider outlining general terms of reference for cooperation. A number of provisions in *The Negotiated Relationship Agreement between the International Criminal Court and the United Nations* could provide the legal starting points. Yet the distinct roles, functions and methodologies of HRFOs as they relate to the work of the tribunals need to be dealt with more specifically. There is a need to examine and build on the experiences and jurisprudence to date. It may be necessary to configure agreements based on the mandate

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<sup>11</sup> Some of these are addressed in the *Statement of Ethical Commitments of Human Rights Professionals*, an integral component of the *Guiding Principles for Human Rights Field Officers*. See below and [www.humanrightspersonals.org](http://www.humanrightspersonals.org).

and resources of each particular human rights field operation. Where cooperation with a tribunal is envisaged, appropriate language may need to be inserted in the mandate or agreement under which a field operation is deployed.

## **5.2. Criminal justice: Recommendations to enhance the professional practice of HRFOs**

1. *Seek to establish and assist national criminal justice systems that respect, protect and fulfill human rights obligations within a rule of law framework.*
  - a. *Place emphasis on supporting the government institutions that develop and implement laws and procedures related to criminal justice.*
2. *Advocate for criminal justice interventions – whether national or international, in response to patterns of gross violations and/or abuses of human rights or international humanitarian law – and once interventions commence, assist with outreach to ensure support for those activities.*
3. *Within the limits of the mandate and policies of the human rights field operation and its deploying agency, support criminal justice interventions by providing information, contacts and advice that can assist criminal investigations.*
  - a. *Maintain as an absolute priority any formal or informal confidentiality agreement that supports the distinct information-gathering role of HRFOs.*
  - b. *Where important physical evidence needs to be collected, call on experts with the necessary skills and resources. If there is a high risk that the evidence will be interfered with before such experts can arrive, request that civil police or military peacekeepers safeguard it.*

## **6. Tools to enhance professional practice**

### **6.1. Training and capacity-building for human rights field officers**

The project 'Consolidating the Profession' developed and delivered four training and capacity-building programs in the 2006 – 2007 period. A training and capacity-building program was successfully implemented for civil society human rights professionals and national staff of UN human rights missions in West Africa, with participants from Côte d'Ivoire, Guinea-Bissau, Liberia, Sierra Leone and Togo (April 2007). A total of three training programs were conducted for the human rights units of the UN Assistance Mission in Iraq (December 2006) and the UN Assistance Mission in Afghanistan (August 2006 and May 2007).<sup>12</sup>

The objectives and content of training modules were determined in response to research findings and consultation recommendations.<sup>13</sup> Final programs for the events were agreed in close consultation with the heads of the participating field offices. All presentations and exercises were placed in a context relevant to the region in which the event was convened. The need to enhance the participation of civil society actors in the work of human rights field operations, by means of creating and maximising partnerships, was emphasized in all course activities and addressed in a standalone module.

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<sup>12</sup> Reports on training events are available on the project website.

<sup>13</sup> Annex IV to this report comprises a list of all modules developed and delivered for the four training and capacity-building programs.

Following discussions with OHCHR regarding the most urgent needs to enhance the training of HRFOs, four of the training modules piloted in these events will be disseminated for use in the field.<sup>14</sup> The themes of the four selected modules are: 1.) The History of Human Rights Field Operations; 2.) The Ethics of Human Rights Fieldwork; 3.) Negotiating Cultural and Religious Issues; and 4.) Partnering and Interacting with Civil Society.

It is recognised that there is a continuing need to develop and adapt training materials to support HRFOs. Existing training materials need to be enhanced so that HRFOs can respond more effectively to the emerging challenges discussed above. General knowledge on ESCRs and their implementation should be increased. If the roles of HRFOs in partnership with criminal justice are to be expanded, more attention may need to be given to training for the collection of evidence and reporting for evidentiary purposes. Deploying organisations may consider developing programs to prepare and support HRFOs who are called to give evidence in court.

Human rights field operations would benefit from increased attention to training in management and practical skills. Current and prospective managers require skills in developing budgets, objectives and success indicators, as well as personnel management. Training programs for HRFOs in practical skills, such as research and report writing, could help to avoid over-reliance on input from headquarters. There continues to be general call to augment pre-deployment training, in order to fully orientate HRFOs on the specific country situation and mandate.

Training materials and programs should be more accessible to HRFOs working in difficult environments and with demanding schedules. Multimedia-based training allows participants the flexibility to study when their schedules permit, and avoids the time and costs related to travelling for training programs. This can expand the participation of HRFOs who are deployed in field operations with limited resources. Online blogs and forums can be used for experience sharing, and to provide personalized feedback on training modules. Where new approaches to training are adopted, it is important to determine indicators and expected outcomes in advance. This supports the proper evaluation of such efforts.

Renewed consideration may be given to developing a system of accreditation for HRFOs. This could extend to sub-specialisations in particular thematic areas, training and management. An alternative to the accreditation approach is that taken by UNHCR. UNHCR assembles a professional roster by way of an examination on relevant theory and practice. Notably, some humanitarian organisations are currently considering a certification scheme through the International Organization for Standardization. The approach would be to seek certification for an entire organization, as opposed to individual professionals.

## **6.2. *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments***

The development of operational guiding principles has been a key objective of the project 'Consolidating the Profession'. The need for guiding principles was made clear at the First Expert Consultation, convened in October 2004 at OHCHR in Geneva. That consultation concluded with a set of recommendations that have guided project activities, among which include the following:

*3. Develop operational guiding principles for HRFOs, with a view to enhancing individual and organisational effectiveness, reputation and integrity, and taking*

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<sup>14</sup> These training modules are available on the project website.

*into account international law, the OHCHR code of conduct and other established human rights methodologies.*

The project partners responded to this recommendation by leading the development of the *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments*. The *Guiding Principles* were launched on 3 July 2008 at United Nations Headquarters, Geneva, by the Permanent Representative of Ireland to the United Nations, with the participation of diplomats, NGOs and representatives of the major human rights field officer-deploying intergovernmental organisations.

The *Guiding Principles* emerged from a highly consultative process that took account of the views of a wide range of current and former human rights field officers, as well as other experts, and reflect the proceedings at expert consultations convened by the project during 2004-2008 in Asia, Africa and Europe.

Together with the associated *Statement of Ethical Commitments of Human Rights Professionals*, the *Guiding Principles* are intended to contribute to the enhancement of the professionalization of human rights fieldwork. It is envisaged that they will also be of assistance to the various actors, such as humanitarian and development agencies, and international military and police components, who engage with human rights field operations, whereby they will have a better understanding of their work and methods.

The *Guiding Principles* have been widely distributed in hardcopy and electronic formats. Electronic copies, all project research and training outputs and a library of information related to human rights fieldwork generally are available on the project website: [www.humanrightspersonals.org](http://www.humanrightspersonals.org).

Annex I.

## CONSOLIDATING THE PROFESSION: THE HUMAN RIGHTS FIELD OFFICER

[www.humanrightsprofessionals.org](http://www.humanrightsprofessionals.org)

### Fourth Expert Consultation on Human Rights Fieldwork

**Palais Wilson, Geneva  
3 and 4 July 2008**

Funded by Irish Aid



### *Agenda*

#### **Thursday 3 July**

Room 1-016

- 09:15 – 09:45 Welcome and introductions: Maria Francisca Ize-Charrin and Michael O’Flaherty
- 09:45 – 10:15 Overview of project ‘Consolidating the Profession: The Human Rights Field Officer’: Michael O’Flaherty
- 10:15 – 10:30 Refreshments
- 10:30 – 12:00 *The role of the human rights field officer in partnership for responses to terrorism*
- Principal presentation: Annemarie Devereux (25 minutes)
- Commentary: Liliana Valiña (15 minutes)
- Plenary discussion
- 12:00 – 15:00 Launch of the *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments*
- 12:00 – Travel from Palais Wilson to Palais des Nations (transport provided)
- 13:00 – Launch presentation and luncheon, Palais des Nations, Escargot, 3<sup>rd</sup> Floor, E-Building
- 14:30 – Return to Palais Wilson (transport provided)
- 15:15 – 16:45 *The role of the human rights field officer in partnership for the promotion of economic, social and cultural rights*

Principal presentation: Gregory Fabian (25 minutes)  
 Commentary: Juana Sotomayor Davila (15 minutes)  
 Plenary discussion

16:45 – 17:00 Refreshments

17:00 – 18:00 *Project training activities and tools*  
 Presentation and facilitation: George Ulrich

18:00 End of day 1

**Friday 4 July**

Room 1-016

09:15 – 10:45 *The role of the human rights field officer in partnership for criminal justice*  
 Principal presentation: Shamim Razavi (25 minutes)  
 Commentary: Federico Borello (15 minutes)  
 Plenary discussion

10:45 – 11:00 Refreshments

11:00 – 12:00 *Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments*  
 Presentation and facilitation: William G. O'Neill

12:00 – 12:45 Closing of the consultation  
*Discussion: Dissemination of outputs and project wrap up*  
 Chair: Michael O'Flaherty

12:45 Lunch

Annex II.

**CONSOLIDATING THE PROFESSION: THE HUMAN RIGHTS FIELD OFFICER**

[www.humanrightsprofessionals.org](http://www.humanrightsprofessionals.org)

**Fourth Expert Consultation on Human Rights Fieldwork**

**Palais Wilson, Geneva  
3 and 4 July 2008**

Funded by Irish Aid

List of Participants

**Matthias Behnke**, Office of the United Nations High Commissioner for Human Rights,  
Geneva

**Federico Borello**, United Nations Mission in the Democratic Republic of Congo

**Annemarie Devereux**, Office of the United Nations High Commissioner for Human Rights,  
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**Antonio Donini**, Alan Shawn Feinstein International Center, Tufts University

**Gregory Fabian**, Independent human rights lawyer and training consultant

**Nicole Fritz**, Human Rights Centre, University of Pretoria, South Africa

**Roberto Garretón**, Human rights attorney, Chile

**Miriam Ghalmi**, Office of the United Nations High Commissioner for Human Rights, Geneva

**María Francisca Ize-Charrin**, Office of the United Nations High Commissioner for Human  
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**Patrick Marega Castellan**, Office of the United Nations High Commissioner for Human Rights, Geneva

**Francesca Marotta**, Office of the United Nations High Commissioner for Human Rights, Geneva

**Michael O’Flaherty**, Human Rights Law Centre, The University of Nottingham

**William G. O’Neill**, independent consultant on human rights fieldwork

**Shamim Razavi**, International Criminal Court

**James Rodehaver**, Organization for Security and Co-operation in Europe, Bosnia-Herzegovina

**Brian Ruane**, Office of the United Nations High Commissioner for Human Rights, Geneva

**Ed Schenkenberg**, International Council of Voluntary Agencies

**Juana Sotomayor Davila**, Office of the United Nations High Commissioner for Human Rights, Geneva

**Peter Splinter**, Amnesty International

**Maria Stavropoulou**, independent consultant on human rights and displacement

**Micheál Tierney**, Permanent Mission of Ireland to the United Nations at Geneva

**Elio Tamburi**, Office of the United Nations High Commissioner for Human Rights, Geneva

**Kevin Turner**, Human Rights Law Centre, The University of Nottingham

**George Ulrich**, European Inter-University Centre for Human Rights and Democratisation

**Liliana Valiña**, Office of the United Nations High Commissioner for Human Rights, Mexico

## Annex III.

### **First Expert Consultation on Human Rights Fieldwork**

**OHCHR, Palais Wilson, Geneva  
20 and 21 November 2004**

#### **Recommendations**

The following recommendations are directed to the High Commissioner for Human Rights both on the basis of her mandate within the UN system and her moral leadership for the promotion of Human Rights worldwide: We recommend to the High Commissioner that she:

1. Review and improve existing rosters of Human Rights Field Officers (HRFOs) and recruitment procedures in co-operation with relevant regional organisations with a view to enhancing capacity, diversity and professionalism;
2. Review and develop basic profiles for all civilian staff of intergovernmental organisations who have a human rights function. This process should include review of essential skills, core competencies and standards of professional integrity;
3. Develop operational guiding principles for HRFOs, with a view to enhancing individual and organisational effectiveness, reputation and integrity, and taking into account international law, the OHCHR code of conduct and other established human rights methodologies;
4. Strengthen institutional and personal accountability frameworks through the development of indicators, clarification of the responsibility and capacity of management, support to personnel and systematic, independent evaluation and auditing.

In recognition that training should be a prerequisite for recruitment and deployment of HRFOs, and in acknowledgement of the need for training partnerships, we recommend that the High Commissioner for Human Rights, in partnership with other entities:

5. Develop and sustain a robust inventory of training courses and training materials in as many languages as possible, offered by a broad array of institutions from different regions around the world which would be available to all staff via electronic means. This list should be categorised in a variety of ways including (but not limited to): Geography, Institutions, Language, Content, Methodologies;
6. Create curricula for systematic training of potential and new staff at different levels of specialisation, including pre-recruitment (basic) and pre-deployment training;
7. Support the development of mission specific training, organised by the Head of Mission, in situ, using existing expertise within field missions;
8. Develop curricula for systematic training of existing staff at different levels of responsibilities. Training should make use of the expertise of staff serving in missions and emphasise the exchange of experience on human rights field work. This training should include various methodologies such as, skill building, Mentoring and coaching;
9. To ensure that these recommendations will be acted upon, the partners in the project "Consolidation of the Profession – the Human Rights Field Officer", i.e. the High Commissioner, the University of Nottingham and the European Inter-university Centre for Human Rights and Democratisation are encouraged to move to the next phase. There is a sense of urgency that the range of necessary outputs be delivered within a reasonable timeframe.

On 22 November 2004, these recommendations were presented to the High Commissioner and constructively discussed with the Heads of UN Human Rights Field Presences at their annual meeting.

## Annex IV.

### List of training and capacity-building modules developed and delivered by the project 'Consolidating the Profession: The Human Rights Field Officer'

- Introduction to human rights: philosophical, historical and legal development
- Human rights field operations: development, functions, legal base I
- Human rights field operations: development, functions, legal base II
- The history of human rights field operations
- Human rights field operations in partnership with civil society
- The international human rights supervisory machinery
- Reporting to human rights treaty bodies: working with UN Special Procedures
- Negotiating cultural and religious issues
- Monitoring and reporting human rights violations
- Monitoring human rights: civil and political rights
- Monitoring human rights: economic, social and cultural rights
- Working with civil and political rights: the case of the right of freedom of expression
- Working with economic, social and cultural rights: the case of the right to health
- Human rights capacity building
- Ethics for human rights fieldwork
- Specific attention to challenges of human rights work with non-state actors
- The national human rights implementation obligation in context of Afghanistan's specific human rights obligations (UNAMA training events of August 2006 and May 2007)
- Unpacking the nature of the national human rights implementation obligation (West African training event of April 2007)
- UN human rights missions in West African states: Mandates, operations, challenges (West African training event of April 2007)
- Clinic: Handling individual protection cases (West African training event of April 2007)
- Clinic: Impunity (West African training event of April 2007)