

RESEARCH ARTICLE

Changing Landscapes in Documentation Efforts: Civil Society Documentation of Serious Human Rights Violations

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Wittingly or unwittingly, civil society actors have long been faced with the task of documenting serious human rights violations. Thirty years ago, such efforts were largely organised by grassroots movements, often with little support or funding from international actors. Sharing information and best practices was difficult. Today that situation has significantly changed. The purpose of this article is to explore the changing landscape of civil society documentation of serious human rights violations, and what that means for standardising and professionalising documentation efforts. Using the recent *Hisséne Habré* case as an example, this article begins by looking at how civil society documentation can successfully influence an accountability process. Next, the article touches upon barriers that continue to impede greater documentation efforts. The article examines the changing landscape of documentation, focusing on technological changes and the rise of citizen journalism and unofficial investigations, using Syria as an example, as well as on the increasing support for documentation efforts both in Syria and worldwide. The changing landscape has resulted in the proliferation of international documentation initiatives aimed at providing local civil society actors guidelines and practical assistance on how to recognise, collect, manage, store and use information about serious human rights violations, as well as on how to minimise the risks associated with the documentation of human rights violations. The recent initiatives undertaken by international civil society, including those by the Public International Law & Policy Group, play an important role in helping to standardise and professionalise documentation work and promote the foundational principles of documentation, namely the 'do no harm' principle, and the principles of informed consent and confidentiality. Recognising the drawback that greater professionalisation may bring, it nevertheless concludes by applauding the initiatives undertaken thus far and calls for even more sustained cooperation, dissemination and training for civil society where possible.

Keywords: Human rights; Documentation; Fact-finding; Civil society; Transitional justice

I. Introduction

In times of conflict or situations of systematic abuse, one of the most important roles taken on by civil society actors relates to the documentation of serious human rights violations. Definitions vary, but civil society actors can generally be defined as individuals and groups who 'engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realisation of development, and the promotion and respect of human rights'.¹ They include, amongst others, human rights defenders, NGOs, community-based groups, larger networks or coalitions, victim associations and individuals.² The UN Human Rights Council has recognised the

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¹ UN Office of the High Commissioner for Human Rights, *Civil Society Space and the United Nations Human Rights System: A Practical Guide for Civil Society* (UN 2014) 3.

² See Roberto Belloni, 'Civil Society and Peace Building in Bosnia-Herzegovina' (2001) 38 *Journal of Peace Research* 163; Habib Zafarullah and Mohammad H Rahman, 'Human Rights, Civil Society and Nongovernmental Organizations: The Nexus in Bangladesh' (2002) 24 *Human Rights Quarterly* 1011, 1015–1016.

crucial importance of civil society actors by noting their active involvement in processes of governance and in promoting good governance, including through accountability, which is indispensable for building peaceful, prosperous and democratic societies.³

Wittingly or unwittingly, civil society actors have been faced with the task of documenting victims' accounts and collecting relevant information and materials related to abuses.⁴ Well known efforts include the monumental work done by Yad Vashem, home to the world's largest and most comprehensive collection of Holocaust-related documents, including photographs, testimonies, and other relevant material,⁵ or by the Documentation Center of Cambodia and its collection of information concerning the crimes carried out by the Khmer Rouge from 1975–1979.⁶ But lesser known examples abound as well.⁷ Information collected by civil society actors regularly makes tangible contributions towards compliance-related processes (e.g. before national courts or human rights treaty bodies), justice and accountability processes (e.g. before truth commissions and domestic and international criminal processes), and efforts to promote education and memorialisation.⁸ Yet, documentation efforts by civil society actors have always been somewhat problematic: the quality of the information may be questionable and the manner in which it is collected may be unethical.⁹ In addition, how the information is ultimately stored, analysed and used may impact its value. Furthermore, there may be safety and security risks to those involved with documentation.

In order to address these issues, 30 years ago, in 1986, an article was published in the *Human Rights Quarterly* outlining guidelines for civil society organisations for documenting and reporting human rights violations.¹⁰ Drawing upon comparative practices, the article addressed issues of collecting information and using the data collected. It explained organisational structure and stressed the need for the 'standardisation' of procedures for the documentation of human rights violations.¹¹ At the time, this article was breaking new ground. While civil society organisations and NGOs operating in the field had long been collecting information on violations, much of that information was not being utilised, and many human rights defenders were putting themselves and others at unnecessary risk. There was a large gap between what was happening on the ground and what national, regional or international actors could do with that information in order to support the efforts of those individuals on the ground who were working to improve the human rights situation. The authors therefore stressed the importance of greater cooperation between international and national organisations and essentially called for what today can be referred to as the 'professionalisation' of documentation efforts.

³ In 2013 and 2014, the UN Human Rights Council adopted resolutions on civil society space. See HRC, 'Civil Society Space: Creating and Maintaining, in Law and in Practice, a Safe and Enabling Environment' (23 September 2013) UN Doc A/HRC/24/L.24; HRC, 'Civil Society Space' (23 September 2014) UN Doc A/HRC/27/L.24.

⁴ Open Society Foundations, 'Civil Society Perspectives on Fact-finding and the International Criminal Court' (2015) Open Society Justice Initiative Briefing Paper, 2 <https://www.opensocietyfoundations.org/sites/default/files/briefing-ngo-guidelines-asp-20151117_0.pdf> accessed 27 February 2017.

⁵ For information on Yad Vashem, visit <www.yadvashem.org>. /HRC/27/L.24, 23 September 2014 of C.

⁶ For information on the Documentation Center of Cambodia and the new Sleuk Rith Institute, visit <www.dccam.org>. See also Christoph Sperfeldt, 'Cambodian Civil Society and the Khmer Rouge Tribunal' (2012) 6 *International Journal of Transitional Justice* 149, 150.

⁷ Randy B Reiter, Maria-Victoria Zunzunegui and Jose Quiroga, 'Guidelines for Field Reporting of Basic Human Rights Violations' (1986) 8 *Human Rights Quarterly* 628, 632–637.

⁸ David Crocker, 'Transitional Justice and International Civil Society: Toward a Normative Framework' (1998) 5 *Constellations* 492; Pricilla B Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (Routledge 2002) 223–226; David Backer, 'Civil Society and Transitional Justice: Possibilities, Patterns and Prospects' (2003) 2 *Journal of Human Rights* 297; Truth and Reconciliation Commission of South Africa, *Final Report*, vol 1 (TRC 1998) 156; Truth and Reconciliation Commission of Liberia, *Final Report: Preliminary Findings and Determinations*, vol 1 (TRC 2009) 33; Sperfeldt (n 6) 154; Jonah S Rubin, 'Transitional Justice against the State: Lessons from Spanish Civil Society-Led Forensic Exhumations' (2014) 8 *International Journal of Transitional Justice* 99, 105–106. See also Reiter, Zunzunegui and Quiroga (n 7) 632–637; Roberto Cabrera, 'Should We Remember? Recovering Historical Memory in Guatemala' in B. Hamber (ed), *Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition* (University of Ulster 1998); William R Pace and Mark Thieroff, 'Participation of Non-Governmental Organisations' in R.S. Lee (ed), *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (Kluwer Law International 1999) 391–398; Steve Charnovitz, 'Nongovernmental Organizations and International Law' (2006) 100 *The American Journal of International Law* 348, 335; International Human Rights Law Institute, *Iraq History Project: Testimonies* (DePaul University 2007); David K Androff Jr, 'Can Civil Society Reclaim Truth? Results from a Community-Based Truth and Reconciliation Commission' (2012) 6 *International Journal of Transitional Justice* 296; Thomas O Hansen and Chandra L Sriram, 'Fighting for Justice (and Survival): Kenyan Civil Society Accountability Strategies and Their Enemies' (2015) 9 *International Journal of Transitional Justice* 407; Olympia Bekou, 'Doing Justice for the Liberian Victims of Mass Atrocity: NGOs in Aid of Universal Jurisdiction' (2015) 13 *Journal of International Criminal Justice* 219, 221.

⁹ Bekou (n 8) 225.

¹⁰ Reiter, Zunzunegui and Quiroga (n 7) 628.

¹¹ *ibid* 653.

Since the publication of this article, initiatives to standardise and professionalise documentation efforts have really taken shape.¹² Indeed, although the foundational principles of documentation remain the same, the documentation of crimes has changed significantly over the last three decades. First, there has been a rapid increase and spread of technology, in particular mobile technology, which in part has contributed to a rise in citizen journalism/unofficial investigations. The world is increasingly becoming hyperconnected.¹³ The surge of mobile technology has meant that there are new and easier ways for individuals to document human rights abuses, from recording events as they happen to photographing crimes scenes immediately after an abuse to recording interviews with victims and witnesses, and connect with others. On the one hand, it has led to an improvement in coverage of abuses and an ability to verify information. On the other hand, it has also resulted in the fact that documenters may not have any training on best practices because most will not be working within organised human rights groups that approach documentation with some background knowledge. Second, there is a growing recognition of the need for greater documentation and increasing support for the standardisation and professionalisation of documentation efforts. The support comes from States, intergovernmental organisations, international foundations and international NGOs. This expanding base of support from the international level in particular has resulted in a proliferation of responses by numerous international civil society organisations.

The purpose of this article is to explore the changing landscape of civil society documentation of serious human rights violations, and what that means for standardising and professionalising documentation efforts. Using the recent *Hissène Habré* case as an example, this article begins by looking at how civil society documentation can successfully influence an accountability process. Next, the article touches upon barriers that continue to impede greater documentation efforts. This article examines the changing landscape of documentation, focusing on technological changes and the rise of citizen journalism and unofficial investigations, using Syria as an example, as well as on the increasing support for documentation efforts both in Syria and worldwide. The changing landscape has resulted in the proliferation of international documentation initiatives aimed at providing local civil society actors guidelines and practical assistance on how to recognise, collect, manage, store and use information about serious human rights violations, as well as on how to minimise the risks associated with the documentation of human rights violations. The recent initiatives undertaken by international civil society, including those by the Public International Law & Policy Group, play an important role in helping to standardise and professionalise documentation work and promote the foundational principles of documentation, namely the 'do no harm' principle, and the principles of informed consent and confidentiality. This article touches upon some of the drawbacks that may result from greater standardisation but nevertheless concludes by applauding the initiatives undertaken thus far and calls for even more sustained cooperation, dissemination and training where possible.

II. Documentation for Accountability Processes: The *Habré* Trial

Because civil society groups are often at the forefront of documentation work,¹⁴ the information they collect becomes vital to justice and accountability proceedings in particular. Nowhere has this been more apparent than in the 26-year-long process to bring Hissène Habré, former president of Chad, to justice.¹⁵ In 2016, the Extraordinary African Chambers operating within the Senegalese court system, which were established in 2013 by the African Union and Senegal, convicted Habré and sentenced him to life in prison for crimes against humanity, summary execution, torture and rape.¹⁶ Habré's crimes date back to the time he ruled Chad from 1982 to 1990 and at the conclusion of the trial thousands of victims had registered as civil parties.

The trial was important for a number of reasons. First, his trial marked the first time that the courts of one country tried the former leader of another for human rights-related crimes.¹⁷ Second, the trial provides a unique model for how States and regional systems can address issues of impunity for serious human rights violations, with a prominent role for victims. Third, and most important for the purposes of this article, the role played by civil society groups was instrumental in holding Habré to account. Without the continuous efforts of local and international civil society, there would have been no trial.

¹² The terms 'investigating', 'fact-finding', and 'information-gathering' are also used to describe these documentation efforts.

¹³ World Economic Forum, 'The Future Role of Civil Society' (2013) World Scenario Series, 15 <http://www3.weforum.org/docs/WEF_FutureRoleCivilSociety_Report_2013.pdf> accessed 27 February 2017.

¹⁴ Bekou (n 8) 225.

¹⁵ For information on bringing Habré to justice, see Reed Brody, 'Bringing a Dictator to Justice: The Case of Hissène Habré' (2015) 3 *Journal of International Criminal Justice* 209.

¹⁶ The tribunal operated under an 8 million Euro budget and was funded by the AU, EU, Chad, the US, and various European countries.

¹⁷ Brody (n 15).

Shortly after Habré was removed from power, and encouraged by what was happening with international efforts to prosecute Pinochet for crimes committed under his rule in Chile,¹⁸ his victims began to organise themselves and search for justice. A former torture victim, Souleyman Guengueng, for instance, compiled thousands of pages of data on other Habré victims.¹⁹ In addition, two Chadian lawyers, Jacqueline Moudeina and Delphine Djiraibé, who created the Chadian Association for the Promotion and Defense of Human Rights (ATPDH), began documenting his crimes.²⁰ However, due to the political situation in Chad and a lack of resources at the time, their documentation efforts 'gathered dust'.²¹ They needed resources, strategic support and international attention.

Things began to change in the summer of 1999, when the various victim associations as well as other Chadian human rights organisations began working with Human Rights Watch (HRW) and Harvard Law School's Human Rights Program to bring Habré to justice before a court of law in Senegal,²² where he was living. The group had to work in secret given the sensitivity of the information and dangers they could face if their work became known. Ultimately, with the help of Harvard law students, they managed to copy the files documenting the abuses and get them out of Chad.²³ This information would later be used to file a civil party complaint, joined initially by seven victims, in the Senegalese courts to start the prosecution.²⁴ Nevertheless, the struggle to bring him to trial proved difficult. They were faced with many barriers, including numerous legal and procedural obstacles, delays and political interventions.²⁵

The delays, however, would prove useful in a way. The civil society groups would have the time to not only document more crimes but also to build broad political support for their cause.²⁶ Moreover, by chance, in 2001, HRW uncovered files of Habré's secret police, which documented the names of more than 1,000 individuals who were killed or died in detention and tens of thousands of other victims of human rights violations.²⁷ HRW then partnered with Human Rights Data Analysis Group (HRDAG). HRDAG developed a Document Mapper database that allowed cross-referencing within the thousands of pages of documents and was able to show, quantitatively, the existence of a superior/subordinate structure in place and that Habré received 1265 direct communications from the security police about the status of 898 detainees.²⁸ These documents, together with the work and testimony of victims, proved fundamental to the prosecution's case.

One of the reasons that this case was able to meet with such success was because of the collaboration between local and international civil society groups. Amongst other things, local groups did the initial collection of documentation,²⁹ placing themselves at great risk. Alone, they would likely not have been able to garner the traction needed to use the information for a prosecution. International groups leveraged the international media to draw support, utilised modern technologies to build a stronger case, and helped acquire much needed funding for various local victim associations so that they could continue their work.³⁰ Sharp has referred to this kind of cooperation as 'groundbreaking'.³¹ The resulting trial created a space for local civil society actors to claim and get their voices heard. It also created a space for further civil society partnerships. Finally, it presented one of many opportunities to utilise the documentation efforts started so many years earlier by the victims.

¹⁸ David L Bosco, 'Dictators in the Dock' *The American Prospect* (Washington, DC, 19 December 2001) <<http://prospect.org/article/dictators-dock>> accessed 27 February 2017; Dustin N Sharp, 'Prosecutions, Development, and Justice: The Trial of Hissène Habré' (2003) 16 *Harvard Human Rights Journal* 147, 148–149.

¹⁹ Bosco (n 18).

²⁰ Sharp (n 18) 167.

²¹ *id.*

²² *id.*, noting that the other organisations include the Rally for the Defense of Human Rights, the Association for the Promotion of Fundamental Liberties in Chad, the Chadian League for Human Rights, the Chadian Association for Political Crimes and Repression, the National Organization for Human Rights (of Senegal). International organisations included Interrights, the International Federation of Human Rights Leagues, the French organisation Agir Ensemble pour les Droits de l'Homme, and Human Rights Watch. Later others, such as Civitas Maximus, would join to help represent victims in the proceedings.

²³ Bosco (n 18).

²⁴ Sharp (n 18) 167.

²⁵ *ibid.* 169–171.

²⁶ *ibid.* 172.

²⁷ Brody (n 15) 210.

²⁸ Romesh Silva, Jeff Klingner and Scott Weikart, *State Violence in Chad under Hissène Habré: A Statistical Analysis of Reported Prison Mortality in Chad's DDS Prisons and Command Responsibility of Hissène, 1982–1990* (Benetech 2010). See the Human Rights Data Analysis Group, 'Chad' <<https://hrdag.org/chad/>> accessed 27 February 2017.

²⁹ Bosco (n 18).

³⁰ Sharp (n 18) 174.

³¹ *id.* On the importance of partnerships, see Brody (n 15) 218.

III. Barriers to Documentation

Due in part to the success of documentation efforts in this case, as well as many others around the world that bring attention to serious human rights violations, civil society organisations are facing increasing threats to their operations.³² In many countries, there have been strict limits placed on civil society space and operation.³³ The World Movement for Democracy has outlined legal barriers to entry, operational activity, speech and advocacy, communication and cooperation, assembly and resources.³⁴ The growing regulatory backlash to civil society work makes documentation efforts even more difficult and risky.

Barriers that require groups to legally register all activity may deter groups from explicitly taking on documentation work for fear of reprisals. Mandatory registration requirements allow governments to exert greater control over civil society membership and activities.³⁵ Restrictions that ban foreign funding may mean that civil society groups are unable to fund documentation efforts. Similarly, excessive taxation of foreign grants can severely discourage international funders from supporting local groups.³⁶ It can be debilitating to civil society groups operating in countries where foreign donors remain the main means of support.³⁷ Limitations placed on the freedom of speech and association may also seriously curtail the ability of civil society groups to use the information collected, without placing themselves or others in jeopardy. Restrictions placed upon speech in particular may limit a group's ability to engage in advocacy activities such as those undertaken in the *Habré* case discussed above.

Beyond these legal barriers, intimidation and threats used by the State or others to curtail work by civil society actors further undermines documentation work. There are real safety concerns for individuals and groups carrying out documentation activities, often with little protection support available.³⁸ Moreover, there are 'image' barriers that may deter documentation work or cooperation between local and international organisations. Civil society organisations may be reluctant to be seen to be partnering with foreign donors as this could negatively affect their legitimacy and image with allies, whether this be the government or local populations wary of outside involvement.³⁹

And while greater professionalisation may make the civil society actor a greater threat to a State violating rights, it is nevertheless important to build the capacity of individuals and informal networks as well as organised groups struggling to document abuses. Enabled by communication technology, citizens have new ways to engage and ultimately play a role in documenting what goes on around them.⁴⁰ Providing continued support by way of informing on the standardisation and professionalisation of documentation work, whether done individually or collectively, is of paramount importance.

IV. The Changing Landscape of Documentation

Thirty years ago, documentation efforts were largely organised by grassroots movements, with little funding from international actors.⁴¹ Often, concerned individuals, sometimes themselves victims, would organise into small groups or organisations specifically created to collect and analyse information on abuses.⁴² The sharing of information and best practices was difficult, and partnering with larger, more international groups or universities, haphazard. Today that has changed. Technological advances in the past few decades have meant there are new and easier ways in which individuals can document violations. Mobile technology, in particular, has played an important role in documenting abuses, contributing to a rise in citizen journalism/unofficial investigation. In addition, there is now strong acknowledgment of the need for documentation, greater standardisation and professionalisation, and the sharing of information.

³² See Hansen and Sriram (n 8).

³³ ICNL and NED, 'Defending Civil Society Report' (World Movement for Democracy 2012) 8; David M Moore, 'Civil Society Under Threat: Common Legal Barriers and Potential Responses' (2006) Briefing Paper EP/ExPol/B/2006/30.

³⁴ See ICNL and NED (n 33).

³⁵ Moore (n 33) 4.

³⁶ *ibid* 8.

³⁷ *ibid* 7.

³⁸ Hansen and Sriram (n 8) 424.

³⁹ *ibid* 425.

⁴⁰ World Economic Forum (n 13) 6.

⁴¹ See Fernando J Bosco, 'Place, Space, Networks, and the Sustainability of Collective Action: the Madres de Plaza de Mayo' (2001) 1 *Global Networks* 307, 318.

⁴² Reiter, Zunzunegui and Quiroga (n 7) 632–637.

A. Technology, Citizen Journalism and Unofficial Investigations

Technological advances, which are evolving and spreading at faster rates than ever, have given rise to the phenomenon of 'citizen journalism' and 'unofficial investigators'. In fact, communication technologies have played an important role in shaping conflicts and highlighting the suffering of individuals in those conflicts. As noted by Tanya O'Carroll, technology and human rights project officer for Amnesty International, 'New technologies – such as social media and mobile Internet – have fundamentally changed how we shed light on and respond to human rights abuses. Today, almost anyone with a mobile phone can be a human rights monitor and challenge the abuse of power by capturing and sharing documentation of abuses as they happen'.⁴³

The concept of 'citizen journalism' is based on ordinary individuals taking an active part in documenting, collecting and disseminating information.⁴⁴ Social media, and the citizen journalism that takes place on it, has been crucial in the success of anti-government protests and is undoubtedly an important resource for collective actions, particularly concerning the organisation of contemporary social movements.⁴⁵ Similarly, unofficial investigators document events and abuses around them but for purposes that go beyond the news. As unofficial investigators, civil society actors are taking an active part in documenting, collecting and disseminating information that may facilitate compliance, justice or accountability, for example. The documentation may be used in a later envisioned criminal process or for truth-telling purposes or it may simply be for historical preservation. If used for accountability purposes, chain-of-custody and best practices for interviewing witnesses and victims becomes crucial. This is where the world of journalism meets forensic investigation. These unofficial investigators, while relatively new to the scene of documentation, play an instrumental role in the global justice movement.

One of the most prominent and recent examples of the rise of citizen journalism/unofficial investigation is the case of Syria. Due in large part to the fact that much of Syria has become a no-go area for foreign correspondents, locals have had to fill the void.⁴⁶ Many of these individuals express an important sense of purpose in documenting the events.⁴⁷ In 2013 some of these citizen journalists set up the Hadath Media Center, a multimedia site that aggregates photos and videos of the conflict from citizen journalists.⁴⁸ Unfortunately, the Center was later shut down after it had been bombed. Other initiatives focused on documentation and reporting on human rights abuses in Syria include the opposition Local Coordination Committees of Syria (LCCSy), which is a network of reporting groups that provide 24-hour reporting of events and maintain a database of those killed during the conflict. In an effort to verify their material, they try to get at least three other corroborating sources.⁴⁹

A well-known example of an individual placing himself at great risk to document abuses in Syria has been code-named 'Caesar'. Caesar was an official forensic photographer for the military police and had personally photographed and archived photos of bodies of dead detainees. He smuggled out more than 50,000 images on thumb drives before defecting. He entrusted these images to the Syrian National Movement, an opposition political group, which formed the Syrian Association for Missing and Conscience Detainees. This association later took custody of the files and gave them to HRW. HRW used the images, together with additional corroborating information (based on interviews, document review), to produce a report entitled, 'If the Dead Could Speak: Mass Deaths and Torture in Syria's Detention Facilities'.⁵⁰ Amongst other recommendations, the report called for accountability measures through additional investigations and called on the UN Security Council to refer the situation in Syria to the International Criminal Court.⁵¹ It also called for compliance-related actions on the part of Syria, such as providing immediate and unhindered access for international monitors to all detention facilities.⁵²

⁴³ Katie Rucke, 'Protecting Human Rights Activists? There's An App For That' *Mint Press News* (Minneapolis, MN, 13 March 2014) <<http://www.mintpressnews.com/protecting-human-rights-activists-theres-an-app-for-that/186429/>> accessed 27 February 2017.

⁴⁴ See Sahar Khamis and Katherine Vaughn, 'Cyberactivism in the Egyptian Revolution: How Civic Engagement and Citizen Journalism Tilted the Balance' (2011) 14 *Arab Media and Society* 1.

⁴⁵ See Ilhem Allagui and Johanne Kuebler, 'The Arab Spring and the Role of ICTs' (2011) 5 *International Journal of Communication* 1435; Khamis and Vaughn (n 44).

⁴⁶ Shih-Wei Chou, 'Citizen Journalists Report Syria Conflict to the World' (*Global Journalist*, 16 February 2016) <<http://globaljournalist.org/2016/02/citizen-journalists-report-syria-conflict-to-world/>> accessed 27 February 2017.

⁴⁷ id.

⁴⁸ Hadath Media Center <<http://hadathmc.com/>>.

⁴⁹ Chou (n 46).

⁵⁰ Human Rights Watch, *If the Dead Could Speak: Mass Deaths and Torture in Syria's Detention Facilities* (HRW 2015).

⁵¹ *ibid* 14, 17.

⁵² *ibid* 15.

By linking up with the Syrian Association and later partnering with HRW, those individuals who had access to the images were able to maximise their impact at the international level. This is especially true given HRW's resources, reputation and connections. As was the case with the Habré prosecution, this sort of partnering becomes crucial not just to garner world attention but helps set up a process whereby the information can be properly verified, analysed, stored and later used. When information is collected by unofficial investigators, and when it cannot be verified, it may be perceived as less trustworthy or legitimate. The partnering therefore becomes important. However, the international partnerships cannot offer increased protection to those on the ground. Individuals and groups on the ground are the ones endangering their lives to do documentation work. Indeed, the risks to citizen journalists/unofficial investigators in Syria are high.⁵³ From 2011 to 2013, it was reported that 65 citizen journalists were killed in Syria as compared to 24 professional journalists over the same time period.⁵⁴ As the number of citizen journalists/unofficial investigators increases, there is a clear need to inform on best practices and provide information on how their efforts to document abuses can be preserved and later used, as well as how to minimise the risks associated with documentation.

B. Increasing Support for Documentation Efforts

As the case of Syria indicates there is a growing need for documentation support for untrained, unofficial investigators. This is because, often, documentation work cannot wait until a conflict is over for information may be lost. And, even when official investigations are available, they frequently do not materialise or are not prioritised. As a result, individuals around the world are being confronted with human rights abuses and could benefit from guidelines and practical assistance on how to recognise, collect, manage, store and use information about serious human rights violations.

Research on global funding from 2013 shows the strategy area of 'research and documentation' made up approximately 13 per cent of foundation human rights funding.⁵⁵ The largest donors for this strategy area include the Ford Foundation, Open Society Foundations, the International Development Research Center, the Oak Foundation, the National Endowment for Democracy, the Bill and Melinda Gates Foundation and the MacArthur Foundation.⁵⁶ In addition to the major foundation donors, the top ten countries most involved in funding documentation efforts are all from the European Union, including European Union institutions themselves.⁵⁷ And when it comes to transitional justice and peacebuilding efforts specifically, roughly 23 per cent of grant funding is targeted for research and documentation efforts.⁵⁸ In all, million of euros from States, intergovernmental institutions, and foundations are spent each year on research and documentation efforts related to human rights violations.

The documentation of abuses in Syria and around the world has indeed become a top priority, which is receiving broad international support. This broad international support helped create, in 2013, the Syria Justice & Accountability Center (SJAC). SJAC was created to focus on the collection and analysis of documentation related to ongoing human rights and humanitarian law violations, the coordination of Syrian and international actors working on documentation efforts, and the education and outreach of transitional justice processes.⁵⁹ SJAC is a largely Western-backed organisation that works with Syrian and international human rights activists and organisations working on documentation, including partnerships with the Syrian Center for Documentation of Violations, Damascus Center for Human Rights Studies, Syrian Network for Human Rights, Sham News Network, HRW, the Syria Commission on Justice and Accountability, Amnesty

⁵³ Jordan Fletcher and Alia Dharssi, 'Meet the Investigators Who Risk Their Lives to Take Incriminating Documents Out of Syria' (*Vice Media*, 8 April 2014) <<http://www.vice.com/read/meet-the-investigators-who-risk-their-lives-to-take-incriminating-documents-out-of-syria>> accessed 27 February 2017.

⁵⁴ Nancy Vogt, 'Another Casualty of War in Syria—Citizen Journalists' (*Pew Research Center*, 26 August 2013) <<http://www.pewresearch.org/fact-tank/2013/08/26/another-casualty-of-war-in-syria-citizen-journalists/>> accessed 27 February 2017.

⁵⁵ Anna Koob, Sarah Tansey and Christen Dobson, *Advancing Human Rights: Update on Global Foundation Grantmaking* (IHRFR 2016) 13.

⁵⁶ International Human Rights Funders Group, 'Advancing Human Rights, the State of Global Foundation Grantmaking: Research and Documentation' <<http://humanrightsfunding.org/strategies/research/>> accessed 27 February 2017.

⁵⁷ International Human Rights Funders Group, 'Advancing Human Rights, the State of Global Foundation Grantmaking: Equality Rights and Freedom from Discrimination' <<http://humanrightsfunding.org/issues/equality/year/2013/>> accessed 27 February 2017.

⁵⁸ International Human Rights Funders Group, 'Advancing Human Rights, the State of Global Foundation Grantmaking: Transitional Justice and Peacebuilding' <<http://humanrightsfunding.org/issues/peacebuilding/>> accessed 27 February 2017.

⁵⁹ US Department of State, 'International Support for the Syria Justice and Accountability Center' (Media Note, 18 September 2012) <<https://2009-2017.state.gov/r/pa/prs/ps/2012/09/197868.htm>> accessed 27 February 2017; US Department of State, Office of the Spokesperson, 'The Syrian Crisis: US Assistance and Support for the Transition' (Press Release, 17 January 2017) <<https://2009-2017.state.gov/r/pa/prs/ps/2014/01/220029.htm>> accessed 27 February 2017.

International, and the Office of the UN High Commissioner for Human Rights.⁶⁰ It has broad State support including from Angola, Australia, Austria, Azerbaijan, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Iraq, Italy, Japan, Jordan, Kuwait, Libya, Malaysia, Morocco, the Netherlands, Norway, Poland, Qatar, Romania, Saudi Arabia, Spain, Sweden, Switzerland, Tunisia, Turkey, the United Kingdom, and the United States.⁶¹ SJAC also receives support from several organisations including the European Union, the International Research and Exchanges Board (IREX), the League of Arab States, the Organisation of Islamic Cooperation, and the Moroccan Organisation for Human Rights. Although these groups do not know what types of transitional justice processes may be set up in the future, if any, they will have collected vast amounts of information for a multitude of purposes.

This recognition by funders is important. First, the expanding base of support has resulted in more money for more documentation-related projects. This, in turn, has resulted in a proliferation of responses by numerous international organisations. These responses, some of which are discussed below, aim to address the issues first raised in the *Human Rights Quarterly* article 30 years prior, namely standardisation and professionalisation. There is a clear desire to inform and share best practices so that more of the information collected on the ground can be used for example in transitional justice processes. This funding is also crucial because documentation efforts need to keep up with technological advances, which can be costly. The development of easy-to-access online documentation tool kits and mobile apps is becoming increasingly relevant. There is greater awareness of the need for partnerships between those on the ground to individuals and organisations dealing with technology and big data.

V. The Proliferation of International Documentation Initiatives

In response to the demand for greater documentation worldwide, larger international NGOs have become active in facilitating standardisation and professionalisation, through the collection and sharing of best practices, and creating tools to help with documentation efforts. The below sub-sections first address initiatives spearheaded by a wide array of international NGOs and then those specifically carried out by the Public International Law & Policy Group (PILPG).

A. The More the Merrier

Some projects are aimed at best practices for the documentation of specific crimes, whereas others are directed to a broader category of abuses. One project targeted for specific crimes is the International Protocol on the documentation and investigation of sexual violence in conflict created by the UK Foreign and Commonwealth Office.⁶² The Protocol outlines basic standards of best practice on the documentation of sexual violence as a crime under international law. Likewise, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, often referred to as the Istanbul Protocol, is specifically related to torture-related crimes.⁶³

Other initiatives aim to be more general. For the investigation and documentation of all international crimes falling under the jurisdiction of the International Criminal Court (ICC), the Human Rights Center at the University of California Berkeley School of Law organised in 2014 a workshop entitled 'First Responders: An International Workshop on Collecting and Analysing Evidence of International Crimes'.⁶⁴ The resulting report highlighted the often contentious relationship between the ICC and civil society actors on the ground collecting information. In June 2015, the International Bar Association (IBA), partnering with LexisNexis Legal & Professional (a leader in information and technology services), launched its eyeWitness to Atrocity project.⁶⁵ The project developed a mobile app that allows users to record and upload video and photos of human rights abuses. The app captures metadata, such as the date, time and location, which is needed to ensure the admissibility of digital evidence that can later be used in investigations and evidence in court.

⁶⁰ *ibid*; Syria Justice and Accountability Centre, 'Who We Are' <<https://syriaaccountability.org/who-we-are/#supporters>> accessed 27 February 2017.

⁶¹ SJAC (n 60).

⁶² UK Foreign and Commonwealth Office, *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict* (UKFCO 2014).

⁶³ UN Office of the High Commissioner for Human Rights, 'Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (2004) Professional Training Series No. 8/Rev. 1.

⁶⁴ Stephen S Cody and others, *First Responders: An International Workshop on Collecting and Analyzing Evidence of International Crimes* (Human Rights Center, UC Berkeley 2014).

⁶⁵ International Bar Association, 'International Bar Association Launches Mobile App that Captures Verifiable Images to Aid Prosecution of Human Rights Atrocities' (Press Release, 8 June 2015) <<http://www.ibanet.org/Article/Detail.aspx?ArticleUId=f8ff99f9-43e4-4301-b1a4-9935a25f0fdd>> accessed 27 February 2017.

The project created a secure repository, database and backup system to store and analyse the data collected via the app, which can then verify that the footage is original and has not been altered. Importantly, the app allows the user to decide whether or not to remain anonymous. In 2015, WITNESS launched its extensive 'Video as Evidence Field Guide', which helps individuals who film abuse enhance the evidentiary value of the material in order to bring about justice.⁶⁶ They also emphasise how to ethically approach taking video evidence.

Similarly, Amnesty International created the Citizen Evidence Lab, which adopts the slogan 'turning citizen media into citizen evidence'.⁶⁷ It provides a forum to share best practices, techniques and tools for authenticating user-generated material. Working together with human rights centres at three universities from around the world, it has also recently launched its Digital Verification Corps.⁶⁸ The aim of this initiative is to train 'future human rights investigators in the techniques and skills required to verify content that depicts potential human rights abuses found on open social media platforms'.⁶⁹ Finally, the Open Society Justice Initiative (OSJI) has also been developing Guidelines for NGOs on Fact-Finding,⁷⁰ and in November 2015, together with WITNESS, PILPG and others, OSJI hosted a workshop at the ICC Assembly of State Parties on NGOs and fact-finding. The workshop provided guidance and best practices for NGOs and civil society groups documenting and collecting evidence of crimes under the Rome Statute, and shared recommendations for how best to interact with ICC representatives. While this article is unable to address all of the efforts being made in this area, the below section will focus on the work carried out by PILPG as it has emerged as one of the leaders in improving the standardisation and professionalisation of documentation work.

B. PILPG's Documentation Work

PILPG is a non-profit, global *pro bono* law firm providing free legal assistance to its clients, which include governments, sub-State entities, and civil society actors worldwide. PILPG specialises in peace negotiations; post-conflict constitution drafting; transitional justice and war crimes prosecution; policy planning; and democracy and governance. It has been extensively involved with various documentation projects, some of which are country-focused, such as in Iraq and South Sudan, whereas others are designed for the broader public.

As part of the Global Initiative for Justice, Truth, and Reconciliation,⁷¹ PILPG has been conducting an 18-month program on human rights documentation in Iraq along with the Humanitarian Law Center, the International Coalition of Sites of Conscience, and a local Iraq-based organisation. The program's goal is to build the capacity of local Iraqis to document human rights violations committed by all parties in Iraq to lay the foundation for future transitional justice efforts. As part of the program, PILPG trains 32 Iraqi documenters on victim and witness interviewing as well as the role that documentation can play in transitional justice. PILPG is also assisting the documenters with setting up a database that will house the information collection through the documentation effort and facilitate its future use. The program also incorporates community awareness and advocacy components to engage Iraqi communities in designing transitional justice processes that are responsive to their needs.

Similarly, as part of the Global Initiative for Justice, Truth, and Reconciliation, PILPG is working with the International Coalition of Sites of Conscience, the Center for the Study of Violence and Reconciliation (CSVSR), and the Humanitarian Law Center to assist civil society and other stakeholders in South Sudan to increase and coordinate their documentation efforts. The primary focus of the program is on implementation of a roadmap that representatives from civil society and regional actors developed through an initial mapping and workshop that PILPG and CSVSR held in Nairobi in May 2015. The program incorporates train-the-trainer workshops for civil society organisations on documentation of human rights abuses for accountability and justice purposes as well as the use of documentation for national and regional advocacy purposes. It also centres on the creation of a documentation database and community memory centre, trainings on psychosocial support for victims, and an investigation mission to document human rights abuses in several States in South Sudan.

⁶⁶ Kelly Matheson, *Video as Evidence Field Guide* (WITNESS 2016).

⁶⁷ Amnesty International, 'Citizen Evidence Lab: About' <<https://citizenevidence.org/about/>> accessed 27 February 2017.

⁶⁸ Sam Dubberley, 'Embarking on the Path of Verification' (*Citizen Evidence Lab*, 6 October 2016) <<https://citizenevidence.org/2016/10/06/embarking-on-the-path-of-verification/#more-617>> accessed 27 February 2017.

⁶⁹ *id.*

⁷⁰ Open Society Foundations (n 4) 2.

⁷¹ International Coalition of Sites of Conscience, 'The Global Initiative for Justice, Truth and Reconciliation' <<http://www.sitesofconscience.org/global-initiative-for-justice-truth-and-reconciliation/>> accessed 27 February 2017.

Because PILPG has routinely been asked by civil society groups about best practices when it came to documentation of serious human rights abuses, it began a two-year project developing a Handbook on Civil Society Documentation of Serious Human Rights Violations as well as a more visual and easily transportable accompanying Fieldguide and other explanatory memoranda on Preventive Monitoring and on Use of Information about Serious Human Rights Violations. The purpose of the Handbook and accompanying Fieldguide is 'to provide guidelines and best practices for the collection and management of information on serious human rights situations for those that are not professionally trained in such documentation practices'.⁷² They are 'meant to guide those who encounter information of (or themselves witness) serious human rights violations when no official and professional investigative authority is immediately available and a danger exists that the information might become unavailable or deteriorate'.⁷³ Importantly, both the Handbook and Fieldguide emphasise the need to refrain from putting oneself at risk by investigating human rights abuses and to refer to professionals when possible.⁷⁴ The uniqueness of the Handbook and Fieldguide is that they create the first comprehensive collection of standards and best practices for civil society documentation of serious human rights violations that are: 1) neither mainly addressed to human-rights mandated actors (whether officially mandated, like the Training Manual on Human Rights Monitoring of the UN Office for the High Commissioner for Human Rights, or unofficially, as it is the case with training materials circulated by human rights groups to their researchers before deploying into the field); 2) nor tailored for specific crimes (such as with the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict or the Istanbul Protocol).

Finally, as the leader of an eight-member consortium, PILPG has developed, and recently launched, a human rights documentation toolkit (HRD Toolkit) designed to bridge the gap between the needs of documenters on the ground and the vast array of available documentation resources.⁷⁵ The toolkit takes a holistic view of transitional justice, creating broadly accepted practices that can be applied to a variety of transitional justice mechanisms. The HRD Toolkit project has three main goals. First, the project aims to bring the human rights documentation community together to share information and develop broadly accepted practices around shared issues. Second, the project strives to integrate and enrich the existing resources on human rights documentation into a single adaptable and accessible resource for the people on the ground actually carrying out documentation. Users can search for information by language, violation, format, challenge, method or tool type. Third, the project creates a digital platform that allows for the creation of individualised tools, methods, and broadly accepted practices and provides a space for the continued coordination and collaboration of documentation stakeholders and organisations.

The work of PILPG and other international organisations, to assist and support local civil society actors, is only possible both because of the increasing recognition by funders of the importance of documentation work and because of the ability to connect through modern technology to the tools available online. Without the work carried out by local civil society actors on the ground, supported by these initiatives, many compliance-related and justice and accountability processes would not be able to take shape. Yet, it is important to remember that documentation efforts should not be undertaken at all costs. Documentation work should aim to promote best practices and uphold important principles that protect both the information/material and the person collecting it.

VI. General Principles and Arguments Underlying Documentation Initiatives

Three important principles that almost all the documentation efforts highlight include the do no harm principle, the principle of informed consent, and the principle of confidentiality. The most important principle when collecting information or documenting violations is to do no harm. Doing no harm means preventing and minimising any unintended negative effects of activities, such as those that can increase someone's vulnerability to physical and psychosocial risks.⁷⁶ This includes doing no harm to victims, witnesses, intermediaries, local communities, other unofficial investigators, colleagues, any other person involved in the

⁷² Federica D'Alessandra and others, *Handbook on Civil Society Documentation of Serious Human Rights Violations: Principles and Best Practices* (PILPG 2016) (PILPG Documentation Handbook).

⁷³ *ibid* 13.

⁷⁴ *id.*

⁷⁵ HRDT, 'Human Rights Documentation Toolkit' <www.hrdtoolkit.org> accessed 27 February 2017.

⁷⁶ UN Office for the Coordination of Humanitarian Affairs, '2015 Syrian Arab Republic Strategic Response Plan', 11 (18 December 2015) <https://www.humanitarianresponse.info/system/files/documents/files/2015_SRP_Syria_EN_AdvanceCopy_171214.pdf> accessed 27 February 2017; UK FCO (n 62) 29.

collection of information on serious human rights violations, as well as to oneself. The do no harm principle may require action, for instance by providing first aid or referring others to health care providers. Alternatively, it may require no action at all, for example by not exposing oneself or others to the risk of harm. Importantly, the collection and documentation of information should always be done to serve the best interests of those affected by the violations, rather than for the sake of collection itself.

As with the do no harm principle, observing the principle of informed consent is critical when gathering information about serious human rights violations. When possible, victims and witnesses should be given an opportunity to provide their informed consent prior to being interviewed, externally examined, or photographed, as well as having their information recorded or having their information and contact details shared with third parties. Along these lines, informed consent should be sought at every stage of interaction to ensure the person is fully aware and accepts the consequences of his/her involvement with the unofficial investigator. This means that even after information is collected the victim or witness may withdraw their consent without consequence.⁷⁷ Obtaining informed consent ensures that the victim or witness maintains full control and agency over their own experiences and allows them to weigh the potential consequences of providing information. Not obtaining informed consent not only violates the rights of the victim/witness, and could cause them (additional) harm, the information obtained may also lose its evidentiary value because a court may not be able to exclude the possibility that the information was provided under some kind of duress or coercion.⁷⁸ Accordingly, informed consent is an ethical obligation for anyone collecting information from victims of or witnesses to serious human rights violations.

Finally, the principle of confidentiality is fundamental when documenting serious abuses. The principle of confidentiality concerns the requirement that documenters protect the personal data of individuals who provide information on serious human rights violations. It is important that documenters clarify confidentiality and its limits at the outset.⁷⁹ This means that individuals should be informed about what confidentiality measures are in place, if any, and how their personal data will be protected. It also means that individuals should be informed about the inability to ensure confidentiality as a legal right, and that confidentiality may be breached for example if a child-protection issue arises. It also includes the specific ways in which information may be disclosed to third parties, including official investigators or others the individual consents to.

These underlying principles have undoubtedly been around since the early efforts to document abuses, which underscores the fact that despite the changing landscape of transitional justice documentation, there are certain norms that reinforce the centrality and importance of the individual when carrying out human rights-related work. It is important for individuals or groups new to documentation work to understand and strengthen these principles. The recent initiatives undertaken by international civil society groups help, in many ways, to inform and promote these foundational principles in order to further standardise and professionalise documentation work.

An important question, however, must be asked: why does standardising documentation work matter? Standardisation has many benefits. First, standardisation could save lives. With the emphasis on the ethical conduct of documentation initiatives including the 'do no harm' principle and protection issues, standardised practices aim to protect the lives of those involved with documentation. Second, standardisation helps avoid secondary trauma or re-victimisation to individuals who have witnessed or been victims of serious human rights violations. Statement takers will be more aware of the trauma victims have endured and, in theory, will be in a better position to gauge whether or not they are capable of retelling their stories. Again, the principles underlying documentation work help to ensure that the safety and psychological well-being of the individual is the main concern. Finally, standardisation helps ensure the quality of the information collected, which may provide some quality assurance for later use of that information whether for a criminal investigation or truth-telling purpose. As a result, the information may become more effective or useful. This quality assurance can also ultimately save time and money if or when the information is later used in another context. Accordingly, as with crime scene investigation and criminal justice reform generally,⁸⁰ the standardisation and professionalisation of documentation efforts should be a goal of everyone involved in dealing with serious human rights violations.

⁷⁷ UK FCO (n 62) 45; PILPG Documentation Handbook (n 72).

⁷⁸ *id.*

⁷⁹ UK FCO (n 62) 47; PILPG Documentation Handbook (n 72).

⁸⁰ See eg Report of the UN Secretary-General, 'Reform of the Criminal Justice System: Achieving Effectiveness and Equity' (26 February 2002) UN Doc E/CN.15/2002/3.

Notwithstanding these benefits, it should not be forgotten that an increasingly standardised and professional emphasis related to documentation work may also have its drawbacks.⁸¹ Stressing the importance of 'professionals' may have a disempowering and alienating effect on individuals, making them less eager to get involved with fact-finding efforts.⁸² Moreover, while this article has tried to shed light on the dynamic relationship between local groups and international organisations it is important to be cautious against predominantly top-down responses that strip grassroots activities of agency or responsibility. Importantly, the standardisation of documentation tools should not merely be a top-down exercise. Rather, it must emerge from horizontal and vertical collaborative action, in what one author refers to as the standardisation of local innovations.⁸³

One of the consequences of having so many groups working on the same issues of standardisation and professionalisation may be that it can cause confusion on the part of end users and there certainly seems to be, at least to some extent, some duplication of efforts. In order to avoid confusion, the unique purpose of each initiative should be made clear and steps should be taken to avoid replication of work. To this end, initiatives should build upon and refer to one another as much as possible. Although the documentation initiatives undertaken may have some overlap, they have generally tried to inform and complement one another. In particular, PILPG's HRD Toolkit project is especially promising in this regard as it aims to bring together in one location existing materials on documentation and best practices. Moreover, despite the duplication and overlap that may exist, the various initiatives provide different avenues to reach different end users. If the goal is to reach as many individuals and groups as possible then the multitude of efforts should be welcomed so long as there is no clear contradiction between them. Thankfully, this does not seem to be the case. In fact, the initiatives generally share common foundations.

VII. Conclusion

This article has shown that civil society organisations have long been involved with the documentation of serious human rights violations, and that already 30 years ago human rights scholars and practitioners recognised the need to share best practices and to standardise and professionalise documentation work. With improved technological advances and a newfound recognition among international donors about the importance of documenting human rights violations, efforts to better standardise and professionalise civil society documentation work have flourished. The work of international NGOs, such as PILPG, has significantly contributed to these efforts. Importantly, their work aims to underpin important documentation principles, including the do no harm principle and the principles of informed consent and confidentiality. The initiatives undertaken thus far should be applauded but greater cooperation, dissemination and training is needed. The barriers facing civil society documentation efforts are significant but when local and international actors work together, documentation work has the potential to significantly impact the promotion and protection of human rights, as the *Habré* case demonstrates. Without a doubt, the changing landscape of civil society documentation efforts offers many exciting possibilities for the future.

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Competing Interests

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⁸¹ On the consequences of professionalisation of international transitional justice advocacy, see Jelena Subotić, 'The Transformation of International Transitional Justice Advocacy' (2012) 6 *International Journal of Transitional Justice* 106, 122–124.

⁸² See CS Hart, 'Professionalisation of Community Development in South Africa: Process, Issues and Achievements' (2012) 42 *Africanus* 55, 64.

⁸³ See Anne Puonti, 'Tools for Collaboration: Using and Designing Tools in Interorganizational Economic Crime Investigation' (2004) 11 *Journal of Mind, Culture, and Activity* 133.

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