



Why a specialist SGBV investigation workshop?

Objectives

The objective of the workshop is to increase the pool of experts that can be rapidly deployed to lead and participate in investigations into conflict-related sexual and gender-based violence (SGBV) crimes.

An objective of the workshop is to achieve the normalisation and centralisation of investigation of SGBV as part and parcel of any international criminal or human rights investigation strategy. The workshop aims to demystify this type of investigation through building skills, focussing on those who work for international criminal tribunals, those who are engaged in commissions of enquiry, or human rights investigators confronted with cases of SGBV.

Outcomes

The design and delivery of this workshop will result in the creation of a core group of experts and expert trainers who can lead investigations into SGBV crimes; and who can be part of multi-disciplinary teams to ensure this aspect of investigations is not omitted. It will ultimately result in building a community of international investigators who have the specific skills to investigate sexual violence as a violation of international criminal, humanitarian and human rights law.

MODULES

International Criminal Law, International Humanitarian Law and International Human Rights Law

Learning Objectives

This introductory module will provide an overview of SGBV crimes and violations (crimes) under international criminal, humanitarian and human rights law to ensure that all participants will have a similar level of knowledge regarding core international crimes.

Content

It is expected that participants will have knowledge of the international legal framework or experience in international investigations. Drawing participants from a variety of backgrounds, for example, legal, investigative, or defending human rights, may mean that the level of knowledge in the group will be varied. This module consists of an overview of relevant aspects of international criminal, humanitarian and human rights law, including substantive, evidentiary and procedural law. The main focus will be on SGBV amounting to war crimes, crimes against humanity and genocide; in this regard, ICC law will be used as framework.

Gender Crimes

Learning objectives

INVESTIGATION OF CASES OF SEXUAL AND GENDER BASED VIOLENCE (SGBV) AS INTERNATIONAL CRIMES.

The objective of this module is to examine SGBV crimes in the context of the evolution of international law. It will include an outline of violations relating to sexual slavery, forced marriages and child soldiers.

Content

The purpose of this session is to familiarise participants with the basic elements of crimes of SGBV under international law. It will also sensitise participants to the needs of female, male and child victims of such crimes and identify potential issues that could be encountered during the investigation of SGBV crimes in international and other contexts.

SGBV as a Core Part Investigation Planning

Learning Objectives

The objective of this module is to provide participants with a framework for investigation planning and also with an understanding of the place of SGBV investigations in investigation strategy; to bring out into the open barriers that may impede SGBV investigations; and why it has to be included at the outset of an investigation as distinct from something “bolted on” at some later stage.

Content

The module will stress the importance of recognising the potential existence of SGBV crimes and a proactive stance to this aspect in establishing strategic, investigative and operational plans. It will address the issue of resistance to including SGBV – including SGBV against men and boys – in investigation strategies and plans that investigators may encounter. Further, this session will breakdown some of the current stereotypes that attach to proponents of SGBV investigations – (e.g.; it’s only pushed by special interest groups; only women can investigate it; its occurrence is exaggerated by the NGO community, UN Women etc.). The message to weave in throughout the workshop is that sexual violence needs to be normalised within the investigation. It will include discussion of various approaches to SGBV investigations e.g. SGBV as a thematic approach or SGBV as an element of a wider investigation.

The experience, not just of international justice practitioners, but of human rights defenders generally, is that there are many false barriers to the investigation of SGBV that severely impede justice solutions in this area, and that may have been put in place by the very people, organisations and institutions that should be proactively investigating cases if they are to achieve their mandates. The module will discuss ways that these barriers can be overcome.

Individual Criminal Responsibility for Sexual Violence Crimes

Learning Objectives

The objective of this module is to provide a practical analysis of decided cases to demonstrate when and how an individual can be held responsible for SGBV crimes.

Content

This module will examine jurisprudence regarding criminal responsibility in SGBV cases. The module will demonstrate how a broad range of individuals, apart from the actual perpetrator or those present at the time, can be held responsible for SGBV crimes. The aim is to examine modes

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of liability such as superior responsibility and command responsibility and provide practical examples of where individuals have been held responsible for SGBV crimes.

Interviewing Skills

Learning Objectives

The objective of this module will be to enhance interview skills of participants by introducing a structured approach to interviews that can be implemented in most forms of interview and can be adapted by the participants to the case they are involved in.

Content

This module will build on the participant's existing interview skills. It will include an overview of basic questioning types and then introduce a structured approach to interviewing – based on the PEACE model for interviews.

The PEACE model is a five step process:

- P Planning and preparation
- E Engage and explain
- A Account (free narrative, clarification and challenge)
- C Closure and
- E Evaluation.

The module will also build on issues touched upon in the module on investigation planning and address issues such as when planning an interview considering the gender of the interviewer and any interpreter, age, gravitas etc., of the interviewer and try to assign personnel who will best fit those needs. It will again stress that investigation teams must be put together with this in mind.

Interviewing Exercises

Learning Objectives

The objective of this exercise is to provide an opportunity for participants to put into practice the knowledge and skills gained during the workshop.

Content

Real life experience rarely imitates theoretical knowledge. By conducting this exercise using role players who have considerable experience in real interviews the objective is to give practical experience that is as close to genuine situations as possible; to provide an opportunity to try various approaches to deal with the twists and turns an interview may take and to allow participants to make mistakes, that can be corrected – without having an impact on real victims or witnesses. These exercises will build on the previous sessions – approaches to witnesses and interview skills. Volunteers from participants will form two interview teams of two or three people. Each will have to conduct a mock interview with a role player. The interview will be of a character drawn from a scenario prepared by the IICI based on the many armed conflicts throughout the world where children, women and men have been the victims of SGBV.

Witness Management, Safety and Protection

Learning Objectives

INVESTIGATION OF CASES OF SEXUAL AND GENDER BASED VIOLENCE (SGBV) AS INTERNATIONAL CRIMES.

The objective of this module is to build awareness of the complexity of ensuring the safety and security of witnesses and victims in an overall context and then apply these same principles to SGBV cases where the complexities of ensuring the proper treatment of witnesses and victims are magnified by a variety of issues associated particularly with SGBV cases.

Content

The safety and security of witnesses and victims requires an interlocking approach that takes into account all aspects of their well-being and must be addressed from the outset. This module will demonstrate that witness/ victim protection must be understood as a part of a wider management process and that it is a risk driven process consisting of several layers:

- Development of a security culture.
- Operational protective measures - ensuring the safety of witnesses/ victims is generally in the hands of the investigator until prosecution phase commences (where this model applies).
- Procedural protective measures - from that stage on, protective measures will generally be the subject of an order from the Court, Tribunal or Commission of Inquiry, etc (if/ as applicable).
- Victim and witness support measures - at all stages various measures to address physical and social well-being of victims and witnesses may be implemented.
- In cases where there are no other viable alternatives, a witness protection program (if available) may have to be used. Entry into a witness protection program traditionally involves assessment, physical protection, relocation, change of identity or measures of disguising identity and ownership, resettlement, integration into a community and a pathway out of the program once testimony is completed and/or the threat has diminished.

Approaches to Witnesses, Witness Trauma and Psychosocial Support

Learning Objectives

The objective of this module is to provide guidance for building an understanding of the trust and confidence that needs to be established with witnesses as a precursor to communication. The module will also clarify how trauma may affect witness memory; the impact that may have on an interview and approaches to dealing with this impact.

Content

The initial approach to a victim/witness in an SGBV investigation is absolutely crucial to gaining the witness's confidence and the ultimate success of an investigation. It is also recognised that in many instances outside factors will make any form of initial contact difficult. How the investigator handles that contact sets the scene for any subsequent cooperation. Through the utilisation of case studies and practical exercises the participant will learn of the type of thought processes and practices required in planning and executing initial contact and interviews.

This module will also discuss what trauma is and the potential effect it may have on a witness, on the witness' memory, on the witness' willingness to be interviewed and on the witness' ability to

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provide clear and succinct testimony. It will examine the type of support traumatised witnesses may need, pre, during and post interview and testimony.

Approximately ten different scenarios will be developed for the session and the participants will then be broken into groups to work with the scenarios and make recommendations as to how they would consider approaching the victim/witnesses mentioned in the scenario. The scenarios would include some of the problems SGBV investigators often are called upon to solve e.g: victim/witness married to offender, forced marriage, witness suffering from cultural exclusion, male victim, victim/witness suffering mental or physical trauma, etc. The group will then come together in plenary, present their recommendations and the reasons for them. Each scenario will then be discussed in plenary.

Forensic Aids to SGBV Investigations

Learning Objectives

The objective of this module is to identify the types of forensic evidence that may be available in international SGBV investigations and also to examine the types of forensic evidence normally considered necessary to prove SGBV cases in national investigations.

Content

This module will outline the different types of forensic evidence that may be available in SGBV investigations and then examine whether it is practical or realistic to gather this type of evidence in an international context. Because of prevailing armed conflict scenarios in international contexts many of the types of forensic evidence utilised nationally may not be available. This should not be a bar to successful cases, and successful cases can be built by taking a broad approach to proof. The module will provide some examples to facilitate wider discussion of alternate forms of evidence that may be available in lieu of forensic evidence.

Examples to be covered include:

- The use of rape kits
- The requirement (or otherwise) for medical examination by a government approved doctor
- Physical evidence other than trace evidence (e.g. semen) which can have high probative value for other aspects of the offence – e.g. cigarette burns, evidence of mutilation or torture, presence of fistula; and will also last much longer than 72 hours after the assault.
- Certain types of SV or injuries that may be emblematic of one particular perpetrator group, e.g.: Sexual mutilation post-SV in the DRC. Certain groups had certain ‘calling card’ ways of mutilating their victims, whether with a gunshot or a tree branch etc.

Smaller and simpler ways to corroborate witnesses along with medical or physical evidence:

- Was there any immediate reporting of the incident (e.g. to a neighbour or family member)?
- Is the clothing or the crime scene still available? Can you take photos or a detailed description?
- Was there any signature pattern to the attack or any specific words/nicknames/derogatory slang terms spoken during it? [This can also go to persecutory intent].

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Sexual Violence & Men and Boys

Learning Objectives

To raise awareness of the pervasiveness, nature and impact of conflict-related SGBV against men and boys, and to identify challenges that may be unique or pronounced in the investigation of SGBV against men and boys.

Content

This module will outline the growing body of research on conflict-related SGBV against men and boys. Drawing from IICI's guidelines on the investigation of conflict-related SGBV against men and boys and other sources, challenges that may be specific to or especially pronounced in investigations into such crimes will be discussed.

Specific, Common and Linkage Elements of SGBV Crimes – Case Study/Evidence Elements Exercise

Learning Objectives

The objective of this exercise is to demonstrate the type of information that may be obtained from witnesses and victims in interviews; and that victims of and witnesses to SGBV can provide evidence that goes to prove the common elements and elements related to individual criminal responsibility as well as evidence of specific SGBV elements – a point that is often overlooked.

Content

This is a practical session that will test the participants' understanding of the legal theory taught in earlier sessions. It will also demonstrate to participants how they can utilise facts they obtain through the interview of witnesses and victims to prove elements of international crimes. The modules on legal framework identify the elements of SGBV crimes. In this module we examine these elements from a practical perspective and divide them into three basic areas:

- Specific Elements (e.g., Rape)
- Common Elements or Context – e.g., for Crimes Against Humanity part of widespread or systematic conduct and
- Elements of Individual Criminal Responsibility or Linkage Elements.

This is followed by a practical exercise, based on a fictitious scenario, where participants are required to identify facts from the scenario that could be used to establish the elements of war crimes, crimes against humanity and genocide and also the three basic categories of elements described above.

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Safety and Security in the Field

Learning Objectives

The objective of these sessions is to introduce a “Security Paradigm” to participants. The sessions will be of an introductory nature highlighting the necessity to bring security issues to the forefront of decision making and the need for individuals – including members of investigation teams and senior management – to take responsibility for their own security, particularly when working in conflict and post conflict environments.

Contents

The session will cover the concept of threat and risk assessments and then cover topics such as arriving, living and working in a post conflict environment. Instruction will then move to discussion of unexpected events or individual threats such as kidnapping, checkpoints, car- jacking etc.