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Training Guide

*Definitions and Classifications
for Casualty Recording according to
International Humanitarian Law Principles
for Syrian Human Rights Defenders*

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Definitions and Classifications for Casualty Recording
according to IHL Principles for Syrian Human Rights Defenders

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Practical tips



Important items



Training tools



Further resources



Stage



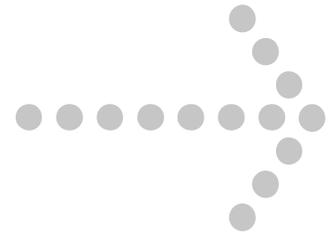
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Introduction

This guide was prepared by the Euromed Rights, as part of a series of training guides to help Syrian activists and human rights defenders document human rights violations and crimes being committed in Syria.

The guides are intended for use by groups and individuals seeking to document incidents taking place where they work and by organisations seeking to conduct trainings. As a result, they include practical tools to help individuals understand theoretical concepts and to help trainers explain these concepts to others.

Although the guides are interrelated and sometimes overlap, the three guides cover three different topics, which are (1) Documenting Human Rights Violations, (2) Definitions and Classifications for Casualty Recording according to International Humanitarian Law Principles, and (3) International Criminal law. The process of documentation of violations varies and depends on the intended use of the material. The purposes of documentation can be to advocate for change, to raise awareness about violations, to engage with UN mechanisms, to preserve memory of victims and a historical record, to support the work of other groups or to build media campaigns around an issue. A long term goal of documentation may also be to support prosecutions of those responsible for the crimes. However, these guides are not intended to be used by professional investigators. Instead, they are intended to help Syrian human rights defenders collect reliable and credible information in a secure and safe manner.

All three guides set out international standards on each their topic while providing examples from the Syrian context. Although each guide can be used as a stand-alone resource, they are complementary and users are encouraged to familiarise themselves with all three. Where appropriate, a guide will refer a user to another guide, which may have more information or more details on a particular topic.

Euromed Rights

The goal of this guide on Definitions and Classifications for Casualty Recording according to International Humanitarian Law Principles is to help Syrian Human Rights Defenders and organizations in documenting the casualties of the now 4-year long conflict. It has been commissioned by the Euromed Rights and written by Every Casualty Worldwide¹, an organization committed to the principle that every life lost to armed violence should be properly recognized: for this to become possible, every casualty of armed violence must be promptly recorded, correctly identified and publicly acknowledged.

Every Casualty Worldwide is developing an improved understanding of the range of available casualty recording practices, along with guidance for their implementation. This has included extensive research into existing casualty recording work, which is contributing towards the identification and development of standards and good practice available to be implemented by a range of actors, including non-governmental organizations, states, and inter-governmental organizations.

In addition to our research, we facilitate an International Practitioner Network of casualty recording organizations (www.everycasualty.org/practitioners/ipn) that includes five organizations from Syria. Every Casualty Worldwide coordinates the Every Casualty Campaign, which is at the forefront of integrating the principle of casualty recording into existing policy frameworks on armed violence at the national and international level.

Purpose of the guide

The purpose of this guide on Definitions and Classifications for Casualty Recording According to International Human Rights Principles for Syrian Human Rights Defenders is two-fold:

1. To familiarize Syrian civil society organizations undertaking casualty recording with emerging principles particularly in relation to definitions, categories and classifications used in casualty recording.
2. To give practical recommendations on the classification of victims in the Syrian conflict in line with International Humanitarian Law (IHL), and recommendations on how to document violent incidents in a way that is useful to identify IHL violations and patterns of IHL violations.

¹ Formerly the Every Casualty Programme of Oxford Research Group, from whom the guide was originally commissioned. The report's authors are Hana Salama and Rachel Seioighe, who wrote this report while working for Oxford Research Group. They are now at Every Casualty Worldwide.

Structure of the guide

The guide is composed of 6 sections:

Section 1, Introduction and general instructions

Section 2, *Principles in Casualty Recording and Relevance of International Humanitarian law*, will give a general introduction to casualty recording and its relevance for Syrian accountability efforts. It will give an overview of the guiding principles of casualty recording and of IHL in general, including its purpose, applicability and limitations.

Section 3, *Definitions and categories used in casualty recording* will detail the principles on how to select and apply appropriate definitions and categories for casualty recording in Syria and give practical recommendation on how to publish definitions and decisions on categories and classification.

Section 4, *International Humanitarian Law as it apply to casualty recording* will provide a detailed overview of the guidance that currently exists regarding definitions in IHL that relate to casualty classification.

Section 5, *Practical recommendations on applying other categories from IHL to casualty recording* gives practical recommendations on how casualty recorders should categories key pieces of information which they collect that will be relevant to understanding violent incidents and making legal determinations.

Section 6, Appendices will provide additional resources for organizations to consult on casualty recording methodology, definitions and categorizations as well as resources and guides on interpreting of International Humanitarian Law. The appendices also provide suggestions on 1 and 2-day training agendas based on the contents of this guide.

How to use this guide

This guide includes explanatory sections, as well as practical examples and group exercises for each section that use the Syrian context.

 The exercises are designed to test the trainees' understanding of concepts and principles. It also includes boxes that summarize the key points for each section and give examples from other casualty recording organizations.

 Trainers are encouraged to use the key points boxes in their power point or written material during the training, in conjunction with the practical exercises which are included in the guide.





Principles in Casualty Recording and Relevance of International Humanitarian law



① What is casualty recording?

Casualty recording is a **standardized**, systematic and continuous process of documenting direct deaths or injuries from armed violence. Casualty recording is a comprehensive approach, aiming to give a complete picture of all deaths and/or injuries from armed violence within a **determined scope** (usually bound by time and geography). It is distinct from an emblematic approach used by some human rights organizations, where certain cases of death and injury are highlighted in greater detail for the purpose of establishing the existence of violations.

At a minimum, casualty recording involves documenting the date and precise geographical location of an incident; the numbers of people killed or injured in an incident and their identities if available; the means of violence or category of weapon used; and making a record of the sources used to establish these details. However, whenever possible casualty recording should establish a more comprehensive set of details about deaths and/or injuries in a conflict.

Casualty recording will aim to achieve a record of the names of those who have been killed or injured, their demographic information (including their gender, age, ethnicity religious and/or communal affiliation) as well as their combat status. It will also aim to establish similar information about the groups or individuals who perpetrated the violence.



A core premise of this practice is that no individual should die as a result of armed violence without their death being acknowledged, and that such recognition should be afforded to all the victims (including survivors and the families of those killed) in a way that upholds their rights and dignity.



MINIMUM PIECES OF INFORMATION TO PRODUCE A CASUALTY RECORD

- ▶ **Date:** *The day, month and year of the death of an individual or incident should be recorded, and whenever possible the time should be noted too.*
- ▶ **Location:** *The name of the place of death of an individual or incident should be recorded: either the name of the city, township or village. When possible recorders should note other information about the location (e.g. street crossings, district, GPS coordinates).*
- ▶ **Individual's details:** *The full name (given and family name) and gender, age, profession, , If available and desirable organisations could also record nationality/ethnicity, religion and combat status.*
- ▶ **Numbers killed in incident:** *If individual identities of persons killed are not known, the number of people killed in a violent incident should be recorded. If the exact number is uncertain, recorders should express the number of deaths as a minimum-maximum range.*
- ▶ **Description of the violence/weapons used:** *How the victim was killed including the weapons used or category of weapons should be recorded.*
- ▶ **Sources:** *The source of the information above should be recorded, referenced and stored securely.*



Governments, inter-governmental organizations, and civil society groups can and do currently undertake this work.

Apart from its role in upholding human dignity, casualty recording has many other purposes and Every Casualty Worldwide has documented several benefits arising from this practice in conflicts across the world. These include effective advocacy and dialogue with conflict parties to reduce civilian casualties; evidence-based policymaking to reduce armed violence; informing the assessment of conflict environments for protective action by humanitarian responders; supporting victims' rights (such as the right to know the fate of loved ones) and survivors' assistance (such as compensation); acknowledgement through memorialization; and contributions to accountability procedures and truth and reconciliation processes.

In Syria, the practice of casualty recording has been carried out mainly by civil society organizations seeking to dignify and memorialize each of the victims of the on-going conflict. Many of these organizations also seek to bring attention to the humanitarian situation and human rights violations by government and opposition forces by using casualty figures in their advocacy around the conflict. In addition, several of these organizations want the documentation they have collected to be part of a **future transitional justice process in Syria.**

② Guiding principles in casualty recording practice

As a standardized process, casualty recording is guided by a set of core principles. These principles aim to ensure that no matter who is recording casualties, the outcome of any casualty recording project – **the casualty data** – is **credible, reliable and of high quality.**

The following are the 4 guiding principles in casualty recording, which are crucial to adhere to throughout the process of casualty recording, including in choosing and applying definitions and categorization.

Impartiality

Casualty recorders should aim to be as impartial as possible in their recording of casualties in an armed conflict. This is distinct from the principle of neutrality, which means not to take a position or a side in the conflict.

In the context of casualty recording this means that recorders who are impartial aim to record all individuals killed and/or injured no matter their race, religion or ethnic or political affiliation, unless otherwise specified in their exclusion criteria, (see section on *Transparency* on page 9 for what is meant by exclusion criteria) even though they might take a side in the conflict.



In the case of Syria, recorders can be impartial while still maintaining their support for the revolution, for example.

Impartiality is at the heart of all **human rights documentation processes**, but in relation to casualty recording it is particularly relevant for the purposes of **accuracy** and attaining the most comprehensive picture of **harm** in a given conflict.

 In addition to impartiality vis-à-vis who is recorded, recorders should take steps to avoid bias in their methodology and sources.

This includes over-dependence on biased sources for a full account of an incident, or on one or two sources of information only (this could be a single media outlet or only information from government sources etc.).

 Recorders must rely, where possible, on multiple sources of information rather than a single source.

In relation to definitions and categorization, organizations should also avoid using definitions or categories which may show bias to a particular side of the armed conflict or which are not impartial. For example, the term **martyrs**, as commonly used in the conflict in Syria, should not be included as a formal category. This may be how one side or the other in the conflict would define these individuals, but the term's subject nature would compromise the impartiality of the record.

 Recorders should instead attempt to record the facts about individuals and the circumstances of their death, in as much detail and as accurately as possible. (For more on categories and definitions to avoid see Section 2 on page 16).

Transparency

Casualty recorders should aim to be as transparent as possible about all aspects of their work and publish their motivations, goals, methodology and sources of funding.

 As a good practice it is recommended that organizations doing casualty recording should publish their **governance structure, other activities** pursued by the organization as well as their **sources of funding**, particularly funding that is directly contributing to casualty recording.

 Casualty recorders must publish their **step-by-step methodology** including the **type of sources** (not the sources themselves, unless they are public, e.g. media) on which the project relies, how information is corroborated and what if any, are the procedures for reviewing the quality of data, and updating the data produced.



CLARIFYING TERMS

▶ **Casualty recorders collect pieces of information (data)** like time/ date, locations, names, the combat status of victims, and the weapons used in incidents of violence.

▶ **Categories or classification** refer to how recorders divide up the 'answers' to these pieces of information. For example, the piece of information 'combat status' may be divided into the categories 'civilian' and 'combatant' or "status unknown". These categories answer the question of the combat status of victims. Categories can include hierarchies or nested sub-categories, for instance "explosive weapons" encompasses both "artillery fire" and "air-strikes", meaning that artillery fire would also be included in the category of "explosive weapons".

▶ **Definitions** refer to how recorders describe these categories, or the broader pieces of information they collect. Definitions can be key to decision making in casualty recording. The description of the category 'civilian' is the definition that will be used by a casualty recorder to decide which victims are 'civilian'.





Casualty recorders also need to publish their **inclusion and/or exclusion criteria**. This means making transparent the scope of the project (time and geographical coverage) as well as the individuals/incidents that are included and excluded (deliberately or otherwise).

Because impartiality is also a basic principle in casualty recording, organizations should be transparent and explain the reasons for excluding certain individuals or types of incidents (for example due to coverage or capacity issues).



In relation to definitions and categorizations, casualty recorders should **publish all the definitions** they use and state whether these correspond to definitions found in **international law** or other **recognized sources**. They should also publish how they **categories individuals** and **incidents** and as much as possible explain the reasons why these decisions were made, especially in cases which are potentially controversial.

Accuracy

A robust and rigorous methodology is another key principle of casualty recording. Such a methodology would include, amongst other things, the evaluation and corroboration of multiple sources, checking procedures, contextual understanding of the conflict, and the incorporation of corrections and updates



Please refer to the training guide on documentation of violations for further details.



The steps of the methodology should be applied **consistently**.

In relation to definitions and categorization this means that definitions and categories chosen by the organization should be applied consistently and in the cases which are potentially controversial, recorders should be able to note (at the very least internally) why individuals were classified in a certain way. If definitions and categories change over time because of the changing nature of the violence (e.g. from violence towards protesters to a non-international armed conflict) the precise **time of this change** should be noted and an **explanation** given.



Do No Harm

Casualty recording activities should not jeopardize the safety of the living, including victims of the conflict or their families, witnesses and others, or put them at risk of further harm.



Casualty recording organizations should ensure that they have the means and appropriate procedures to ensure the **safety** of **victims**, their **families, witnesses** and



others with whom they come into contact, in particular through **confidentiality** and **safe data storage** procedures.

Information about sources, particularly the identities of witnesses, their statements, videos, voice recordings, and other identifying elements of a source should be **kept highly confidential and in a highly secure space**. Consideration should be given to the safety of the conflict affected community, particularly victims, their families and witnesses, when deciding what level of detail-disaggregated casualty data to publish or share with others.

③ Why is International Humanitarian Law relevant to recording casualties?

Post-conflict transitional justice has taken many forms in different regions of the world. Criminal prosecutions are usually a part of any comprehensive transitional justice policy. The goal of criminal prosecutions is to sanction serious violations of international law (in particular, International Humanitarian Law, and International Criminal law) committed by individuals and, as a consequence, deter future violations, combat impunity and help to re-establish the rule of law. When gathering evidence for criminal cases, prosecutors have and will continue to include information produced by NGOs and civil society groups, including casualty data.

The extent to which the prosecution team themselves can use casualty data depends partly on what other information is available and on the quality and credibility of the data. Consequently, it is crucial that casualty recording undertaken by civil society organization conforms to a *standard* and uses **definitions, categories and classifications** found in International Humanitarian Law and Human Rights Law, which can be understood by the prosecutors and those working to gather evidence on a case.

The purpose of this guide is therefore to familiarize civil society organizations in Syria with relevant definitions and categories found in IHL, which can be applied to their work, recording casualties of the Syrian conflict. It will provide guidance on how to select definitions for cases that are ambiguous, and provide other standard definitions that can be used in casualty recording, which are not included in IHL but would still be understood by legal professionals in making legal determinations.

Ultimately the goal of this training guide is to improve the overall quality and credibility of casualty data collected by civil society groups in Syria, so that it can be used in future criminal proceedings. Using consistent definitions and categories that derive from IHL or other international standards will not only be useful for a post-conflict transitional justice process, but is useful in the present for achieving a reliable and credible account of human losses in the conflict.





AN EXAMPLE OF FORMER YUGOSLAVIA:

Importance of using IHL definitions, categories and classification for transitional justice

- ▶ *In the 1990s, a series of destructive wars marked the breakup of the country of Yugoslavia, in South-Eastern Europe, into present-day Bosnia-Herzegovina, Croatia, Serbia, Kosovo (which is not currently universally recognised as an independent state), Slovenia, and the Former Yugoslav Republic of Macedonia. Many civilians died in these wars, which involved acts of 'ethnic cleansing' (the violent expulsion, including by killing, of particular ethnic/religious groups from particular areas). The International Criminal Tribunal for the former Yugoslavia (ICTY) also determined that an act of genocide occurred in Srebrenica, in Eastern Bosnia-Herzegovina, in 1995.*
- ▶ *Four civil-society organisations in the region, the Research and Documentation Centre of Sarajevo (RDC, Bosnia-Herzegovina), Documenta (Croatia), the Humanitarian Law Centre (HLC, Serbia) and the Humanitarian Law Centre Kosovo (HLCK, Kosovo) have been working to produce a complete record of all human losses from the wars of the 1990s in their respective countries. Some started collecting information during the wars. These organisations do this work in order to contribute facts about individual human suffering to national understandings of the wars, with a view to: contributing to dealing with the past; preventing future conflict through de-politicising the numbers and confronting the victim narratives of different ethnic groups; and other objectives of transitional justice. As well as producing separate, country-specific records, it is important to all these organisations that a region-wide record of all casualties is produced, in order to contribute to proposed regional processes on transitional justice through truth-telling, as well as to accountability procedures at the ICTY and in national war crimes courts.*
- ▶ *All four organisations use international standards, including IHL, for their definitions and categories as far as possible. This is important to them, in order to combine their respective casualty data sets into a regional record - if each group were to use very different, non-standard definitions, making this coherent regional record would be impossible. Using IHL for definitions, in particular of who are civilians and who are combatants, is highly important in order to ensure that those who look at their data fully understand, appreciate and, crucially, accept what their records show about who suffered during the wars: definitions from the International law have the most authority and credibility. All these organisations have shared their data with the ICTY and national war crimes courts on particular cases, contributing to prosecuting the perpetrators of these crimes. These experiences of casualty recorders in the former Yugoslavia can provide some useful lessons for practitioners in Syria.*



④ A Brief Overview of International Humanitarian Law



(legal balance icon) International Humanitarian Law (IHL) is the body of law that regulates international and non-international warfare. The primary purpose of IHL is to regulate what is permissible in warfare and to prescribe rules relating to the protection of civilians.

Since 1864, there have been a number of international conventions and additional protocols (AP) which regulate warfare. A list of these conventions is provided at Annex 6. Further, certain rules are so widely accepted that they have become part of customary international law. As a result, these rules, despite not being written in international conventions, are binding on states.

IHL exists as a method of **balancing military necessity with humanitarian considerations**. It seeks to restrict the manner in which force can be used during periods of warfare by providing a strict framework of targeting rules: prescribing who and what can be targeted, and prohibiting certain kinds of attacks. IHL seeks to protect civilians and civilian objects while attacks are pursued against combatants and military objects.

IHL covers both international and non-international armed conflicts although the protection offered in the two instances varies.



In 2012, the international committee of the Red Cross has stated that the **conflict in Syria amounts to a non-international armed conflict**. As a result, **rules of IHL apply in Syria**.

The Applicability of IHL

As mentioned above, IHL regulates two types of armed conflict: **international armed conflicts and non-international armed conflicts**.



International armed conflicts (IAC) exist whenever there is resort to armed force between two or more states. IAC, therefore, refers to armed conflict between the militaries of two or more state parties.



The four Geneva Conventions of 1949 (with the exception of common Article 3) and Additional Protocol I of 1977 concern IAC. The latter must be ratified by the state in question to apply, though some protections are available, as they have reached the status of customary law.



Non-international armed conflicts (NIAC) are protracted armed confrontations within the territory of a state, between the state's armed forces and the forces of one or more armed groups, or between two or more such groups.





Common Article 3 to the 1949 Geneva Conventions and the 1977 Additional Protocol II are applicable in NIAC. The latter must be ratified by the state in question to apply, though some protections are universally available, as they have reached the status of customary law.

For a situation of armed violence to be considered to have reached the threshold of NIAC, must satisfy two criteria:

- ▶ It must be ‘protracted’ armed violence, which is generally taken to refer to the *duration* of the violence (though the nature of the violence, such as violence that involves the state forces and which is ‘carefully planned’ and ‘coordinated’ might suffice), and the level of *intensity*, (for example the use of heavy weaponry and the impact on civilians); and
- ▶ The parties involved in the conflict must show a minimum of *organization*. Indicative factors to assess whether the ‘organization’ criterion is met exist in international jurisprudence. Those factors “include the existence of a command structure and disciplinary rules and mechanisms within the armed group; the existence of headquarters; the ability to procure, transport, and distribute arms; the group’s ability to plan, coordinate, and carry out military operations, including troop movements and logistics; its ability to negotiate and conclude agreements such as ceasefire or peace accords; and so forth.” The courts can interpret this criterion loosely and it can be assumed that “some degree of organization by the parties will suffice.



APPLICABILITY OF INTERNATIONAL HUMANITARIAN LAW IN SYRIA

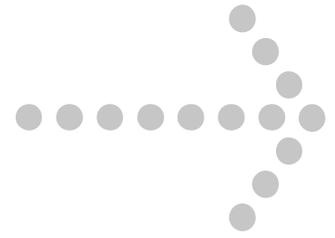
In 2012, Syria was considered by the ICRC to be a Non-International Armed conflict. This means that the following rules in International Humanitarian law are applicable to all parties of the conflict:

- ▶ *Common Article 3 to the 1949 Geneva Conventions*
- ▶ *Customary International Humanitarian law applicable for a NIAC and some protections arising from APII*

Syria is not party to Additional Protocol II, which means that that not all its protections apply wholly.



Definitions and Categorization Used in Casualty Recording



Clear definitions and categories are a key aspect of good practice in casualty recording. The choice of definitions and their consistent application are crucial to ensuring the quality of data produced by a casualty recording project.



Since definitions and categories can have political and legal significance, being transparent about definitions and categories can promote a better understanding of your data by end-users, such as legal experts or policy makers. The consistent application of definitions ensures that the data is reliable. In addition openness about definitions and categories can demonstrate **impartiality** or the **lack of political bias** in the production of information.

① How to select appropriate definitions and categories for casualty recording

Choosing definitions and categories that are appropriate to the purpose of your casualty recording project, and which will be understood by the target audience of the project (i.e. who you want your casualty data to be used by), is a key principle when choosing and formulating definitions and categories.

It is also important to give consideration to what definitions and categories can be supported by the sources that you have access to. This means that, for example, if you are recording casualties primarily using media reports as sources, the limitations to the detail that will be available in your sources might mean that it is difficult to apply certain international legal categorizations that require a high standard of proof and more of information.



Saying this, however, you should also choose definitions, which will maximize the credibility and impact of your project with the widest possible audience. This will help to ensure that your project appears **impartial**.





In addition, if your casualty recording project is trying to highlight the use of a particular weapon, a particular type of victim or specific violations (i.e. women, children, victims of landmines, etc.) It would be useful to consult and apply other **internationally recognized** sources for definitions and categories, for example:

- ▶ UN Security Council Resolution 1960 on Sexual violence and 1325 on Women Peace and Security.
- ▶ UN Security Council Resolutions that call for the consequences of violence to be monitored, for example Resolution 1612 on Children in Armed Conflict to highlight the need to monitor the killing of children in armed conflict as a specific group;
- ▶ The definitions of explosive remnants of war used by the Landmine and Cluster Munitions Monitor for casualties caused by those weapons;
- ▶ The Declaration on the Protection of all Persons from Enforced Disappearance for categorizing victims of enforced disappearances who were later identified as killed.
- ▶ The legal framework around extrajudicial killings. Guidance on this is found on the website of the Office of the High Commissioner on Human Rights;
- ▶ Categorizations of the types of violence developed by truth commissions or similar bodies in the country of conflict;

For more International sources of definitions and categories see Annex 3 and 4 on additional resources.

As impartiality is an important principle of causality recording practice, using impartial categories and, where possible, applying definitions and categories from internationally recognized sources such as IHL, International Human Rights Law and International Criminal Law is important. In addition, **avoiding the use of politicized or populist terms** (which are used in the media, or by parties to a conflict) enhances the **credibility** of the whole casualty recording project.



In the case of recording casualties in Syria this might mean avoiding terms such as *martyr* as a synonym for *victim*, which is a culturally specific term and may not appear impartial to those outside of Syria, when talking about certain casualties of the conflict. Avoiding the terms terrorist or terrorist groups, *Jihadi* or *Jihadists* is also advisable, as they are politically loaded terms. Instead, if the name of the group is known, then it would be preferable to use the group's name when recording either victim or perpetrator information. If at the time of recording the group's name is unknown then it would be preferable to classify them as an "unknown armed group."

The information produced by casualty recorders may be interpreted in various ways and put to various uses, including politically-charged ones.



The crucial thing is that **recorders should strive to publish clearly-defined information** from which only accurate conclusions can justifiably be drawn.

② How to apply definitions and categories

Determining which **definitions** and categories will be used at the beginning of the casualty recording project, and **training** all those who are working on recording casualties on how to apply them, is key to ensuring **consistency**.



As part of an organization's internal quality check for errors or updates, it is also important that organizations implement a **multiple stage** checking procedure to ensure that definitions and categories are constantly applied, which generally requires involving more than one person for each record, i.e. at least one person to create the record and another to review it.

Whilst determining definitions and categories at the beginning of a casualty recording project is advisable, during the course of a casualty recording project definitions and categories may change due to the changing nature of the conflict.



When this happens, organizations should publish or explain why they have chosen to change some definitions and/or categories and should state the exact date of when they have started to do so.



Categories such as **combat status** are often the subject of **uncertainty**, especially if the source information is incomplete or vague about the details of an individual's involvement or membership of an individual to a known armed group, for example.

 A good practice for dealing with these cases is simply to tag them as **"uncertain"** or **"unverified"** or to group these cases in a **separate list**. Retaining the sources of information on these cases is crucial, as when new information arises in the future or when the conflict has ended this information could be the subject of further investigation to determine the details of the status.

It is also important to build as much **flexibility into a database system** from the beginning, particularly when there is the intention to query the database later. For instance, if the "age" category only records the age in number of years, it would be impossible to formally record a child whose exact age was unknown (see 4.1. *Individual's details, below*).

③ How to publish definitions and categories

Making definitions and categories accessible to the target audience will be key for ensuring the usability of the data. Openly available definitions and categorizations help different recorders compare information more easily between them. Transparent definitions and categories also mean that **other information users can compare, use and integrate recorders' information** more easily.

 Publishing definitions and categories whenever your organization reports on casualty data or issues disaggregated reports, is fundamental in order for those reading your reports to fully understand your data.

The information about how you do your work, and the definitions and categories you use, is sometimes referred to as **"meta data"**.

 Having a **dedicated space on your website** to **list definitions and categories**, and updating this when any of the terms or procedures you use change, is also a good practice. You should also cite the sources of your definitions and categories, and explain why you decided to use these sources.



GOOD PRACTICE IN DEVELOPING AND APPLYING DEFINITIONS AND CATEGORISATIONS

- ▶ *Produce written guidelines or handbooks*
- ▶ *Consistently train workers in definitions and categories*
- ▶ *Implement multiple stage checking procedures to ensure that definitions and categories are consistently applied (this generally means that more than one person is involved in the production of each record)*
- ▶ *Have procedures or forums for the discussion of difficult cases*
- ▶ *Develop definitions and categories in advance as much as is possible, but be prepared for these to evolve to meet challenges in the handling of data, and the needs of audiences*
- ▶ *Consult legal experts when developing and using these categories, so that legal concepts or categories are used as accurately as*





EXAMPLE OF UNITED NATIONS ASSISTANCE MISSION IN AFGHANISTAN AND NIGERIA WATCH ON HOW TO PUBLISH DEFINITIONS AND CATEGORISATIONS

- ▶ Casualty recorders can publish the definitions and categories they use in different ways, including listing and elaborating these in the reports they publish and publish a detailed methodology section on their website. Two examples are shown in this box.
- ▶ Figure 1 and 2 is from the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA). UNAMA have been recording civilian casualties from the non-international armed conflict (NIAC) in Afghanistan since 2007. They base their definitions and categories as far as possible on the international legal frameworks, which apply in Afghanistan (which are similar to those that apply in Syria). UNAMA publish two reports a year which analyse the impact of the conflict in Afghanistan on civilians - see their full list of Reports on the Protection of Civilians to read these reports <http://unama.unmissions.org/Default.aspx?tabid=13941&language=en-US>.
- ▶ These reports always contain a section on the legal framework that UNAMA considers to apply in Afghanistan, and how this is used in their documentation (see Figure 1, a picture of this section from their latest report at the time of writing, their 2014 mid-year report - <http://bit.ly/1nGcg6H>) - where the definition of civilian they use and the justifications for this are shown). They also always contain a glossary, which lists all the categories/terms that UNAMA uses, the definitions of these, and the sources of these definitions (see Figure 2 for a picture of one page of this section from their latest report at the time of writing). This level of detail and sourcing represents good practice in the publication of definitions and categories.
- ▶ Figure 3 shows a screenshot from the website of Nigeria Watch, a civil society organisation that records the casualties of different types of violence in Nigeria (which are generally not covered by IHL). The picture shows the website's section on methodology, where categories, sub-categories, and their definitions are elaborated, to help users of the website better understand Nigeria Watch's database.

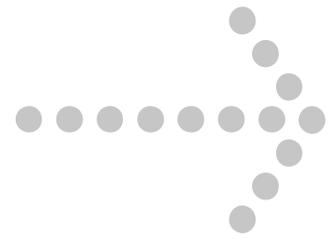


Figure 1





International Humanitarian Law as it Applies to Casualty Recording



The following section provides a detailed overview of the guidance on definitions that currently exists in IHL relating to casualty classification. These definitions arise directly from the Geneva Conventions and their Additional Protocols and the customary law compiled in the ICRC Study.

Existing Definitions in IHL: Civilians and Combatants



Rule 1 of the ICRC's Customary IHL study describes the principle of distinction between civilians and combatants. 'Combatant' refers to those who are not protected against attack during military operations. Civilians are a category of protected persons under IHL.

The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

This core principle applies during both international and non-international armed conflicts.

① Civilians, or those protected from attack



Rule 5 of the ICRC Study addresses the definition of civilians. Civilians are defined as: either as those who do not take a direct part in hostilities (discussed below), or who are not members of armed forces as defined in the Geneva Conventions and their Additional Protocols.

While 'civilians' and 'combatants' are clearly defined in IAC, there is ambiguity over whether members of armed opposition groups in NIAC are considered members of armed forces or civilians. The **definition** in IAC is instructive:





WHO IS A CIVILIAN IN SYRIA?

A civilian is a protected person who ought not to be targeted under IHL. A civilian is a person who does not have a “continuous combat function” in an armed group in Syria. He or she takes no direct part in hostilities, or has ceased to do so.

For Example:

The district of Ghouta in Damascus is attacked by the Syrian armed forces. After the aerial bombardment, a number of women and children are found dead in their homes. There was no evidence that the women had any connection to non-state organised armed groups and no weapons were found in the area. These women and children would be classified as civilians.



API, article 50 (applicable in IAC) defines ‘civilians’ as those who do not belong to any of the organized armed forces of any state party to the conflict (defined in article 43) or to any organized resistance movements. Article 50 also notes that a population is considered a “civilian population” if it is predominantly civilian in nature. The presence of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

In the interests of ensuring the protection of civilians, article 50 also states, “In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.”

In NIAC, the ICRC study notes, it is unclear whether members of armed opposition groups are “civilians who lose their protection from attack when directly participating in hostilities or whether members of such groups are liable to attack as such.” These individuals will lose protection from attack within IHL – meaning that if they are harmed in the course of armed conflict, it will not be considered a war crime (if the act adheres to the relevant principles of military engagement). These individuals may be tried as civilians for their participation in violence under domestic law.

The ICRC’S *Interpretive Guidance on the Notion of Direct Participation in Hostilities* contends that an individual will lose his civilian status only if his continuous function is to take a direct part in hostilities (“continuous combat function”). This notion is discussed in Section 3.2.1.



Common Article 3 offers a minimum of protection in NIAC, including a prohibition on “violence to life and person” with regard to those who have “no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’”. This provision applies even where a state does not acknowledge an internal state of war.

Children

Children in war benefit from the general protection of IHL as civilians or combatants. Special provisions also exist that recognize their particular vulnerability in armed conflicts and provide for their specific needs. API and APII prohibit the recruitment and participation in hostilities of children under the age of 15.



The 1989 *Convention on the Rights of the Child* has achieved almost universal ratification, reaching the status of customary law. The Convention provides for a minimum age of 15 in the participation of hostilities. An optional protocol to the Convention introduced in 2000 raised the age of compulsory recruitment to 18 and called on states to raise the minimum age for voluntary recruitment above 15. The optional protocol asserts that children under the age of 18 should not be recruited to armed groups in any circumstances and called on states to criminalize such recruitment practices. **Syria is a state party to this optional protocol and therefore is legally bound by it.**





PROTECTED SITES UNDER IHL

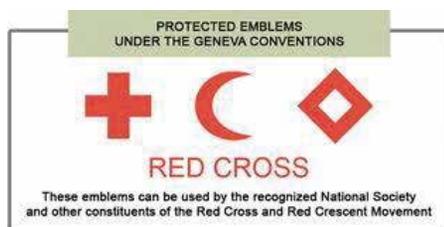
- ▶ *Civilian objects: undefended, or open, towns or non-defended localities* (API, art. 48 & 59);
- ▶ *Hospital and safety zones, demilitarised zones* (GC I, art. 24; GC IV, art. 14; API, art. 60);
- ▶ *Neutralised zones (temporary, small, near the frontline) A zones intended to shelter from the effects of war the following persons: wounded and sick combatants or non-combatants; civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character (i.e UN shelters)* (GC IV, art. 15; AP I, art. 60);
- ▶ *Cultural property* (AP I, art. 53; 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict; Protocol 1 of 1954 concerning cultural property in situations of occupation)
- ▶ *Objects indispensable for the survival of the civilian population (for example, water/energy supply system)* API, art. 54
- ▶ *Works and installations containing dangerous forces (for example, dams, dykes, nuclear power plants)* API, art. 56
- ▶ *The natural environment (widespread, long-term and severe damage)* AP I, art. 55

Other Protected Persons

IHL protections also apply to specific groups who fall into the category of non-combatants who have particular protection needs on the battlefield, such as **religious, medical and humanitarian personnel, administrative support staff, civil defense staff** and even journalists.

IHL protections are designed to benefit civilians and combatants who are wounded, sick, and also the people who look after their physical and spiritual needs. These other protected categories of person are not to be attacked under IHL; they must be allowed to fulfil their medical or religious duties. Objects, units and transport facilities pertaining to medical, religious, humanitarian and civil defense staff must also be protected.

ICRC staffs are identified by the Red Cross, Red Crescent and red crystal emblems and are protected persons under IHL. Civil defense forces – carrying out functions such as evacuation, firefighting, decontamination and disposal of the dead – are identified by the emblem of an equilateral blue triangle on an orange background. This emblem does not have the same status as the Red Cross, Red Crescent and red crystal emblems.



Security incidents in recent years involving journalists working in conflict zones have sparked international debate on ways to improve their protection.



Rule 34 of the ICRC Study states that civilian journalists engaged in professional missions in areas of armed conflict must be respected and protected. All of these persons will, however, lose their protection if they commit, outside their stated function, acts harmful to the enemy.





WHO IS A COMBATANT IN SYRIA?

A combatant is a member of the Syrian state armed forces.

Fighters in non-state organised armed groups who assume a continuous combat function are combatants in a generic sense: although they do not have combatant privilege and can be prosecuted under national law for their role in hostilities, they lose protection against attack.

Civilians who take direct part in hostilities lose protection from attack for such time, as they are involved in a specific hostile act against the other party to the conflict.



PRINCIPLE OF DISTINCTION

The principle of distinction requires that we distinguish between the armed forces of parties to an armed conflict – whether international or non-international – and civilians, and distinguish between civilians who never take a direct part in hostilities and those who do so on an individual, sporadic or unorganised basis.

The ICRC Guidance argues that the categories of persons in IHL separated by the principle of distinction must not be undermined. These categories are: civilians, organised armed groups (including dissident state forces and other organised armed groups) and state armed forces.

② Combatants, or those not protected from attack



The ICRC study's Rule 3 states that:

All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel.

The ICRC study's definition of a combatant draws a distinction between those who have combatant status in IAC, and those who are not protected from attack according to the principle of distinction, or due to their direct participation in hostilities (described below), in both IAC and NIAC.

Members of state armed forces are combatants. Combatants in IAC benefit from *combatant privilege*: the right to directly participate in hostilities with immunity from domestic prosecution for lawful acts of war. This privilege is not available to all other individuals, including medical and religious personnel, who assume continuous combat function.



Article 51 of API (applicable in IAC) and article 13 of APII (applicable in NIAC) state that civilians are protected as long as they do not directly participate in hostilities.

In NIAC, the ICRC Study notes, civilians who are members of armed opposition groups “lose their protection from attack when directly participating in hostilities or for the duration of their membership.” However, it is unclear whether the mere fact of membership of such groups opens individuals up to attack at any time or whether attacks must be restricted to the timeframe of their direct participation in hostilities. These individuals will lose protection from attack in IHL – meaning that if they are harmed in the course of armed conflict, it will not be considered a war crime – but may be tried as civilians for their participation in violence under domestic law.

Direct Participation in Hostilities



Both Additional Protocols to the Geneva Conventions (applicable in IAC and NIAC) state that civilians benefit from protection against direct attack “unless and for such time as they take a direct part in hostilities”.

The notion of direct participation in hostilities (DPH) is crucial in IHL. It lies at the heart of what civilians can and cannot do while retaining protection from direct attack. It is also the criterion that determines when persons associated with a party to the conflict can be considered to be a target for attack.





The ICRC's *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law* (ICRC Guidance) can be considered the key text on this issue. This section will outline the notion of DPH and the relevant definitional elements with implications for casualty recording.

DPH, the ICRC Guidance contends, is **act-based**. The Guidance rejects the contention that members of organized armed groups are civilians who lose protection against direct attack for the entire duration of their membership (rendering them targetable at any time).

For those who qualify as civilians – who are not declared members of the parties to armed conflict, the test is one of *conduct*: is that individual ‘taking a direct part in hostilities’?

The Guidance offers an interpretation of the meaning of this phrase and when it should apply, tackling the questions of *when* and *for how long* a person is considered to have lost protection from direct attack.

‘Unless and for such time’

The civilian who carries out a specific act that constitutes DPH loses protection from attack for the duration of the immediate execution of a hostile act. The loss of protection may also include preparation for the act and deployment to and return from the location of the execution of the act. The civilian remains liable to attack when undertaking an integral part of such a specific act or operation.

DPH does not require that a preparatory measure be restricted to temporal proximity (the preparation immediately prior to the hostile act) or close geographical proximity to the execution of a specific hostile act, or that the preparatory measure is indispensable for its execution. These are general principles to be applied in a careful assessment of the circumstances.

The ICRC Guidance states that “return from the execution of a specific hostile act ends once the individual in question has physically separated from the operation, for example by laying down, storing or hiding the weapons or other equipment used and resuming activities distinct from that operation”, thereby restoring civilian status.

The ICRC Guidance considers the phrase “unless and for such time” in the notion of DPH to clarify that the suspension of protection lasts exactly as long as the corresponding civilian engagement in direct participation in hostilities. The Contention is, therefore that “civilians lose and regain protection against direct attack in parallel with the intervals of their engagement.” This is referred to as the “revolving door” of civilian protection, which is designed – the ICRC Guidance contends – to prevent attacks on civilians who do not, at the time, represent a military threat.



KEY POINTS ON DPH

Members of organised armed groups belonging to a party to the conflict lose protection against direct attack for the duration of their membership (i.e., for as long as they assume a continuous combat function).

Civilians lose protection against direct attack for the duration of each specific act amounting to direct participation in hostilities. This includes any preparations and geographical deployments or withdrawals constituting an integral part of a specific hostile act.

- For civilians, not those carrying out a “continuous combat function”, the specific hostile act must meet the following three criteria to be DPH:

- ▶ *The act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm).*
- ▶ *There must be a direct causal link between the act and the harm likely to result either from that act, or from a coordinated military operation of which that act constitutes an integral part (direct causation). The ICRC argues that this interpretation is required to avoid bringing the general war effort and war-sustaining activities under the concept of DPH, thus depriving large parts of the civilian population of their protection against direct attack*
- ▶ *The act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).*



Continuous Combat Function

In order to honour the *principle of distinction* between civilians and those participating in conflict with a non-state armed group, the *ICRC Guidance* recognizes degrees of affiliation with an organized armed group that do not necessarily amount to “membership” within the meaning of IHL. Instead, the test should be whether the individual carries out a “continuous combat function”: whether the continuous function assumed by an individual corresponds to that collectively exercised by the group as a whole, namely the direct participation in hostilities on behalf of a non-state party to the conflict.

Continuous combat function does not imply legal entitlement to *combatant privilege* but provides a means of distinguishing members of the organized fighting forces of a non-state party from civilians who directly participate in hostilities on a spontaneous, sporadic, or unorganized basis, or those who assume exclusively political, administrative or other non-combat functions.

A category of combatant status is therefore introduced into NIAC. Individuals who are members of non-state armed forces are not afforded *combatant privilege*, but are recognized as constituting a separate class, distinct from civilians. Thus, targeting rules in relation to such actors will be similar to those relating to regular armed forces in IAC, namely, *status-based* rather than *act-based*. They are targetable for the duration of their membership while carrying out a “continuous combat function”.

This targeting must be subject to the relevant principles of IHL, described in Section 3.3.



For those who qualify as civilians - including persons who accompany the organized armed group or provide support to a party to the conflict but do not carry out a continuous combat function – the test remains one of *conduct*: are they or are they not ‘taking a direct part in hostilities’? If they are not, they are civilians protected from attack.

Another crucial distinction here is the distinction between *direct* and *indirect* participation in hostilities. The *ICRC Guidance* provides some other useful indicators as to what this phrase means and when it should apply:

- ▶ “Persons participate directly in hostilities when they carry out acts, which aim to support one party to the conflict by directly causing harm to another party, either directly inflicting death, injury or destruction, or by directly harming the enemy’s military operations or capacity...”
- ▶ ‘*Indirect*’ participation in hostilities contributes to the general war effort of a party, but does not directly cause harm and, therefore, does not lead to a loss of protection against direct attack. This would include, for example, the production and shipment of weapons, the construction of roads and other infrastructure, and financial, administrative and political support.”

The practical availability of information regarding the role of individuals may render this distinction difficult: as civilians, they benefit from protection against direct attack *unless and for such time* as they directly participate in hostilities, but their activities or



location may increase their exposure to incidental death or injury. When armed groups mingle with the civilian population and coerce or convince civilians to offer assistance to the group, the distinction between them can become unclear for targeting purposes.

In terms of membership, disengagement from an organized armed group need not be openly declared. Conclusive behavior, such as a lasting physical distancing from the group and reintegration into civilian life or the permanent resumption of an exclusively non-combat function within the group, should suffice to confer civilian status. In practice, an assessment of disengagement from a *continuous combat function* will depend on varying criteria.

 The *ICRC Guidance* suggests that a continuous combat function can be confirmed by the appearance of uniforms, distinctive signs, or certain weapons. It argues also, however, that continuous combat function can be assessed on the basis of *conclusive behavior*, such as repeated direct participation in hostilities in support of an organized armed group.

③ How IHL violations are determined

Customary law demands that in both IAC and NIAC states must investigate alleged war crimes committed by their armed forces, and prosecute the individuals responsible. The obligation to investigate violations of IHL essentially derives from the general undertaking by states as signatories to common Article 1 of the Geneva Conventions. This measure requires the state to respect and “to ensure respect” for IHL. This is an active duty that includes a responsibility to supervise the state’s armed forces adherence to IHL, to enforce the rules of IHL and prosecute where there are violations.

The *principle of distinction*, as discussed earlier, demands that military attacks be restricted to military targets. Civilians, persons protected from attack and protected sites and buildings must not be targeted.

However, the *principle of proportionality* in IHL seeks to strike a balance between two diverging interests: one dictated by considerations of military necessity and the other by requirements of humanity when the rights or prohibitions are not absolute.

The notion of military necessity provides justification for measures taken to achieve a military goal, provided these measures comply with IHL. The principle of military necessity holds that “only that degree and kind of force, not otherwise prohibited by the law of armed conflict, that is required in order to achieve the legitimate purpose of the conflict, namely the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources can be used.” Complementing and implicit in the principle of military necessity is the principle of humanity, which “forbids the infliction of suffering, injury or destruction not actually necessary for the accomplishment of legitimate military purposes”.



A breach of the principle of distinction or the principle of proportionality is regarded as a serious violation of IHL and a war crime under the Rome Statute of the International Criminal Court. Failure to take all feasible precautions to spare the civilian population in the conduct of hostilities may also be a breach of IHL.





The principle of proportionality is a core principle of IHL and has reached the status of customary law, applicable in IAC and NIAC. The *ICRC Study*, Rule 14 states that:

Launching an attack that may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.

The key words here are “incidental” and “excessive”. A military attack, which is deemed necessary in the course of warfare, may be considered to be necessary despite “incidental” loss of civilian life or damage to protected property.



The question to ask when assessing the proportionality of the attack is: was the damage caused excessive? Can the attack be justified by the military advantage gained (or expected), despite the harm – “collateral damage” - caused?

It is in this context that harming civilians is not illegal nor a war crime. The word “anticipated” is important also. It is the anticipated damage caused by a military action that must be proportionate to the expected military advantage. Parties to the conflict are required to take all feasible precautions to avoid attacks that result in civilian casualties. Assessing proportionality before an attack is a complex judgment call for the combatant acting in good faith.

States are obliged to investigate civilian casualties that allegedly involve war crimes, including incidents namely incidents involving deliberate attacks on civilians, indiscriminate and/or disproportionate attacks.



Casualty recording plays a key role in assessing whether an attack was proportionate and whether the principle of distinction was respected. A violation of either of these principles is a grave violation of IHL and a war crime under the Rome Statute of the International Criminal Court.



Gathering detailed information around the circumstances of death can contribute significantly towards establishing a clear picture of a violation, and make up a crucial part of the information about the violation.

Where civilians are killed and a violation is suspected, the state party in question is required to carry out an investigation. Within a NIAC, steps taken might include administrative sanctions or the criminal prosecution of a member of the state forces, depending on the severity of the breach of IHL and whether it is considered criminal. Customary IHL prescribes that a state responsible for an IHL violation is required to make full reparations for the loss or injury caused by its actions.

This can be understood to require compensation, acknowledgment of the breach, an expression of regret, a formal apology, or another appropriate remedy. A member of a non-state organized armed group could be prosecuted under domestic criminal law for the act in question.





Civil society plays an important role in collecting and safeguarding information which may in future be used by professional investigators and ensuring that war crimes are not carried out with impunity.

As the Israeli casualty recording organization B'Tselem stated in response to a military investigation, "no system can investigate itself." If documented with sufficient detail, a case can also be referred to the International Criminal Court by the UN Security Council or by another UN Member State. Casualty recording is crucial to the process of seeking accountability.





Practical Recommendations on Applying other Categories from IHL to Casualty Recording

As stated in the introduction, there are minimum pieces of information, which must be collected by an organization who will be doing casualty recording. Below is some practical guidance on how to record and classify some of these details, and others, which are commonly recorded by casualty recorders and are relevant to establishing patterns of violations in IHL.

① Victims demographic details

Age

An individual's age is an important identifying detail, however in most cases it is difficult to determine the exact age unless the casualty recorders have access to their identification documentation.



As a general rule of good practice, having age categories is the best way to record the age information in a database. The date of birth of an individual, if available, can be recorded in a separate field.

The World Health Organization has age categories that are set at an interval of 4 years:

These provide a useful model of guidance for casualty recorders:

- ▶ 0-4
- ▶ 5-9
- ▶ 10-14
- ▶ 15-19
- ▶ 20-24
- ▶ 25-30

Because children are afforded special protection under International Humanitarian Law (see section on children, p.22), it is important to **record the person's age** or have a **separate category for individuals under the age of 18** (that is, up to and including those who are 17 years old).



Profession or occupation

As discussed in section 3 some professions such as doctors, nurses and other medical personnel are afforded special protection under the rules of International Humanitarian Law. Therefore, it is important to record an individual's profession or occupation, where possible. Recording profession/occupation can also help support the **analysis of patterns of harm** (e.g. attacks on schools and hospitals) and the determination of violations.



As such it is useful to have a standardized way of recording profession/occupation when this information is available. Like other demographic information this may also help with the identification of individuals whose identity (e.g. name) is unavailable to the casualty recorder.



The International Labor Organization has a classification of major professions worldwide that can be used by casualty recorders:

www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf

Ethnic, religious or communal affiliations

In some conflicts, information on the nationality, ethnicity, religion, sect or communal affiliation (e.g. tribe, clan etc.) is an essential part of analyzing patterns of harm against these groups, towards establishing potential violations, and particularly in establishing the occurrence of **acts of genocide** or **ethnic cleansing**, which are the gravest among war crimes. Some conflicts may not appear to be sectarian, religious or ethnic in nature but this can change over time and vice-versa.



Having a standardized way to record this information is important to casualty recorders.



Huridocs' micro-thesauri includes a list of major religions, ethnic groups and languages as well as a standardized spelling of these in a number of languages including Arabic:

Major World Religions

<https://spreadsheets.google.com/pub?key=0Aue7FW5io2UedC10akdYVXB0ZzdfN-mtpT1VNUVSWkE&hl=en&output=html>

Ethnic Groups

<https://spreadsheets.google.com/pub?key=0Aue7FW5io2UedHVqOE1oX1dLMU9zUD-FJWXYwRIMyWc&hl=en&output=html>

Languages

<https://spreadsheets.google.com/pub?key=0Aue7FW5io2UedHFqOXY1RENpcnFVRk-5GWGcwRUxZb3c&hl=en&output=html>



② Description of the violence

Weapons classification

Information about weapons and types of weapons used in an incident which killed and or injured individuals is part of establishing the **legal or illegal use of that weapon** and establishing **patterns of civilian harm** and analyzing the **conduct of conflict parties**. Recording weapon type is also useful for **advocacy purposes** in order to ensure that weapons which have already been made illegal are no longer used. This information bolsters the analysis of weapons and new technologies that are currently under review or scrutiny by civil society and others because their use causes unnecessary and disproportionate harm to civilians.

Most of the time, witnesses, victims and others who have attested to violent incidents, will not have the knowledge or expertise necessary to identify the exact type of weapon or weapons used in an incident. This means that casualty recorders will also only have a general description of weapons used, unless they have access to military documents, information regarding the weapons in the possession of the different armed groups, or are able to recover remnants of the weapons and have sufficient expertise to precisely determine weapons from the site of the incident.



This is why, as with other pieces of information those recorders collect, it is useful to have a standard system of classifying weapons. This could be in a hierarchy from the general type to the specific weapon name.

Perpetrator category

Recording perpetrators, groups of perpetrators or suspected perpetrators is very important to establishing accountability. Just as for other pieces of information collected by casualty recorders, it is sometimes difficult to obtain this information and/or confirm the identity of the perpetrators.



When information about perpetrators is not known or is unconfirmed it is better to tag this information as **"unknown"** and/or **"unverified"**.

As described in the Section 2 it is important that recorders avoid biased terms or popular terms or terms used by the media that refer to perpetrators. It is better to refer to the name of their group, if known.



Huridoc's Micro-Thesauri also includes a standard list of **types of perpetrators** <https://spreadsheets.google.com/pub?key=0Aue7FW5io2UedHB0VkvL-WIZqNUNqeGxvbHZDOFVCTkE&hl=en&output=html>



EXAMPLE OF A BASIC WEAPONS CATEGORISATION

- ▶ **Heavy Artillery**
Mortars, Rockets, Guided missiles, Howitzers, Anti-aircraft guns, Anti- tank guns, Infantry guns
- ▶ **Biological Weapons**
Spread biological agents, causing disease or infection such as anthrax
- ▶ **Chemical weapons**
Nerve Gas (Mustard gas, Agent orange)
- ▶ **Explosive weapons**
Improvised Explosive Devices (IEDs), UXOs, Bombs, Ariel bombs, Cluster bombs, Landmines, Grenades
- ▶ **Small arms and Light Weapons**
Self-Loading Pistols and Revolvers, Rifles and Carbines, Submachine Guns, Light Machine guns, Assault Rifles, MANPADS
- ▶ **Incendiary weapons**
Napalm, White Phosphorous
- ▶ **Less-lethal weapons**
Tear gas, Water cannons
- ▶ **Improvised weapons**
Common objects reused as weapons, such as crowbars and kitchen knives.
- ▶ **Note:**
Mortars and rockets can also be considered "explosive weapons", it is preferable to record the exact weapon if known and to classify it in both categories



Unidentified Persons and Missing persons

In the Syria context and many other cases of non-international armed conflict, cases where human remains including entire bodies will turn up either during the conflict or shortly after, occur frequently. If a body of a person cannot be identified either because that person was not carrying identifying information or nobody was able to recognize or identify them then he or she is classified as unidentified person.



For casualty recorders even if the identity of the person is unknown (their name) it is still very important to record these deaths. If the details of the incident of how this person died including the weapons used and the location time of death are known that this person can be recorded in an incident level where their death is associated with an incident which killed other people.



The person can also be recorded at the individual level by simply putting “unidentified person” in the name and family name field, along with where they were found and if known, how and when they died.

Not knowing the identity of a person presents a challenge to ascertaining whether they were simply a civilian or a member of an organized armed group or a combatant. If the person is wearing the uniform of a national armed forces uniform it may be assumed that this person was a combatant, otherwise it is best to put “unknown” in the category relating to combat status.

Missing persons are those whose families are without news of them or are reported missing, on the basis of reliable information, due to international or non-international armed conflict.

Many organizations keep a separate list of those who are reported missing to see if the description given by the family of this person and the time/circumstances of death may present a possible match with their list of unidentified people found dead.

However this requires further investigations by specific organizations that deal with the missing and cannot be done by casualty recorders or Human Rights organizations in Syria.

An example is The International Commission on Missing Persons who work with the state and civil society in their search for the missing and identifying unidentified persons. This is why it is important to **preserve information on unidentified persons** that may present a lead for the beginning of a **professional investigation** by these organization. This usually occurs after the end of hostilities in a conflict.



Annex 1

Practical Examples and Scenarios



EXERCISE 1

Principles in Casualty Recording

At the end of each dilemma exercise, highlight some of the basic principles of casualty recording that apply to the situation, encourage trainees to discuss the reasons why they would choose one course of action over another

Scenario 1

After hearing allegations of killings in clashes between two ethnic groups in the north of Syria, you visit the villages where this took place. Residents of one village belonging to one of the ethnic groups talk to you at length; sharing a long list of incidents including the names of women and children, killed in attacks, and showing evidence of the weapons used. You record this information promptly. Residents of the other village from a different ethnic group that has a history of distrust of human rights organizations working in Syria and will not speak with you.

Questions:

What do you do? Do you issue a report with only the data you have gathered? Do you mention that there were attacks in the other villages? (Impartiality, Transparency, Accuracy)

Scenario 2

Your organization is operating in an area in Syria that is under the effective control of an armed group, who in obtaining control over this territory have caused a number of casualties. You speak to some witnesses who are living in this area and find out that many of these casualties were civilians including women and children, and suspect that their conduct was not in conformity with International Humanitarian Law. As part of your regular reporting on casualties you publish information on each of these casualties.

Questions:

In your public reporting of these casualties do you publish the name of this specific armed group and the name of individuals who were considered to perpetrate the violence? (Accuracy, Do no Harm, Transparency)

Scenario 3

You are a male staff of a local human rights organization. You hear of a violent incident involving government forces in a small neighborhood in Damascus. The incident happens overnight and there aren't many witnesses. The next day a number of men and boys come to your organization to report that some of their male family members have been killed and injured in this incident while defending their families. When you visit the neighborhood only men and boys talk to you about the incident. You try to talk to women and girls but the men prohibit you from doing so.

Questions:

What do you do? Do you leave the neighborhood and only add male victims to your published casualty? Do you go back with a female colleague? (Impartiality, Transparency, Accuracy, Do no Harm)





EXERCISE 2

Principles on definitions categorization and classification in casualty recording

Scenario Al Mezan

Al Mezan is a human rights organization in Syria that has been recording the violent incidents in Syria since early 2011 for the purpose of highlighting human rights violations by the Syrian government, specifically the violation of right to peaceful protest. When they started, the violence was between the government and protesters. Therefore the organization listed the deaths of protesters only on its website and called them martyrs.

Questions

At this point are the current definitions and categories that Al Mezan is using appropriate? Are they being impartial?

Answer

- ▶ Avoiding bias terminology
- ▶ Definitions fit for current purpose
- ▶ Impartiality is compromised

The Director of Al Mezan, Yasmine, realizes that the nature of the violence was changing rapidly and this meant a change in her organization's work. The organization soon realized that there is a need to uphold accountability, in what has become a full blown internal conflict.

Questions

Does Al Mezan need to change their definitions and categories from 2011? If so, why? What sources of definitions and categories should Al Mezan rely on? How can the change be reflected in the organization's website?

Answer

- ▶ New purpose new definitions and categories
- ▶ International Humanitarian Law
- ▶ Publish the exact date and reason for change
- ▶ Bonus: Al Mezan should train their staff on the new definitions and categories

As the conflict progresses there are many different types of perpetrators and victims and the organization wants to ensure that the information they publish is understood by the local Syrian population. Al Mezan wants keep the population informed but also wants the information to be useful for accountability processes in the future.

Question

How should the organization classify victims? How can they record the different types of perpetrators?

Answer

- ▶ According to their combat status, must publish what is meant by civilian and combatant
- ▶ Avoid using popular terms, record name of armed groups.





EXERCISE 3

The Case of Abu Ahmed

You are a local human rights organization in Homs; a young woman named Deena, who witnessed her mother and father die during a confrontation with the Syrian Armed Forces, recounts the events:

In the countryside of Homs, the Syrian armed forces are searching for armed opposition group members and were raiding people's homes. Three soldiers enter Deena's family home, who is at home with her mother, father and her young brother Ahmed. One soldier is taken by surprise by Deena's mother coming out of the basement and shoots her dead. Her father Abu Ahmed picks up the shotgun that they keep on the farm and in retaliation shoots two of the soldiers dead and. Following this, the third soldier attacks him and strangles Abu Ahmed to death. While this is happening in her house, Deena escapes through the back door in the fields next to her house with her brother.

Questions

How would you classify Abu Ahmed in this scenario in terms of combat status? What about the others who were killed in this confrontation?

Answer

- ▶ *Abu Ahmed has directly participated in hostilities and can therefore be classified as a civilian who has lost protection from attack at the time. The soldiers he killed are classified as combatants and Deena's mother is a civilian.*



EXERCISE 4

The Case of Mohammed and Michel

As a human rights organization, you are told of the deaths of people who were buried in a mass grave outside of Daraa. You are with some local people and they identify the bodies of two young men: Mohammed Kabli and Michel Barad. The neighbours say that they have seen Mohammed and Michel following an organized armed group who is associated with the Free Syrian Army. They have seen them transporting communication equipment and meeting with armed group members in various locations. When you find the bodies of the two young men, you see that they are both wearing a black ribbon on their arm with the emblem of the armed group in question. There are no weapons around them but the mass grave was only 15 feet from an area where there was a confrontation with the Syrian Army 5 days ago. The neighbour, a teacher named Mariam, said that she taught Michel in her class at school and that she was only 14 years old.:

Questions

What is the combat the status of these two young men? Can they be considered to have undertaken a "continuous combat function"?

Answer

- ▶ *It can be argued that the two young men would be classified as having continuous combat function, since they were seen with the armed groups and carrying out some preparatory activities for the armed group.*





EXERCISE 5

Other categories and pieces of information relevant to International Law

Scenario

Deir Ezzour Hospital

During the week of 23 May 2013, the fighting was relentless in the divided town of Deir Ezzour. The town was bombarded by air strikes, artillery, mortar and tank shelling by government and opposition forces. You are a member of a local human rights organization that is recording the deaths in the area. At the local hospital you meet Nazira, a 35-year old school teacher who tells you that her husband, a fire-fighter called Abdel-Wahed, and two children were killed when their car came under fire as they tried to cross from a government-controlled area back to the other side of town. "They had gone to visit my sister in the al-Jura district of the city, which is under the control of government forces," Nazira says. "There was no way back except through the hills on the outskirts of the city. There are often government soldiers in that area, but it was the only way." In another ward, you also meet two young men from the Free Syrian Army, who are badly injured. They tell you about their friend, Karim Al-Jazzaeri, who died that morning fighting with the Free Syrian Army (FSA). "We dragged out his body from a school we were using as a barrack" one of them said, "we weren't sure what type of weapons they were using but we felt and heard explosions in the area." Outside the hospital, you find a woman who said she came from a minority Shi'a community in Hatla. She is crying while she shows you photographs on her mobile phone of her daughter. "I only had two children and Jameela was my youngest, my darling," she tells you. From the photo she looks no older than 7 years old. She was killed in her home in Hatla. "Masked armed men stormed our house with machine guns and killed by daughter before I can get to her" Jameela's mother said in tears.

Questions

How do you record the details of the individuals killed hear about/meet? What is the key details that you need to record, for what purposes and how? What assumptions are you applying when categorizing victims? How do you record the sources?

Answer

▶ see table 1 below.

FIRST NAME	LAST NAME	GENDER	AGE	LOCATION OF DEATH	WEAPON TYPE	WEAPON NAME	PERPETRATOR	PROFESSION	NATIONALITY	SECT/RELIGION	STATUS
Abdel-Wahed	unknow	M	35-40	Deir-Ezzour	Smallarms	unknown	Government Forces	Firefighter	Syrian	unknown	Civilian
Karim	Al-Jazzaeri	M	20-25	Deir-Ezzour	Explosive weapons	unknown	Free Syrian Army	unknown	Algerian	unknown	Combatant
Jameela	unknown	F	5 to 9	Hatla	Small arms	Machine Guns	unknown	Student or N/A	Syrian	Shia	Civilian



Annex 2

Sample Agendas for training

1- DAY TRAINING

FIRST SESSION 2 HOURS

Section 1

Principles in casualty recording practice and relevance of international law

- What is Casualty recording
- Guiding Principles in Casualty recording practice
- Why is IHL relevant to Casualty recording?

Break

Exercise 1:

Divide trainees in 3 groups then discuss answers 30 min

SECOND SESSION 2 HOUR

- An overview of IHL

Section 3

International Humanitarian Law as it applies to casualty recording

Exercises 3 and 4 :

Divide in 2 groups and discuss answers 15 min

Break

THIRD SESSION 1 HOUR

Section 2

Definitions and categories used in Casualty recording

Exercise 2:

Divide in 2 groups and discuss answers 15 min

FOURTH SESSION 1 HOUR

Section 4

Practical recommendations on applying other categories from IHL to casualty recording

Exercise 5: Hand out the Scenario and let each trainee write down answers 15 min

Reflection and feedback 15 min

2-DAY TRAINING

DAY 1

FIRST SESSION 1.5 HOUR

Section 1

Principles in casualty recording and relevance of International Humanitarian law

- What is Casualty recording
- Guiding Principles in Casualty recording practice
- Why is IHL relevant to Casualty recording?

Break

Group Exercise 1 hour

SECOND SESSION 1 HOUR

Section 2

Definitions and categories used casualty recording

- How to select appropriate definitions and categories for casualty recording
- How to apply definitions and categories
- How to publish definitions, categories and decisions on classification

Exercise 2 and discussion 30 min

Lunch Break

THIRD SESSION 1.5 HOURS

- An overview of IHL
- Principles of IHL that support the determination of violations

DAY 2

FIRST SESSION 2 HOUR

Section 3

International Humanitarian Law as it applies to casualty recording

- Civilians or those protected from attack
- Combatants or those not protected from attack

Break

Group Exercise 3 and 4 and discussion 1 hour

Lunch break

SECOND SESSION 1.5 HOUR

Section 4

Practical recommendations on applying other categories from IHL to casualty recording

- Victims demographic details
- 4.2 Description of the violence

Exercise 5 and discussion 30 min

Reflection final discussion and questions 15 min



Annex 3

Additional resources on definitions and categories for casualty recording

Elizabeth Minor, 'Paper 2: Definitions and Categorisation in Casualty Recording,'
Oxford Research Group (2012)
<http://ref.ec/definitions>

Elizabeth Minor, John Sloboda and Hamit Dardagan,
'Good Practice in Conflict Casualty Recording: Testimony, Detailed Analysis and
Recommendations From a Study of 40 Casualty Recorders',
Oxford Research Group (2012)
<http://ref.ec/practice-study>

Hana Salama,
'Developing Standards for Casualty Recording',
Oxford Research Group (2013)
<http://ref.ec/standards-brief>

Huridocs Micro-Thesauri 2010
www.huridocs.org/resource/micro-thesauri

International Peace Research Institute (PRIO) 2014,
'The Armed Conflict Location and Event Dataset (ACLED) Codebook Version 3'
www.acleddata.com/wp-content/uploads/2014/01/ACLED_Codebook_2014.pdf



Annex 4

Resources on International Humanitarian Law

ICRC website, 1949 Geneva Conventions and their commentaries
www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp?redirect=0

ICRC, 'Study of Customary International Law'
www.icrc.org/customary-ihl/eng/docs/home

ICRC, 'Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law', 2009
www.icrc.org/eng/assets/files/other/irrc-872-reports-documents.pdf

International Criminal Court 'Legal tools database'
www.legal-tools.org/go-to-database



Annex 5

Academic and Media Articles

B'Tselem (2010)

"Israel's Report to the UN Misstates the Truth", 4 February. Available at:
www.btselem.org/English/Gaza_Strip/20100204_Israels_Report_to_UN.asp

Dill, J. (2010)

"Applying the Principle of Proportionality in Combat Operations"
Policy Briefing, Oxford Institute for Ethics, Law and Armed Conflict.

Jean-Marie Henckaerts (2005)

"Study on customary international humanitarian law:
A contribution to the understanding and respect for the rule of law in armed conflict"
International Review of the Red Cross, Vol. 87, No. 857.

Margalit, A. (2012)

"The Duty to Investigate Civilian Casualties During Armed Conflict
and Its Implementation in Practice"
Yearbook of International Humanitarian Law, Vol. 15.

Schmitt, M. N. (2010)

"Investigating Violations of International Law in Armed Conflict"
Harvard National Security Journal, Vol. 2.



Annex 6

List of International Conventions relevant to IHL

Hague Conventions of 1899 and 1907,

http://archive.org/stream/hagueconventions00inteuoft/hagueconventions00inteuoft_djvu.txt

The Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005,

www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions

The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, plus its two protocols

http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html

The 1972 Biological Weapons Convention;

<http://disarmament.un.org/treaties/t/bwc>

The 1980 Conventional Weapons Convention and its five protocols;

[www.unog.ch/80256EDD006B8954/\(httpAssets\)/40BDE99D98467348C12571DE0060141E/\\$file/CCW+text.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/40BDE99D98467348C12571DE0060141E/$file/CCW+text.pdf)

The 1993 Chemical Weapons Convention;

www.opcw.org/chemical-weapons-convention

The 1997 Ottawa Convention on anti-personnel mines;

www.un.org/Depts/mine/UNDocs/ban_trty.htm

The 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-11-b&chapter=4&lang=en





Training Guide

Definitions and Classifications for Casualty Recording
according to IHL Principles for Syrian Human Rights Defenders