



Raoul Wallenberg Institute

of Human Rights and Humanitarian Law

LUND UNIVERSITY



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Guidelines on International Human Rights Fact-Finding Visits and Reports

(The Lund-London Guidelines)

Preamble

Human rights are the concern of all members of the international community. We all hold a right and an obligation to promote and encourage respect for human rights, as pronounced in the 1998 United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

These guidelines have been developed by the International Bar Association and the Raoul Wallenberg Institute following wide consultation and extensive analysis of human rights fact-finding reports in order to contribute to good practice in the conduct of fact-finding visits and in the compilation of reports.

Fact finding and report writing are essential to human rights monitoring. Although primarily intended for the use of non-governmental organisations (NGOs), the present guidelines can provide direction to all those engaged in this exercise with a view to improving accuracy, objectivity, transparency and credibility in human rights fact finding.

The independence and integrity of NGOs must be respected, but fact-finding missions must nevertheless be, and be seen to be, conducted in a bona fide manner. Reports must be clearly objective and properly sourced, and the conclusions in them reached in a transparent manner.

If a report has been compiled in accordance with these guidelines it indicates that the allegations, observations and conclusions in it can be reasonably relied upon, thus enhancing the efficacy and credibility of the report. This will enhance fact finding as a step in a constructive process to improve the general climate of human rights compliance and to protect the victims of human rights violations.

Definition of Fact-Finding

- 1 For the purpose of these guidelines, fact-finding means a mission or visit mandated by an NGO to ascertain the relevant facts relating to and elucidating a situation of human rights concern, whether allegedly committed by state or non-state actors. In many instances this activity will result in a report. These guidelines do not prejudice the use of other methods of collecting information, other ventures or the use of fact finding in other contexts.

Instigation of a Fact-Finding Mission

- 2 Where a situation of concern is identified, a fact-finding mission should be considered in the light of the mandate, priorities, resources and procedures of the NGO. The NGO should consider the possible negative consequences of undertaking a mission.
- 3 The NGO should take into account the work that other relevant organisations have done or are doing on the same situation and of the effect any previous missions or public statements relating to the situation have had. In order to strengthen efforts and maximise the effective use of resources, cooperation with those other organisations should be considered.

Terms of Reference for the Mission

- 4 The terms of reference must be determined prior to the mission. These should relate to the specific situations under investigation bearing in mind the NGO's mandate
- 5 The terms of reference must not reflect any predetermined conclusions about the situation under investigation.
- 6 The terms of reference should be clear, concise and relevant. However, they should be sufficiently flexible to permit the investigation of and reporting on any other related relevant circumstances.
- 7 If unforeseen situations arise which are outside of the mission's terms of reference the delegation should report those to the relevant NGO contact person as soon as possible. If the new situation falls within the mandate and expertise of the NGO, it may decide to extend the terms of reference or create a second mission. If the former, the NGO should be confident that the delegation has the competence and expertise to deal with the new situation. If the new situation falls outside the mandate and expertise of the NGO, it should refer the matter to another organisation which can take action.

Composition of the Delegation

- 8 The mission's delegation must comprise individuals who are and are seen to be unbiased. The NGO should be confident that the delegation members have the competence, experience and expertise relevant to the matters pertaining to the terms of reference.
- 9 The NGO should ensure that delegation members have sufficient time for pre-mission briefings

and/or training for implementation of the mission and any proposed follow-up work, including contributing to the report.

- 10 The NGO should ensure that all members of the delegation are aware that they must, at all times, act in an independent, unbiased, objective, lawful and ethical manner.
- 11 The NGO should ensure appropriate gender balance in the composition of the delegation. Where relevant, the NGO may wish to consider such issues as geographic, racial, ethnic or other types of balance and diversity when selecting the delegation members. The NGO may also wish to consider the importance of linguistic expertise and/or in-country knowledge.
- 12 The NGO should identify a leader of the delegation and/or a rapporteur.
- 13 As and where appropriate, delegations should be comprised of people with relevant expertise and skills in interviewing members of specific victim groups, especially when these are children, women, victims of torture or other vulnerable groups and internally displaced persons. See also paragraph 45.
- 14 When appointing a member of a delegation, the NGO should take into account any potential risk in appointing people of specific nationalities or members of particular religious groups, and any other reasons which might make it too dangerous for an individual to participate in the mission, or create danger for that person's family or others. This possibility should always be kept under review by the delegation and the NGO both before and during the visit.

Interpreters and Other Persons Associated with the Mission and/or Report

- 15 The NGO should ensure that all persons associated with a mission and/or a report are aware that they must, at all times, act in an independent, unbiased, objective, lawful and ethical manner.
- 16 The NGO should ensure that the delegation and other persons associated with the mission in the field develop inclusive operational methods that encourage the development of a participatory and unified team spirit.
- 17 The delegation should maintain as a principal consideration the safety of all persons associated with a mission and/or report, keeping personal details confidential. If there is a risk to any such person during the mission or afterwards, the NGO should seek assurances from the government that they will not be persecuted, victimised or otherwise put in a worse position for having worked with the delegation.
- 18 Where necessary, interpreters should be used during the course of the mission. Every care must be taken in selection to ensure that interpreters are expert in the required languages and relevant technical concepts, as well as independent and professional.
- 19 If the interpretation is not satisfactory, if the interpreters are not independent, or if they pose a risk to the safety of the delegation or those being interviewed, the delegation must desist from using the interpreters and where possible make alternative arrangements.

Pre-Visit

- 20 The NGO should provide a pre-visit briefing for members of the delegation, which includes balanced material relating to the reason for the visit and any relevant cultural, economic, political, historical and legal information. Where necessary, any relevant material should be translated.
- 21 The NGO should also provide a briefing on local logistical issues, operating procedures, medical issues (including preparation for travel), appropriate conduct in-country and other relevant matters. All members of the delegation should be provided with a copy of these guidelines.
- 22 The NGO should ensure that the members of the delegation are confident that they have been adequately briefed and understand the terms of reference, the initial reason for the visit and the mandate of the NGO. If any member of the delegation is not sufficiently confident that their briefing has been adequate, the NGO should be informed and it should then provide additional briefing.
- 23 The NGO should ensure that the members of the delegation understand the need to be unbiased and not pre-judge any issues during the mission. The NGO must also ensure that the delegation understands the need to act in an ethical manner and in accordance with the laws of the country and internationally accepted human rights standards. Awareness training, including gender sensitivity, should be provided where necessary.
- 24 The NGO should ensure that members of the delegation and persons associated with the mission receive clear and consistent messages about the mission, specifically its objectives and limitations, to ensure that the mission can be clearly explained to the people with whom they meet, so as to manage expectations and avoid miscommunication.
- 25 Where necessary, the NGO must ensure that all members of the delegation are fully briefed on recognising and managing stress and psychosocial trauma to prepare them properly for the realities of the situation and to promote the well-being of persons they interview, persons otherwise associated with the mission, and themselves.
- 26 The NGO is responsible for organising the visit, including the security, health and safety of the delegation. The NGO must ensure that appropriate emergency procedures are in place and that the delegation is fully briefed. It is the responsibility of the members of the delegation to act in accordance with any risk assessment made by the NGO and any formal requirements such as visa conditions as required by the laws of the country.
- 27 The NGO should inform the government of the state in which the mission is to take place or any other relevant authorities that the mission will take place.
- 28 The NGO should consider what, if any, media strategy is appropriate for the delegation and for the mission overall. The NGO should ensure that all members of the mission are familiar with any strategy adopted.

Working Methods

General

- 29 The NGO has overall responsibility for the delegation and the mission.

- 30 The members of the delegation must conduct themselves with integrity, professionalism and in accordance with international human rights law standards at all times during the mission.
- 31 If a member of the delegation, or any other person associated with the mission, conducts him- or herself in a way which jeopardises the mission, the safety of others or the confidentiality of sources, or in any other way acts without sufficient professionalism or integrity, that person should be required to leave the mission. In such situations it will be for the NGO, in consultation with the leader of the delegation, to determine whether to abandon the mission or replace that person. If the team leader is implicated, or is otherwise unavailable, any other member of the delegation may draw the matter to the attention of the NGO.
- 32 If it transpires during the course of the mission that there is a conflict of interest or other circumstances involving any member of the delegation which might jeopardise their independence and impartiality, or which might give the appearance that their independence and integrity is compromised, the leader of the delegation should inform the NGO and that member should desist from participating in a particular meeting, or where necessary from the remainder of the mission. If the team leader is implicated, or is otherwise unavailable, any other members of the delegation may draw the matter to the attention of the NGO.
- 33 Any threats to, or intimidation of, the delegation must be reported immediately to the NGO. Where appropriate, the NGO will need to seek assurances from the government as to the safety of the delegation and should initiate emergency procedures should they be required.

Agenda

- 34 The NGO, in collaboration with the delegation, should determine criteria for selecting the people and locations it wishes to visit, make the necessary arrangements and draw up a schedule for the visit, as far as possible. In so doing, the NGO should take into account the safety and security of potential interviewees and persons associated with them. It may be necessary to amend the schedule as the mission progresses.
- 35 Wherever possible the delegation should interview all parties relevant to the situation under consideration in order to achieve a balanced, comprehensive picture. This might include members of the government, judiciary, parliamentarians, opposition party members, journalists, NGO personnel, academics, staff of intergovernmental organisations, or any other person who could reliably shed light on the situation under review.
- 36 The delegation is under no obligation to advise the government of the people it intends to meet. If the government or any other party finds out this information and there are concerns as to the safety of an interviewee, then the NGO may wish to cancel the interview or to abandon the mission and should seek a guarantee from the government that the interviewee or prospective interviewee will not be persecuted, victimised or otherwise put in a worse position for having been willing to cooperate with the delegation. The same principle applies if the interviewee is threatened as a result of identification by other people.

- 37 The delegation may wish to operate as a whole group, or may wish to separate into smaller groups for specific assignments.

Interviews

- 38 The delegation must take into account the safety and security of the interviewees.
- 39 The delegation should be mindful that the venues for interviews will ensure the protection and confidentiality of all involved and are culturally appropriate.
- 40 Interviews should be scheduled with sufficient time for the ascertainment of all the relevant facts and to give the interviewee an opportunity to express their opinion.
- 41 The delegation should inform interviewees of the terms of reference, as well as giving reasons for the visit, prior to or at the meeting, in a language they understand.
- 42 The delegation should take a careful note of whether an interviewee provides informed consent to be interviewed and identified or quoted and of future possible uses of their statements. If they do not consent, their wishes must be respected.
- 43 Where appropriate, interviews should be conducted by at least two members of the delegation. It should be clarified in all cases whether interviewees wish to have a supporting person present, or wish for some person to absent themselves during the interview.
- 44 Interviews should be consistent and thorough and be conducted in a professional manner.
- 45 Members of the mission must be especially aware of the vulnerabilities of particular categories of potential interviewees and such interviewees should be approached with the utmost care. Interviews of vulnerable groups must only be undertaken by those with the relevant expertise and skill (see paragraph 13). Particular methodological techniques should be considered in certain cases: for example, female victims of sexual abuse should be offered the choice of being interviewed by a female member of the delegation and a clear explanation given of the possible future need for testimony in criminal or other proceedings.
- 46 Members of the delegation must be alert to the possibility of stress or trauma experienced by interviewees and be ready to terminate the interview if necessary. Wherever possible, the delegation members should ensure that interviewees are referred to appropriate victim support services.
- 47 Members of the delegation should be alert to the humanitarian needs of interviewees and, wherever possible, should ensure that interviewees are referred to appropriate humanitarian or other organisations which might be able to meet those needs.

Information Gathering

- 48 It is essential that the delegation make use of all data collection techniques available. In addition to interviews, these may include site visits, collation of documents, or assessment of local laws and practices. Where the delegation relies upon information gathered by a third party, the delegation should take all reasonable measures to verify the objectivity of that information gathering process

in order to rely on the evidence collected. See also paragraph 60 (ix).

- 49 The delegation should take full and fair notes or, where necessary, ensure that these are being taken on the delegation's behalf.
- 50 The delegation should endeavour to obtain and review all relevant written materials and documents.
- 51 The delegation must ensure that all materials and information are collated for the drafter of the report.
- 52 All notes, transcripts and documents, including electronic data, together with other materials from the visit, should be kept secure at all times. If confidentiality cannot be secured, the interviewee should be informed in accordance with paragraph 42.
- 53 The delegation must document any relevant obstacles it has met during its visit and in relation to the collection of information.
- 54 In making their findings the delegation should try to verify alleged facts with an independent third party or otherwise. Where this is not possible, it should be noted.
- 55 In making their findings the delegation must work independently having regard to the terms of reference, the situation giving rise to the visit, and the mandate of any reasonable directions from the NGO.
- 56 The delegation must assess all the information gathered and reach conclusions to its reasonable satisfaction based on this assessment.

Fact-Finding Report

- 57 If not already decided, the delegation and the NGO should identify the person or persons with responsibility for drafting the report. Unless there are exceptional circumstances, this should be a person or persons who was a delegate or who participated in the mission.
- 58 The delegation as a whole should reach its conclusions and make recommendations where required by the terms of reference. Where possible, recommendations should attempt to outline possible practical solutions. Every effort should be made to reach a consensus on conclusions and recommendations. If there is a dissenting viewpoint, the NGO should consider publishing it.
- 59 In order to enhance the overall quality and credibility of the report, it must be accurate, clear and drafted objectively so that the processes of the mission are transparent. It should fairly reflect all the information gathered and must refrain from bias. It is good practice to identify the standards against which the delegation members weigh the information obtained.
- 60 As good practice, reports should include:
 - i) an executive summary;
 - ii) the mandate of the sending NGO;
 - iii) the reason for the visit and terms of reference of the mission;

- iv) the names of the delegation members, including brief particulars as to their relevant expertise and experience, to assure transparency;
- v) the dates of the visit;
- vi) sufficient background information to enable readers to contextualise the evidence;
- vii) the methodology used during the visit, especially regarding interviews;
- viii) as appropriate and where safety and confidentiality would not be compromised, a list of the sites visited and organisations and categories of people interviewed;
- ix) identification of any other sources of information relied upon, including disclosure of unverified third party evidence (see paragraph 48);
- x) disclosure of the source of funding for the mission;
- xi) the applicable law;
- xii) where applicable, complementary secondary sources should be identified as such;
- xiii) identification of any circumstances relevant to the mission, including anything that impeded it;
- xiv) the findings of the report;
- xv) an acknowledgment of any contributions by people or organisations who rendered assistance to the delegation or NGO, where it would not compromise their safety;
- xvi) conclusions and recommendations, indicating to whom the latter are addressed;
- xvii) details of any significant developments occurring after the conclusion of the mission.

61 Where it is the practice for the NGO to submit the report to the government for its response in advance of publication, any comments received should be included if the government consents. Any failure of the government to respond should be noted in the report.

62 The report should be written and published within a reasonable time following the conclusion of the mission.

Translation

63 The report should be made available in the languages of the NGO and of the country being investigated, or in a language of common use in that country.

64 Every effort must be made to ensure the translation is of the highest quality.

Publication

65 The NGO has overall responsibility for decisions about the publication and dissemination of the report.

- 66 The NGO should, wherever possible, widely publicise and disseminate the report, particularly in the locality of the visit, including to relevant governments, individuals or organisations.
- 67 The NGO should consider what, if any, media strategy is appropriate for disseminating the report.

Follow-up

- 68 The safety of those interviewed or engaged by a fact-finding delegation should continue to be monitored by the NGO, particularly where safety concerns were already present. Any post-mission threats or hostile acts should be acted upon immediately by the NGO including, where necessary, notifying the government, assisting with protective measures and alerting the wider international community.
- 69 The NGO should offer post-mission debriefing to members of the delegation and persons associated with the mission where necessary to deal with stress and psychosocial trauma that may be experienced after a mission.
- 70 The NGO should consider any opportunities to cooperate with other NGOs, international organisations and relevant governments working on the same situation, subject area or country so as to maximise the effectiveness of the report.
- 71 The NGO should consider the best means by which to encourage governments and other relevant entities to be receptive of its report and to act upon its recommendations.
- 72 The NGO may wish to monitor any relevant developments in the country which is the subject of the report, occurring after the report has been published. In such a case a follow-up mission and/or report may be considered.
- 73 The NGO should review all aspects of the mission, including the delegation's performance and the adequacy of the NGO's procedures. The NGO should endeavour to disseminate the lessons learned within the NGO and to others, in order to promote the development of good practice and the implementation of these guidelines.

NGOs working in the field of human rights recognise that fact-finding is not an end in itself. It is a crucial vehicle for the implementation of human rights in all countries or situations under examination.

