



INTERNATIONAL
NUREMBERG
PRINCIPLES
ACADEMY

CONCEPT NOTE

**GUIDELINES ON COOPERATION BETWEEN CIVIL SOCIETY
ORGANIZATIONS AND JUDICIAL MECHANISMS IN THE PROSECUTION OF
CONFLICT-RELATED SEXUAL VIOLENCE**

VALIDATION WORKSHOP

April 10th-11th, 2017

I. INTRODUCTION

The International Nuremberg Principles Academy (Nuremberg Academy) is a foundation dedicated to the advancement of international criminal law. It is located in Nuremberg, the birthplace of modern international criminal law, and is conceived as a forum for the discussion of contemporary issues in the field. The mission of the Nuremberg Academy is to promote the universality, legality and acceptance of international criminal law. The foundation's main fields of activity include interdisciplinary research, trainings and consultant services specially tailored to target groups, and human rights education. The Nuremberg Academy places a special focus on the cooperation with countries and societies currently facing challenges related to international criminal law. The Nuremberg Academy was founded by the German Foreign Office, the Free State of Bavaria and the City of Nuremberg.

In furtherance of its mission, the Nuremberg Academy organizes fora for knowledge exchange on contentious and contemporary issues in international criminal law, and conducts capacity building in the investigation and prosecution of core international crimes for justice sector and civil society organizations (CSOs) at the national and international levels. Challenges to effective cooperation between judicial mechanisms and CSOs significantly hamper the successful prosecution of conflict-related sexual violence at both the national and international levels. The Nuremberg Academy's interventions in this respect seek to identify and enhance appropriate modes of cooperation, and to indicate strategies to enable the building and strengthening of cooperative relationships between stakeholders during the prosecution of conflict-related sexual violence, with the ultimate goal of ending impunity for these crimes.

Accordingly, in August 2016, the Nuremberg Academy, in partnership with the Strathmore Institute for Advanced Studies in International Criminal Justice (Strathmore University, Nairobi), conducted specific training on sexual and gender-based violence for national prosecutors in East Africa. The training preceded a two-day conference which took place between 4th-5th August 2016, hosted by the Strathmore Institute and supported by the Academy, entitled "Prosecuting Sexual and Gender-Based Violence both During Peacetime and During Conflict". Subsequently, on 12th-13th September 2016 the Nuremberg Academy conducted a two-day workshop for representatives from national and international judicial mechanisms, CSOs and academics to explore and consider means of informing and strengthening the form, nature and modes of cooperation between judicial mechanisms and

CSOs in the successful investigation and prosecution of conflict-related sexual violence. The workshop identified the strengths and limitations of cooperation and examined the best practices in cooperation to that end. Broad concepts of CSOs and judicial mechanisms were adopted to encompass all non-state actors that do not have a formal role in the judicial process, and all judicial or quasi-judicial fora directly engaged in the investigation and prosecution of conflict-related sexual violence as an international crime, respectively.

Drawing in large part on the outcomes of the aforementioned workshop and conference, the Nuremberg Academy developed draft best practices Guidelines on cooperation. The draft Guidelines cover a range of issues, including principles and modalities of cooperation, challenges to effective cooperation and best practice in effective cooperation. They conclude with recommendations and emerging policy considerations for the enhancement of effective cooperation.

The main objective of the Guidelines is to enhance the potential for effective and sustained cooperation between CSOs and judicial mechanisms at all levels and within all settings. To this end, they highlight specific challenges and identify areas where further action is required. The Guidelines are intended for a wide audience, including representatives of judicial mechanisms, investigators and prosecutors at the national and international levels, and CSO actors who engage with victims of conflict-related sexual violence in a multiplicity of capacities, be they local or international.

II. OBJECTIVES OF THE WORKSHOP

The goal of this validation workshop is to provide a collaborative platform for stakeholders to discuss and contribute to the draft Guidelines, and to seek consensus and foster ownership in relation to the Guidelines.

In particular, the objectives of the workshop are:

- i. To present the methodology of work, together with key findings;
- ii. To review and discuss the draft Guidelines with expert stakeholders;
- iii. To gain input and comments on the draft Guidelines; and
- iv. To formulate recommendations for inclusion in the final Guidelines.

It is anticipated that discussions, comments and recommendations arising during the course of the validation workshop will substantively inform and contribute to the final version of the Guidelines.

III. FORMAT OF THE WORKSHOP

The Nuremberg Academy will host a two-day validation workshop in Nuremberg, Germany on 10th-11th April 2017. It will bring together individuals from national and international courts, CSOs, victims' groups, government agencies and academia. Participants will be selected on the basis of their expertise and level of practical engagement with national and/or international mechanisms involved in the investigation and prosecution of conflict-related sexual violence.

The workshop will consist of a number of brief presentations from the Consultant appointed by the Nuremberg Academy to work on the development of the Guidelines, and Nuremberg Academy staff themselves, which will be followed by discussion. During each discussion, participants are encouraged to draw upon their professional experiences and to share practical examples of when and under which circumstances particular aspects of the draft Guidelines might be applicable. The program also envisages application by the participants of the draft Guidelines to one or more hypothetical scenarios in order to induce a practical-based approach to the validation process.

IV. INTENDED OUTPUTS FROM THE WORKSHOP

- i. Methodology reviewed and validated;
- ii. The generation of comments, thoughts and recommendations to enable the finalization of the Guidelines;
- iii. Consensus in respect of, and validation of, the draft Guidelines, together with agreement in respect of requirements for finalization.

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VALIDATION WORKSHOP PROGRAM

April 10-11, 2017

DAY ONE

08:30-09:00

Registration

09:00-09:15

Opening Remarks

Mr Klaus Rackwitz

Director, International Nuremberg Principles Academy

09:15-09:45

Introduction

Presentation: Background, Methodology and Scope of Guidelines

Ms Farah Mahmood

International Nuremberg Principles Academy

09:45-10:15

*Presentation: Context, General Principles and Modalities of
Cooperation*

Dr Ellie Smith

International Nuremberg Principles Academy

10:15-11:15

Discussion

The draft Guidelines have been formulated following a methodology encompassing an extensive literature review and pertinent conference and workshop outcomes. They identify a number of overarching principles that should operate to inform and guide the process of cooperation between judicial mechanisms and CSOs. Additionally, they indicate potential forms or modalities of cooperation that may lead to or otherwise contribute towards the successful prosecution of conflict-related sexual violence.

The discussion aims to ascertain whether, in the opinion of the workshop participants, both the overarching principles identified and the modalities of cooperation indicated are accurate, complete and functional in practice. It also seeks to obtain consensus on the methodology used and its suitability to the creation of the draft Guidelines.

11:15-11:30

Break

11:30-12:00

Presentation: Challenges to Effective Cooperation

Dr Ellie Smith

Consultant

12:00-13:00

Discussion

A number of factors have the potential to impact upon effective cooperation in the investigation and prosecution of conflict-related sexual violence. The September workshop highlighted many of these challenges from the perspective of both judicial mechanisms and CSOs.

Do the draft Guidelines fully reflect all of those challenges faced?

13:00-14:00

Lunch Break

14:00-16:00

Application of the draft Guidelines to a Hypothetical Case

17:00-18:30

Visit to Courtroom 600 (optional)



DAY TWO

09:00-09:30

Presentation: Best Practice in Effective Cooperation

Dr Ellie Smith

Consultant

09:30-10:30

Discussion

A number of examples of best practice have emerged from the literature, practice and jurisprudence of judicial mechanisms, as well as through the discussions that took place between expert delegates, and are included within the draft Guidelines.

Experts are invited to provide their feedback on the shared experiences of these best practices and to indicate whether, in their opinion and experience, the examples provided are broadly realistic and capable of adaptation to varying contexts.

10:30-10:45

Break

10:45-11:15

Presentation: Recommendations and Emerging Policy Considerations

Ms Farah Mahmood

International Nuremberg Principles Academy

11:15-12:00

Discussion

The final section of the draft Guidelines considers the next steps which need to be taken to further enhance prospects for effective cooperation. The recommendations are broadly articulated so as to accommodate application within a wide range of judicial mechanisms and CSOs. However, the recommendations are intended to provide the clear and firm basis of concrete actions and guidance necessary to shape future prosecutorial efforts. Do workshop participants feel that this has been achieved?

Moreover, do the recommendations address in full the existing gaps in effective cooperation as discussed in Section 4 of the draft Guidelines? Do the experts feel the recommendations provided for in the draft Guidelines account for emerging practices and situations in the prosecution of conflict-related sexual violence?



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12:00-12:30

Evaluation and Closing

Ms Farah Mahmood

International Nuremberg Principles Academy

Mr Klaus Rackwitz

Director, International Nuremberg Principles Academy

12:30-14:00

Lunch and Departure