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Integration of Mental Health and Psychosocial Support Approaches in Accountability Mechanisms for Atrocity Crimes



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Foreword by the Netherlands Ministry of Foreign Affairs

Experiences in the past shape the future. From the individual development to the development of a nation, our future is built on past experiences. The individual and collective experiences wire our brain and feed our stories. Invisible wounds can have a durable impact on our future.

This was discussed, on the occasion of the 2020 United Nations Peacebuilding Architecture Review, in a series of consultations with experts, implementing partners and UN member states, which the Netherlands Ministry of Foreign Affairs organized, with the Knowledge Platform Security & Rule of Law, under the title “Mind the past to build the future”. This initiative was based on the conviction that conflict negatively affects mental wellbeing, social cohesion and trust in leaders and institutions. The Netherlands aimed to increase the international recognition of the need to structurally acknowledge and address psychosocial factors and dynamics for efforts to build and sustain peace to be effective. The consultations confirmed that strategies and programs to prevent (re) occurrence of conflict have much to gain by systematically making use of, and building on existing experience and expertise on Mental Health and Psychosocial Support (MHPSS), be it accumulated in humanitarian action or as part of reconciliation and peacebuilding efforts. Also, it was reaffirmed that assessing and addressing mental health and psychosocial factors and needs should be prioritized from the beginning of any crisis and response, rather than being an afterthought.

Since 2020, many tools, guidelines and recommendations have been developed in line with these findings. Recent examples include the Inter Agency Standing Committee (IASC) Policy Brief and Report on “Integrating MHPSS & Peacebuilding: A Mapping and Recommendations for Practitioners”, and the 2023 UNSG Guidance Note on Transitional Justice and Mental Health (see Resource material in annexe). These documents bring important recommendations and highlight that individual and social well-being should be a consideration from the design phase through to the operational stages indeed.

In this emerging field it is however important to turn understanding and acknowledgement into actionable principles, practices and recommendations. It is therefore that we deem this foundational study, led by An Michels, of such high importance. This study offers a unique insight into good practices, based on literature review and on extensive consultations with a broad group of legal and psychosocial practitioners and academics. In this way this study provides a hold to reduce the risk of psychological harm to witnesses in accountability processes for atrocity crimes; to contribute to their psychosocial wellbeing and healing; to increase the quality of evidence gath-

ering; and to help ensure effective professional protection. And it does more: it provides us with leads for further action: consolidation of consensus, expansion of know-how, strengthening of knowledge exchange, creating a community of practice and working on guidelines as a stepping stone towards standards. Thus, this study provides us with multiple suggestions on how to take further steps. It helps us to Mind the Mind.

Nathalie Olijslager

Director Stabilisation and Humanitarian Aid

Special Envoy Mental Health and Psychosocial Support

Netherlands Ministry of Foreign Affairs

Foreword by Stanford University

Survivors of war crimes have a precarious position in the transitional justice process. While they are vulnerable because of their traumatic experience, they are also the first-hand witness to the crime. They are jeopardized by the offense and also the best reporter of the offense. They are a primary reason to pursue justice and also a key component in the legal process. Accountability mechanisms rely heavily on their testimony, but at the same time, they are at high risk for re-traumatization and revictimization.

If the justice mechanisms are truly dedicated to the survivors, their health and well-being must be at the forefront of the process. The involvement of victims and witnesses in accountability mechanisms for atrocity crimes cannot be taken for granted. If survivors are to participate in the justice process, their vulnerabilities must be addressed.

The establishment of the International Criminal Court was groundbreaking in many ways. It paved the way for victim participation and its legal framework created an unprecedented context to consider mental health and implement psychosocial support approaches to facilitate the involvement of victims and witnesses in the proceedings and protect them against psychological harm. Still, standards for best practices are not set and not readily available to justice actors and guidance on use of trauma mental health approaches in accountability mechanisms is scarce.

This study shows that the integration of mental health approaches and trauma-informed methodologies can mitigate the risk for psychological harm, enhance the quality of evidence gathering, and contribute to healing and address vicarious trauma and other mental health risks for professionals. This document is based on a thorough internal and external consultation process with more than 60 experts in the field. The study adopts a witness and victim centered perspective by identifying critical steps in the testimony timeline. It was conducted by An Michels, an experienced practitioner and global leader in her field, who understands the psychological needs of survivors in a justice mechanism. Finally, it was reviewed and edited by Stanford University's Human Rights in Trauma Mental Health Program to help support its academic rigor.

There is a need for guidelines built on consensus among different actors at the international level to make best practices and know-how more widely available to professionals in the broader justice and mental health field. To create a more stringent and binding framework for the structural integration of trauma mental health in accountability mechanisms for atrocity crimes, a process needs to be launched to also develop international standards. This

project is an important first step and deserves to be developed further as a tool to give victims of atrocity crimes access to well-being and justice. Let “Integration of Mental Health and Psychosocial Support Approaches in Accountability Mechanisms for Atrocity Crimes” become a foundational work and an essential living document to begin the process of creating the gold standard for the world.

Daryn Reicherter, MD

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Acknowledgements

Many years ago, I was moved and inspired by the strong motivation and resilience I observed among the women in Rwandan victim's organisations I worked with. They were survivors of the worst crimes and wanted to come forward and testify in the Gacaca trials, although they knew that talking about the unspeakable would be extremely painful to them. After years of supporting victims and witnesses of atrocity crimes, in particular at the Special Court for Sierra Leone (SCSL) and at the International Criminal Court (ICC), my deep respect for the courage and immense commitment of victims and witnesses to seek justice has only grown.

This project: *“The integration of mental health and psychosocial approaches in accountability mechanisms for atrocity crimes”*, is dedicated to all victims and witnesses who are prepared to carry the heavy burden of participating in accountability processes which are often not adequately adapted to their needs and wishes.

This study started with the idea of one person but quickly became a project of many, and I am grateful for everyone who contributed to this endeavour.

I am very grateful to the Knowledge Management Fund of the Knowledge Platform for Security and Rule of Law for the innovation grant they awarded me with to conduct this study. Messina Manirakiza was a great guide and supporter throughout the project.

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Pablo de Greiff from the Transitional Justice Program, Center for Human Rights and Global Justice School of Law, NYU became early on a strong supporter of this project and co-moderated the expert consultation meeting. I am very grateful for his inspiring feedback, ideas and encouragement.

In the important phase of reviewing findings, formulating recommendations and finalising the report I was greatly supported and inspired by the expertise and enthusiasm of Lisa Brown, Pantea Javidan and Daryn Reicherter from the Human Rights in Trauma Mental Health Laboratory, Department of Psychiatry and Behavioral Sciences, School of Medicine, Stanford University.

Throughout this journey I had the privilege of talking to victims organisations, experts and organisations working on mental health issues, accountability processes, or related fields. Their names are listed in the annexe of this report. I am very grateful for their generosity to share their good practices and observations with me. Their insights were critical for this study and their ideas and encouragements greatly helped me to conceptualise future steps to further structurally integrate MHPSS approaches in accountability mechanisms for atrocity crimes. I am looking forward to collaborating with them in a community of practice.

I am honoured and very grateful to the Rockefeller Foundation for inviting me for a Residency at the Bellagio Centre in Italy to work on this project. Special thanks go to my fellow residents who generously shared their wisdom and insights and gave me very valuable feedback on how to move this project forward.

Finally, this endeavour would not have been possible without the support, patience and - above all - the love of my husband and my daughters, my family and the people close to me. I am deeply grateful to them.

An Michels

Bellagio, March 2024

Definitions of Key Terms

Accountability mechanisms

In the context of this study accountability mechanisms include investigations and trials at international and national levels, including universal jurisdiction cases, but also processes to formally document atrocities in the context of the work by investigative mechanisms, Commissions of Inquiry or Fact-Finding Missions, and other processes collecting detailed victim and witness statements and formally documenting crimes committed to achieve accountability. Also, more recently developed, innovative, mixed processes that combine restorative and retributive goals, such as the Colombian Comprehensive System of Truth, Justice, Reparation, and Non-Repetition Mechanism (CS), are included.

Atrocity crimes

Atrocity crimes include war crimes, crimes against humanity, and genocide, and are considered “the most serious crimes of concern to the international community as a whole”.¹ They are often systematic and large-scale crimes, committed within specific political, ideological, and societal contexts. These crimes are typically mass crimes, committed by multiple actors against a large number of victims who suffer far-reaching consequences.² The crimes can consist of diverse acts of violence, some are focused on particular groups, some aim the destruction of a group, others are not. They can include, for example, different forms of sexual and gender-based violence, murder, torture, deportation, persecution, ethnic cleansing, apartheid, conscripting and enlisting children, and other crimes of a similar gravity.³

Investigative interview

The investigative interviewing model consists of a number of elements that are key to the prevention of mistreatment and coercion and help to guarantee effectiveness. Objectivity, impartiality and fairness are critical components. “Interviewers must, in particular, seek to obtain accurate and reliable information in the pursuit of truth; gather all available evidence pertinent to a case before beginning interviews; prepare and plan interviews based on that evidence; maintain a professional, fair and respectful attitude during questioning; establish and maintain a rapport with the interviewee; allow the interviewee to give his or her free and uninterrupted account of the events; use open-ended questions and active listening; scrutinize the interviewee’s account and analyse the information obtained against previously available information or evidence; and evaluate each interview with a view to learning and developing additional skills.”⁴

Mental health and psychosocial support (MHPSS)

Following the agreed definition among humanitarian actors, “the composite term *mental health and psychosocial support* is used to describe any type of local or outside support that aims to protect or promote psychosocial well-being and prevent or treat mental disorder. Although the terms mental health and psychosocial support are closely related and overlap, for many [...] they reflect different, yet complementary, approaches.”⁵ In the context of this study, MHPSS approaches describe a wide range of activities which mainly address the nexus between psychological and psychosocial problems caused or exacerbated by atrocity crimes and the impact of involvement with an accountability mechanism for atrocity crimes. They are further explained in the text.

Recommendations, guidelines and standards

Recommendations, guidelines, and standards serve similar purposes in providing guidance and establishing best practices, but they differ in terms of specificity, scope, and, in the instance of some standards, enforceability.

Recommendations are suggestions for preferred or advantageous approaches. Typically they are more general and aspirational.

Guidelines are more specific and action oriented. They can be developed from recommendations by using a consensus-based process that involves input from experts in the field, literature review, and consideration of stakeholder perspectives. Guidelines can be applied to enhance and strengthen existing systems supporting people who have experienced human rights crimes.

Standards can be developed from guidelines and are more specific and stringent as they define minimum acceptable levels of performance or quality.

Survivor-centred approach

A survivor-centred approach aims to create a supportive environment in which survivors’ rights are respected and in which such persons are treated with dignity and respect. By putting survivors at the centre of the process, such an approach promotes their recovery, reduces the risk of further harm and reinforces their agency and self-determination. Practicing a survivor-centred approach means establishing relationships with survivors that promote their emotional and physical safety, builds trust, and helps them to restore some control over their lives. Key principles and actions of a survivor-centred approach include: safety, security, and well-being; confidentiality; dignity and respect; non-discrimination and inclusion; ask, listen, and engage; transparency and information; informed consent; support and assistance; redress; feedback, and; provisions on child victims.⁶ This approach further recog-

nises that each survivor is different and unique, will react differently to experiences (of SGBV and other traumatic experiences), and has different strengths, capacities, resources, and needs.⁷

Testimony timeline

This study uses the term ‘testimony timeline’ to refer to different *phases of involvement* of victims and witnesses in an accountability process. The phases, which may differ depending on the type of process, are determined by each *stage of the legal process*. Within these phases of the testimony timeline different *steps* are identified when considering the process with a psychosocial lens. These moments are particularly important as they shape the experience of victims’ and witnesses’ involvement and are critical moments in establishing trust and agency in the process (see also: Figure 3).

Trauma-informed approach

The concept of a trauma-informed approach has developed in response to the increasing recognition that potentially traumatic experiences throughout the life course are associated with subsequent psychological distress and a range of mental health problems.⁸ “A program, organisation, or system that is trauma-informed realises the widespread impact of trauma and understands potential paths for recovery; recognizes signs and symptoms in clients, families, staff, others involved with system; and responds by fully integrating knowledge about trauma into policies, procedures, practices and seeks to actively resist re-traumatisation.”⁹ Key principles of a trauma-informed approach include: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment, voice, and choice; cultural, historical, and gender issues.¹⁰

A trauma-informed approach is part of an MHPSS approach and partly overlaps with a survivor-centred approach but has a more specific focus. It acknowledges the significance of the impact of trauma as well as the individual differences in how those affected experience trauma, and it recognizes that not everyone who was exposed to trauma needs clinical care. It, therefore, offers a highly relevant and useful framework to analyse and address the psychosocial impact of conflict and atrocity crimes, to support witnesses and victims throughout their engagement with accountability mechanisms, and specifically support them during interview processes and testimony.

Vulnerability

In line with the Rome Statute’s legal framework, this study uses the following broad definition of vulnerability: “Vulnerable witnesses and victims are those persons at an increased risk of psychological harm by appearing before the Court, or who experience psychosocial or physical difficulties which affect their ability to appear before the

Court”.¹¹ A witness’ or victim’s vulnerability may be assessed by examining different factors, inter alia, related to the person, such as age (for example, children or elderly persons), personality, disability (including cognitive impairments), mental illness or psychosocial problems (such as trauma-related challenges or lack of social support), the nature of the crime, in particular sexual or gender-based violence, violence against children, torture or other crimes involving grave violence, or related to particular circumstances such as significantly increased stress or anxiety due to relocation or resettlement, fear of retaliation or adaptation difficulties related to cultural differences or other factors.¹²

Witnesses, victims, and survivors

This study refers to ‘witnesses and victims’ to describe a broad and diverse group of persons who are involved in and affected by the work of accountability mechanisms for atrocity crimes, in different roles. While their involvement can take different forms depending on the type of process, the element of giving ‘testimony’ is a common denominator. Witnesses and victims interact with the accountability mechanism. They tell their story to be formally recognised as participants in the process or seek reparations, to give a statement, or possibly testify in court or other setting. They have a right to be supported in their participation and be protected against harm.

The term ‘victims’ is mostly used, referring to the recognised legal term under the Rome Statute for those who have suffered harm as a result of the commission of an atrocity crime.¹³ However, this study also sometimes refers to victims as survivors, in recognition of the different ways that people self-identify after experiencing human rights atrocities. This study as a whole emphasises the importance of agency and resilience of victims and survivors, regardless of the term used.

Acronyms and abbreviations

CARSV	Conflict and Atrocity-Related Sexual Violence
CS	The Comprehensive System of Truth, Justice, Reparation, and Non-Repetition [in Colombia]
CSO	Civil Society Organisation
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
KSC	Kosovo Specialist Chambers and Specialist Prosecutor's Office
IIIM	International, Impartial and Independent Mechanism [for Syria]
IIMM	Independent Investigative Mechanisms for Myanmar
UNITAD	United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL
SGBV	Sexual and Gender-based Violence
SJP	Special Jurisdiction for Peace [in Colombia]
SCSL	Special Court for Sierra Leone
TJ	Transitional Justice
VWS	ICC Registry Victims and Witnesses Section

Executive summary

Despite the increasing focus on victim-centred justice, the incorporation of mental health and psychosocial support (MHPSS) approaches, including trauma-informed methodologies, remains sporadic and inadequately integrated within most justice mechanisms. Good practices exist but are dispersed and inaccessible to many mental health and justice practitioners. However, experience and emerging research show that integrating a mental health focus and promoting multidisciplinary approaches directly contribute to enhancing the well-being and increasing the motivation of participants in the justice system, while improving evidence quality.

This study sought to examine and disseminate effective practices for integrating MHPSS in accountability mechanisms and to foster a community of practice among mental health and legal practitioners. It delves into accountability mechanisms amidst the broader spectrum of transitional justice, applying a gender lens and focusing on the needs of children.

Findings are rooted in the best practices developed by the Victims and Witnesses Sections of the International Criminal Court (ICC) and the Special Court for Sierra Leone (SCSL), supplemented by a desk review of existing practices and guidelines and extensive consultations with a wide array of experts and victim groups. An expert meeting further distilled recommendations and charted future directions.

Part one of this report explains why accountability mechanisms were selected as a focus for this study and describes the varied experience and backgrounds of victims and witnesses of atrocity crimes. Victims have in common that they all suffered from the worst possible violence, although they do not necessarily share a similar self-perception. Notably, the report identifies several ‘testimony paradoxes,’ primarily highlighting the inherent tension within accountability processes that depend significantly on the testimony of those most burdened because of their exposure to violations. This paradox emphasises the critical role of witness and victim support for the success of justice processes.

The chapter further outlines MHPSS in judicial contexts through an adapted intervention pyramid model from the Inter-Agency Standing Committee (IASC). It addresses three critical research questions underpinning the relevance of MHPSS in justice contexts: **How can integrating MHPSS approaches in accountability mechanisms mitigate the risk for harm, improve the quality of evidence gathering, improve the well-being of victims and contribute to healing?** In addition, the study touches on the question of **how MHPSS approaches can also protect judicial operators and professionals working with victims against vicarious trauma and other negative mental health impacts.**

- 1. Risk mitigation.** The risk for psychological harm caused by the involvement in an accountability mechanism can primarily be described under the umbrella of re-traumatisation and revictimisation. These risks can be mitigated on the one hand by targeted specialist and focused non-specialist MHPSS interventions, such as psychosocial vulnerability assessments and offering culturally appropriate psychosocial support before, during and after the interview. Targeted MHPSS interventions should also be accompanied by broader initiatives to strengthen access to community-based mental health and psychosocial support for all victims. On the other hand, it also requires broader efforts to change the entire involvement process to make every step more witness- and victim-centred. Also, training everyone to interact with witnesses and victims is critical.
- 2. Quality of evidence gathering.** The use of trauma-informed interview models, psychosocial vulnerability assessments and witness and victim support interventions can improve the quality of evidence gathering. These approaches build on the rapidly growing knowledge about how trauma affects information processing and thus impacts on the investigative interview process. Using adapted interview models, including developmentally appropriate questions, is critical for children. The use of these techniques, which build on therapeutic skills, requires advanced training and practice, especially if used in interviews with vulnerable witnesses and victims. Psychosocial vulnerability assessments by psychologists and providing psychosocial support before, during and after the interview are essential.
- 3. Well-being and healing.** While research shows that the disclosure of traumatic events reduces stress and health problems and that the formation of a narrative is a critical predictor of good mental health, ‘just revealing is not healing’. Any potentially healing effect of participation in an accountability mechanism does not lie in the mere expression of emotion but in the sense of control perceived over the process. The structural integration of MHPSS approaches can help give victims a role as active agents and create a process focused on dignity and support that brings acknowledgement and meaning. Nevertheless, it is undeniable that victims and witnesses are often emotionally burdened by their involvement and take considerable risks to serve the bigger goal of accountability mechanisms. The tension between personal distress and collective gain in the process can be better understood as a part of a ‘sense of coherence’. This is an essential indicator of well-being, with high cross-cultural validity referring to a person’s capacity to make sense of the world, find meaning and experience predictability, control and agency. Victims are often driven by their need for acknowledgement, their wish to create meaning and regain a sense of control.
- 4. Professional protection.** Protecting professionals working in justice processes from vicarious trauma, burnout, and other mental health risks is an important management responsibility but also vital to protecting witnesses and victims against harm. Staff members who interact with witnesses and victims can only do so in a responsible way if they respect their boundaries, are aware of the risks of vicarious trauma, and have the tools to strengthen their coping skills. The management of mental health risks to staff should be integrated into the structure and operational strategies of the mechanism.

Part two of the study focuses on integrating MHPSS approaches throughout the testimony timeline and describes concrete good practices for implementing them in justice processes. The practices are summarised as recommendations that focus on each critical step that can be identified when considering the process with a psychosocial lens. These shape the experience of victims' and witnesses' involvement and are crucial moments in establishing trust and agency in the process.

Principal recommendations first describe measures that need to be taken before victims and witnesses can be supported throughout all stages of their involvement. They particularly emphasise the structural integration of MHPSS approaches in accountability mechanisms, anchored in their legal and operational frameworks, and the role of psychosocial experts as part of an interdisciplinary senior leadership team and at the operational level. Secondly, the need for staff support to address mental health risks is emphasised.

Before and during *investigations*, hurdles for victims and witnesses to report, give a statement, or otherwise engage with accountability mechanisms should be reduced; efforts should be made to establish rapport and create safety and a solid process to ask for informed consent and ensure confidentiality should be in place. Witnesses and victims should be supported before, during and after the investigative interview.

Practices are described as offering witness familiarisation, protection, and support to witnesses and victims in the *pre-trial stage*.

In the *trial stage*, which includes testimony, post-testimony and judgment, MHPSS approaches should focus on determining special and procedural protective measures. Culturally appropriate psychological support, follow-up, and protection should also be offered during and after the testimony.

In the *appeals stage*, good practices can be implemented to ensure that victims receive accurate information about their entitlement to reparations and that meaningful reparations should be offered.

Finally, **part three** of the study describes a way forward and possible avenues for the next steps of the project. Building on the results of this study, the future project (the Antigone Project) intends to consolidate consensus, further build know-how and strengthen the exchange of good practices. By developing guidelines as a stepping stone to standards and developing a community of practice, the project will strive for the structural integration of MHPSS in accountability processes for atrocity crimes.

The annexe provides a comprehensive reference list, including guidance documents, resource material, and the list of consulted experts and victims' organisations, laying the groundwork for further exploration and implementation of MHPSS approaches within justice mechanisms.

Preface – Why this document?

The role of victims and of victim-witnesses in national and international justice mechanisms for atrocity crimes has progressively gained ground over the past two decades. This development has increased the need for a better understanding of the potential psychological impact of the work of these mechanisms on victims and vulnerable witnesses. It also has triggered a heightened interest in how the use of mental health and psychosocial support (MHPSS) approaches can enhance the well-being of victims and witnesses, improve the quality of evidence, and, ultimately, strengthen their access to justice.

However, notwithstanding the increased focus on victim-centred justice, the use of MHPSS approaches, including trauma-informed methodologies, is still underdeveloped and only scarcely integrated in the work of most justice mechanisms.

Good practices that have been developed are often scattered and not readily available to mental health and justice practitioners, especially those working in national justice mechanisms or in conflict-affected settings. Generally, there is a limited exchange of know-how between mechanisms at international and national levels. True multidisciplinary approaches, combining psychosocial and justice expertise, are largely lacking.

Experience with implementing good practices, at the International Criminal Court (ICC) and in various other judicial and non-judicial mechanisms, as well as emerging research, however, clearly show that the integration of a mental health focus and the promotion of multidisciplinary approaches directly contribute to enhanced well-being of those involved. Such integration is also likely to impact positively on the motivation of witnesses and victims to participate in the justice system and increase the quality of evidence gathering. For instance, using trauma-informed interview models achieves such positive impacts. Integrating knowledge about trauma and its impact on the engagement with victims and witnesses is beneficial to them and the justice process itself.

This study aims to fill this gap by making good practices and know-how more widely available to mental health and legal practitioners in the justice field and by establishing a community of practice. The objective is that this project becomes a catalyst for further integration of mental health and psychosocial approaches as well as trauma-informed methodologies into justice mechanisms to make them truly victim- and witness-centred. The analysis of this study primarily focuses on the work of accountability mechanisms, against the backdrop of a broader landscape of transitional justice mechanisms and measures. While this study does not provide an exhaustive mapping of all practices, it highlights those essential for the integration of MHPSS approaches.

The target group of this study includes policy makers, donors, governments, prosecutors, investigators, judges, defence and victims' counsel, psychologists, human rights experts, other experts, and, above all, victims and witnesses who seek justice and want to be involved in processes which protect their dignity and may contribute to their healing.

This study, therefore, includes recommendations. It intends that these recommendations serve as a basis for the development of future guidelines and, ultimately, standards for the integration of MHPSS approaches in accountability mechanisms for atrocity crimes.

Methodology

This analysis of good practices regarding the integration of MHPSS and trauma-informed approaches in accountability mechanisms for atrocity crimes is firstly built on the good practices developed at the Victims and Witnesses Sections of the ICC and the SCSL. They serve as a basis for this study as they are enshrined in legal frameworks with a strong focus on psychosocial practices, which encourage the use of trauma-informed approaches and carve out a well-established role for psychologists - trauma experts within the Courts' Registry.¹⁴ The MHPSS approaches developed in these contexts were shared with international and hybrid tribunals and investigative mechanisms as part of the ICC Registry's commitment to sharing and exchanging knowledge and the Court's responsibility to promote and support complementarity.

Secondly, an internal and external desk review of existing practices and guidelines was conducted.

Thirdly, extensive consultations were held with a wide range of experts and victim groups to learn about good practices and confirm the validity of the findings. A round of consultations with a few relevant international organisations focused on justice programming.

The good practices shared during consultations have been integrated into part II of this document. They are mentioned in the document in general terms but are not attributed to an organisation or consulted person unless the information is publicly available or explicit permission was given to credit the organisation for the practice.¹⁵

The persons consulted include experts working for accountability mechanisms, UN agencies and NGOs, prosecutors, investigators, defence and victims' counsel, judges, psychologists working in justice mechanisms, international tribunals and domestic legal systems, human rights experts, victim organisations, and academic experts. A complete list of consulted persons and organisations is included at the end of this document.

Finally, a closed online expert meeting was organised to bring together invited experts and organisations to discuss draft recommendations and explore possible next steps. The conclusions of this meeting can be found under Part III: The Way Forward.

A gender lens was applied throughout the research, and particular attention was given to the involvement of victims of Conflict and Atrocity-Related Sexual Violence (CARSV). A focus on the specific needs and capacities of child victims and witnesses was highlighted throughout the document, where specific practices that apply to these groups were mentioned.



PART I Background

1. Why a focus on accountability mechanisms?

Atrocity crimes can be addressed through judicial and accountability mechanisms and broader transitional justice measures. Transitional justice refers to “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”¹⁶ The importance of a comprehensive approach to transitional justice is increasingly recognised; it incorporates judicial and non-judicial mechanisms to ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system and restore confidence in the institutions of the State and promote the rule of law. These approaches include truth-seeking processes, including those that investigate patterns of past violations of international human rights law and international humanitarian law and their causes and consequences; they are important tools that can complement judicial processes.¹⁷

The broad spectrum of possible measures can provide victims with a choice to help design and participate in a wide range of different processes to seek truth and justice, healing, reparations, find closure, and rebuild a resilient community and a future after conflict.

Accountability mechanisms are impactful mechanisms to deal with atrocity crimes. But, if not carried out in a witness and victim-centred way the process can also cause psychological and physical harm to those who choose to participate in the process

In this broad landscape of transitional justice measures, judicial accountability processes occupy a particular place. They are commonly used instruments to deal with atrocity crimes and are important and impactful mechanisms to establish the truth, render justice and restore the rule of law. As such, they can significantly positively affect the lives of victims and affected communities. But,

if not carried out in a witness and victim-centred way, the processes can also potentially cause psychological and physical harm to those who choose to participate in the process. In addition, judicial processes are, per definition, formal and bound to respect critical legal principles such as due process and the rights of the accused. The legal process determines the modalities of participation of victims and not the other way around, as may be the case in more restorative, informal or non-judicial processes. As such, the process results in several limitations to victims’ freedom to participate in the way they may wish to.¹⁸ Victims and witnesses may find it difficult not to be given the opportunity to tell their whole story in court, they may feel pressured or personally offended by the adversarial atmosphere or questions or may feel overwhelmed or disempowered by the complexities of the legal process.

It needs to be noted, though, that also some non-judicial processes with a clear restorative purpose, for example, the South African TRC, were experienced by some victims as alienating. Some felt they were dissatisfied that their case had not been thoroughly documented or investigated, possibly because the exact purpose of the testimony was unclear.¹⁹

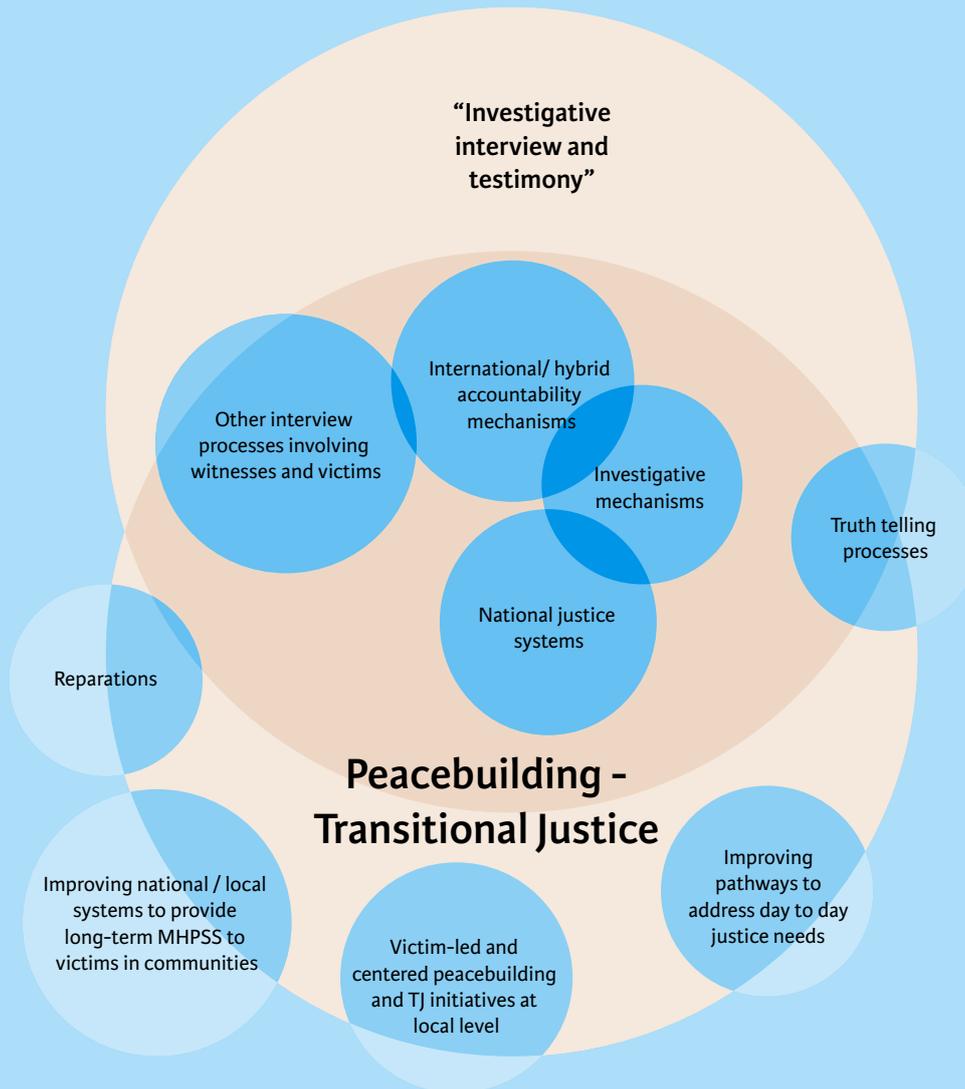


Figure 1 A focus on accountability mechanisms against the backdrop of broader transitional justice and peacebuilding measures.

The choice was made to focus this analysis primarily on the integration of MHPSS approaches in accountability processes for atrocity crimes. These include investigations and trials at international and national levels, including universal jurisdiction cases, but also processes to formally document atrocities in the context of the work by investigative mechanisms, Commissions of Inquiry or Fact-Finding Missions, and other processes collecting detailed victim and witness statements and formally documenting crimes committed to achieve accountability. Also, more recently developed, innovative, mixed processes that combine restorative and retributive goals, such as the Colombian Comprehensive System of Truth, Justice, Reparation, and Non-Repitition Mechanism (CS), are included.

Because of the risk for harm, the many procedural limitations and the often limited number of victims that can actively participate in the proceedings, most of the processes are not always well-equipped to accomplish psychological healing of victims. At the same time, however, a lot can be gained from integrating MHPSS approaches into these mechanisms. The reason why these processes deserve to be the focus of this report is to make them more witness- and victim-centred, increase the well-being of victims participating in the process, reduce the risk for psychological harm, and improve the quality of evidence.

2. Who are the victims and vulnerable witnesses of atrocity crimes, and how do they participate in accountability mechanisms?

Although the victims of atrocity crimes are a very diverse group, what they share in common is that all have suffered from the worst possible violence, primarily committed in environments of conflict or political instability. As a result, the crimes severely impact the individual, their communities, and society (see below). Among the victims are not only those who suffered the violence first-hand but also their partners, relatives, children, grandchildren and even the children of those children, as the impact of atrocity crimes reverberates in the next generations.²⁰ Despite commonalities, victims of atrocity crimes, as well as victim or survivor groups, do not necessarily all share a similar self-perception. They may have very different views on if, how and when they identify as victims or as survivors, how they wish to be treated, and what their needs are.²¹

The role of victims in justice and accountability mechanisms has significantly developed during the past two decades. At present, victims of atrocity crimes can be called as witnesses in a trial and participate as victims in accountability processes. Depending on the jurisdiction and the type of mechanism, they can provide a victim impact statement, be civil parties in a trial, appear before the court as victims and participate in different stages of the proceedings in other ways,²² apply for reparations and contribute to collective victim narratives or submissions to the accountability mechanism. In ‘mixed’ mechanisms, such as the Colombian CS mechanism, victims can participate in reconciliation, restoration, and reparation processes and provide evidence in a trial, if needed.²³

However, several “*testimony paradoxes*” related to the role of victims and witnesses in accountability mechanisms seem to exist, which create challenges for the implementation of mental health and psychosocial support. Firstly

‘Testimony paradoxes’ primarily highlight the inherent tension within accountability processes that depend significantly on the testimony of those most burdened because of their exposure to violations. The paradoxes emphasise the critical role of witness and victim support for the success of justice processes.

accountability mechanisms heavily rely on witnesses’ and victims’ testimony, because of their prior exposure to violations. So, the process depends on those who are already most heavily burdened, which makes them often the strongest and the weakest link in the process. Victimisation and the often consequent severe trauma can make victims and witnesses vulnerable, which may affect their willingness and capacity to participate and increase the risk that the process harms them. Despite efforts made

to provide psychosocial support, there is still a discrepancy between the weight that is put on the shoulders of witnesses or victims and the rigid nature of a court process. Providing psychosocial support will not eliminate all risks of harm, for some are inherent to the limited flexibility of a court process to adapt itself to the needs of these witnesses and victims. However, such support will still diminish the risks or mitigate their consequences.

Secondly, very vulnerable persons are often kept out of the witness box because of their vulnerability and concerns about the quality of their testimony and the risk of harm. But in reality, they can be very good witnesses on the condition that an appropriate level of support is provided.

Thirdly, experience shows that trauma-related factors which are symptomatic of or contribute to a deterioration of mental health and social functioning of victims, can at times be protective factors during interviewing or testimony, for instance, symptoms and alterations of personality focused on self-preservation, such as dissociative mechanisms or learned helplessness.²⁴

A fourth and final contradiction is the **‘protection paradox’**, which lies in the fact that the good practices around the protection of witnesses and victims directly go against the principles of effective psychosocial support of vulnerable persons in conflict-affected settings. Indeed, initiatives to improve well-being are often most successful if rooted in communities and focus on strengthening social cohesion and support.²⁵ However, many accountability mechanisms for atrocity crimes operate in contexts where the risk of threats and reprisals against anyone collaborating with the mechanism may be significant, especially if the processes could result in the perpetrators’ incarceration.²⁶ So, keeping the participation in a justice mechanism confidential, or using cover stories or legends, relocation and isolation from the community and similar protection measures, clash with the concept of community-based psychosocial support, which focuses on seeking social and family support to process experiences and enhancing re-connection to the community as a way to overcome the alienation caused by suffering and victimisation.²⁷

While the psychological vulnerability of victims is often automatically assumed, witnesses who are not victims can also be vulnerable and suffer from harm as a result of their participation in the accountability process. Eye-witnesses, as well as so-called ‘insider witnesses’, often perpetrators, can suffer from trauma as a result of the events they were involved in. The psychological impact of testimony on perpetrators is frequently underestimated, while

they are often among the most important witnesses to establish the facts. In restorative or mixed mechanisms, perpetrators also carry another critical role: their full and detailed acknowledgement of their responsibility for crimes is a cornerstone of the process of bringing reconciliation and healing.

A broad definition of vulnerability is preferable to avoid foregone conclusions about who is vulnerable, often based on stereotypes and biases. At the ICC, for instance, it was decided to define it as follows: **Vulnerable witnesses and victims are those persons at an increased risk of psychological harm by appearing before the Court or who experience psychosocial or physical difficulties which affect their ability to appear before the Court.** According to this definition, vulnerability can be determined by different factors, *inter alia*, factors related to the person: age (children or elderly), personality, disability (including cognitive impairments), mental illness or psychosocial problems (such as trauma related problems or lack of social support); factors related to the nature of the crime, in particular victims of sexual or gender based violence, children that are victims of violence, and victims of torture or other crimes involving excessive violence; factors related to particular circumstances, such as significantly increased stress or anxiety due to relocation/resettlement or fear of retaliation, adaptation difficulties related to cultural differences or other factors.²⁸

2.1 A gender lens and a focus on children

In light of the above broad definition, it is useful to look through a gender lens at who the vulnerable witnesses and victims of atrocity crimes are. A few observations can be made in this respect:

Firstly, it is notable that in international and hybrid accountability mechanisms, the majority of witnesses called to testify have historically been male, with women predominantly called as victims.²⁹ This pattern reflects the reality that women are disproportionately affected by conflict, including sexual violence.³⁰ But, it can also be explained by the prevailing concepts of conflict, which still depict women as victims and men as aggressors³¹ and which is reflected in the profile of the witnesses called. Testimony of insider witnesses and perpetrators is critical, for instance, to establish command responsibility, so the witnesses are primarily male. However, there is a growing effort within these mechanisms to address this imbalance, facilitated by gender-focused analyses and evolving prosecutorial strategies.³²

Secondly, the prevailing belief that female witnesses are more vulnerable than male witnesses is an oversimplification.³³ Vulnerability in a court setting is often expressed through the gravity of traumatic reactions a witness experiences during interviews or testimony and how the person can cope with them. Psychologists at the ICC and in other tribunals observed in their work with witnesses and victims that the level of self-awareness about expected traumatic reactions is inversely related to increased distress during and after testimony. In other words, if witnesses or victims are well aware of signs of distress they expect to experience during testimony, it is easier to prepare and help them cope because the situation becomes more predictable. This awareness enables a more

structured preparation, assisting individuals in coping effectively with the challenges posed by the testimony, as the predictability of their responses increases. The capacity for introspection, or self-reflection, emerges as a key factor in harnessing internal resilience resources. The reality is that a significant proportion of individuals lacking such self-awareness or declining pre-testimony support and counseling are male witnesses. This observation can be linked to stereotypes of masculinity, in particular the self-perceived role as ‘warriors’ or stoic figures, which discourages emotional expression or seeking help. As a result, if these men, often insiders or perpetrators, experience strong traumatic reactions during their testimony, they are often completely overwhelmed by the sudden confrontation with their trauma, which they had to suppress for so long. This sometimes results in a breakdown and more suffering.

More generally, when looking through a gender lens at the different phases of involvement in the accountability mechanism, specific moments can be highlighted which are more sensitive for victims of CARSV or which may be experienced differently, depending on the gender and profile of the witness or survivor.³⁴ For example, women victims of CARSV, often face considerable barriers in deciding to provide testimony, primarily due to the pervasive fear of stigmatisation, societal rejection or victim-blaming. For male victims of sexual violence or victims from the LGBTQ+ community, these hurdles may also be substantial, although different, as they are often held back by stigma and shame fuelled by traditional views of masculinity and a gendered narrative of conflict and war.³⁵ Throughout the other stages of the accountability process, similar levels of heightened attention are necessary for the most vulnerable witnesses and victims. This tailored approach acknowledges the unique experiences and needs of these individuals, ensuring that the accountability mechanisms are inclusive, sensitive, and effective in addressing the complexities of gender-based violence and trauma.

Although children are disproportionately affected by conflicts worldwide,³⁶ they remain notably under-represented as witnesses and participating victims in accountability mechanisms for atrocity crimes.³⁷ This discrepancy can partly be explained by the time which often passes between the crimes committed and the initiation of an accountability process. Most children are adults by the time they can participate in an accountability mechanism focusing on the crimes they suffered earlier in life. However, because of growing international attention on crimes against children and recently increased efforts to document and investigate crimes while the conflict is still ongoing, for instance in Ukraine, children will become a more substantial group of witnesses and victims in the future. As their involvement is shaped by their stage of development, the particular risk for harm and their particular needs and interests, they deserve specialised psychological attention and adapted practices and procedures. There are already some successful precedents in this regard. For example, the Special Court for Sierra Leone (SCSL) and the Sierra Leonean Truth and Reconciliation Commission have demonstrated how transitional justice mechanisms can meaningfully and sensitively include children. These examples serve as valuable models for integrating child witnesses and victims in a manner that respects their rights and addresses their specific needs within the framework of accountability for atrocity crimes.³⁸

3. Understanding the psychosocial impact of atrocity crimes and the burden of testimony

Brandon Hamber writes: “Where psychology is integrated into social and political processes, it is often done in a rather unsophisticated way. [...] processes often struggle to integrate psychological complexity.” He further points out a common misconception: “that as long as victims were crying at hearings [of the South African TRC], healing will happen”. We agree with the vision of Hamber, who calls this a “very rudimentary notion of catharsis”.³⁹ At the basis of this error lies a persistent limited understanding of the psychological impact of atrocity crimes, the value and burden of testimony and, as a consequence, the diffuse expectations about what accountability processes can bring to participating victims. More importantly, it illustrates the often poor understanding of the MHPSS approaches and the role psychosocial experts can play in the process.

This begs the question: how can a better understanding of the impact of atrocity crimes and of testifying about these crimes help us to grasp how accountability processes can contribute to healing? And how can MHPSS approaches play a catalyst role in this process?

3.1 The psychosocial impact of atrocity crimes

Atrocity crimes can lead to a wide range of psychosocial problems for victims and affected communities. Victims often struggle to recover from acts of extreme violence and experience significant difficulties to regain control over their lives and re-establish connections with their communities. In addition to the individual harm, societies may also suffer from trauma. Widespread violence leads to the rupture of the social fabric and loss of connection, leaving communities fragmented. Some crimes, such as sexual violence, are a practice of war and sometimes a tool committed to dislocate families and destroy the social fabric purposely.⁴⁰ Individual and collective suffering are also interlinked and interdependent,⁴¹ which makes the experience of direct and indirect victims and future generations complex and layered.⁴²

Psychological suffering after atrocity crimes is frequently referred to as trauma, which can be defined as “an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life-threatening and that has lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well-being”.⁴³ This concept is often narrowed down to the psychiatric diagnosis of Post-Traumatic Stress Disorder (PTSD), which refers to the presence of a well-defined set of symptoms of intrusion, avoidance and hyper-arousal as a consequence of the exposure to a traumatic event.⁴⁴ However, this diagnosis has a narrow focus and describes just one manifestation of psychological suffering in the aftermath of atrocities, while often a general increase in mental illness is observed.⁴⁵ In addition, the clinical use of the concept of PTSD strictly based on its diagnostic criteria neither considers the impact of traumatisation on the family system or the entire social surroundings nor does it reflect the wide variety of cultural manifestations of grief and individual responses to trauma

and suffering. Moreover, it often overlooks the capacity of individual resiliency and the possibility of recovery without clinical care.⁴⁶ Trauma affects the capacity of victims to relate to others and the world. Also, traumatisation in the context of atrocity crimes is often due to years of violence and long-lasting, recurrent, extremely traumatic experiences. All these elements are not captured in the clinical, ‘Western’ definition of post-traumatic stress.⁴⁷ However, it would be a mistake to conclude that concepts of mental disorders, as well as their treatment, have no relevance outside of Western cultures.⁴⁸ Also, the neurobiological basis of trauma, which highlights the universality of the problem, plays a critical role in the understanding of the impact of trauma on information processing and the consequences for the interview and testimony process, which is why a trauma-informed approach, integrated into broader MHPSS approaches, can offer a solid basis to develop good practices.⁴⁹ Furthermore, victims of CARSV or torture, crimes which are increasingly at the centre of investigations, have a higher risk of developing symptoms of extreme trauma, which makes use of a trauma-informed approach relevant.⁵⁰ And finally, the critical importance of the sense of loss of control as part of trauma makes it a central aspect of the interaction with witnesses and victims.⁵¹ However, the provision of psychosocial support can help turn testimony into a healing experience for some victims and vulnerable witnesses. The clear presence of resilience and strong motivation to testify should, therefore, be seen in juxtaposition to the suffering and need for support, as victims are also survivors who are much more than their trauma.

3.2 The burden of participating in an accountability mechanism

What is the impact of the involvement in accountability mechanisms on victims and witnesses in light of the complex and multi-layered effects of atrocity crimes? Mindful that participation can take many forms, the potentially negative impact can be partly described under the umbrella of re-traumatisation and revictimisation. The positive effects discussed below can exist at different levels, such as a sense of contributing to achieving justice, punishment of perpetrators, reconciliation and reparations, establishing the truth, individual and collective healing, finding acknowledgement, meaning or closure and many more personal and collective evaluations, depending on the motivation to participate in the accountability mechanism.

Re-traumatisation in this context refers to the exacerbation of trauma-related distress⁵² or the process in which trauma-related reactions and survivor behaviour are reactivated as a direct result of victims’ and witnesses’ exposure to triggers during their involvement with an accountability mechanism. For instance, the nature and the level of detail of facts that need to be recalled during an investigative interview or testimony in court can trigger traumatic memories and reactions during and after the interview. “Although the exposure may not be inherently traumatic but may only carry reminders of the original traumatic event or relationship, re-traumatisation typically refers to the re-emergence of symptoms previously experienced as a result of the trauma.”⁵³

When vulnerable witnesses or victims experience flashbacks during their testimony in court, they can be triggered by questions about their traumatic experience. However, sometimes more neutral elements or questions, such as

a tone of voice used in court, simple questions about where a victim lived or simply the witness's thoughts, can evoke flashbacks. These re-emerging reactions can be addressed by psychological support during and after testimony. However, for some victims who experience frequent re-emerging of flashbacks or trauma reactions during the process, this can lead to an exacerbation of trauma symptoms or other signs of suffering after the testimony.

Revictimisation or secondary victimisation refers to a victim's experience of feeling victimized again by the justice system. Revictimisation can be caused by the attitude of those representing the mechanism. Specifically, expressions of stereotypes and biases towards the victim and the crime, disbelief about what occurred, minimalization of or suspicion about the victims' experience, an uninformed attitude of investigators or victim-blaming can trigger feelings of shame and guilt in survivors.⁵⁴ It can also be caused by the process itself if the rights of the victim are not respected or if the nature and complexity of the legal process take away their sense of control. Also, the adversarial nature of proceedings can be experienced as offensive and revictimizing. Often, the sense of responsibility and urge to find justice may create pressure to disregard the personal boundaries of victims and those prosecuting the crime. The exposure to threats, the risk of physical harm and the anxiety it causes can also be revictimizing. For various reasons, including persistent gender stereotypes and poor investigative practices, victims of CARSV are particularly vulnerable to revictimisation.⁵⁵

The devastating impact of re-traumatisation and revictimisation cannot be underestimated, as it taints to a large extent the overall experience with the justice system.

Finally, **poor management of victims' expectations** is a factor that is strongly associated with revictimisation. Insufficient information or wrong expectations about the process, goal, expected outcome, duration and complexity may increase the burden for witnesses and victims.⁵⁶ Sometimes, the justice system does not meet victims'

reasonable expectations. "Victims may feel secondarily victimised when their expectations do not meet up with how they are treated during the trial by the judge or a defence lawyer."⁵⁷ Management of expectations should also include providing information on possible outcomes of the judicial process, the importance of fair trials, and the value of an acquittal. It requires contextualising the value of criminal prosecutions as part of the broader realm of transitional justice initiatives. Expectation management is a process that requires an ongoing dialogue throughout their involvement, especially as satisfaction with the process is one of the critical elements influencing recovery.

Re-traumatisation and revictimisation are two processes that partly overlap and mutually reinforce each other. Victims who experience revictimisation are also more likely to experience re-traumatisation and vice versa. The devastating impact of re-traumatisation and re-victimisation cannot be underestimated, as it negatively taints the overall justice system experience. Notably, a negative experience has a cascading effect on the mental health of the victim. "The negative impact of criminal proceedings against the alleged perpetrator(s) is one of the factors that may explain the elevated risk for developing persistent complex bereavement disorder, PTSD, and depression after a violent death of a loved one."⁵⁸ Negative experiences also impact the willingness of other victims who are considering coming forward to testify and, ultimately, on the capacity to prosecute grave crimes.

It needs to be noted that even in well-led mechanisms which integrate MHPSS and trauma-informed approaches, operate in a witness and victim-centred manner, where victims' rights are respected, and where the risks for re-traumatisation and re-victimisation are managed, participation can be a heavy burden for victims and witnesses. No matter where they are in their process of grief and overcoming suffering, the confrontation with memories of the past and with all that was lost is often painful and challenging despite the good that can result from accountability processes.

4. How can the integration of MHPSS approaches into accountability mechanisms mitigate the risk of harm and improve the quality of evidence and well-being for victims of atrocity crimes?

MHPSS approaches include a broad range of activities and interventions to address psychosocial problems and needs and prevent or treat mental disorders.⁵⁹ In the context of accountability mechanisms for atrocity crimes, MHPSS approaches can have three distinct and concrete goals to:

- mitigate psychological harm caused by the involvement in the accountability mechanism,
- enhance the quality of the evidence gathering and of testimony and to facilitate the interaction with the accountability mechanism,
- protect and contribute to the well-being of witnesses and victims involved in the process.

The implementation of the above goals can contribute to two larger long-term goals to:

- enhance the capacity of the accountability mechanism to contribute to healing,
- facilitate access to justice for victims.

In addition, MHPSS approaches can be the basis for strategies to support professionals working in accountability processes and protect them against vicarious trauma and other mental health risks.

Among humanitarian actors, there is consensus to present MHPSS approaches as an intervention pyramid of multi-layered, complementary supports, ranging from basic services and security, community and family supports, focused, non-specialised services to specialised services,⁶⁰ with a focus on cultural sensitivity and ethical approaches. Mirroring this pyramid, MHPSS interventions in relation to accountability mechanisms can be grouped in a similar way. (see Figure 2)

IASC Model (adapted)

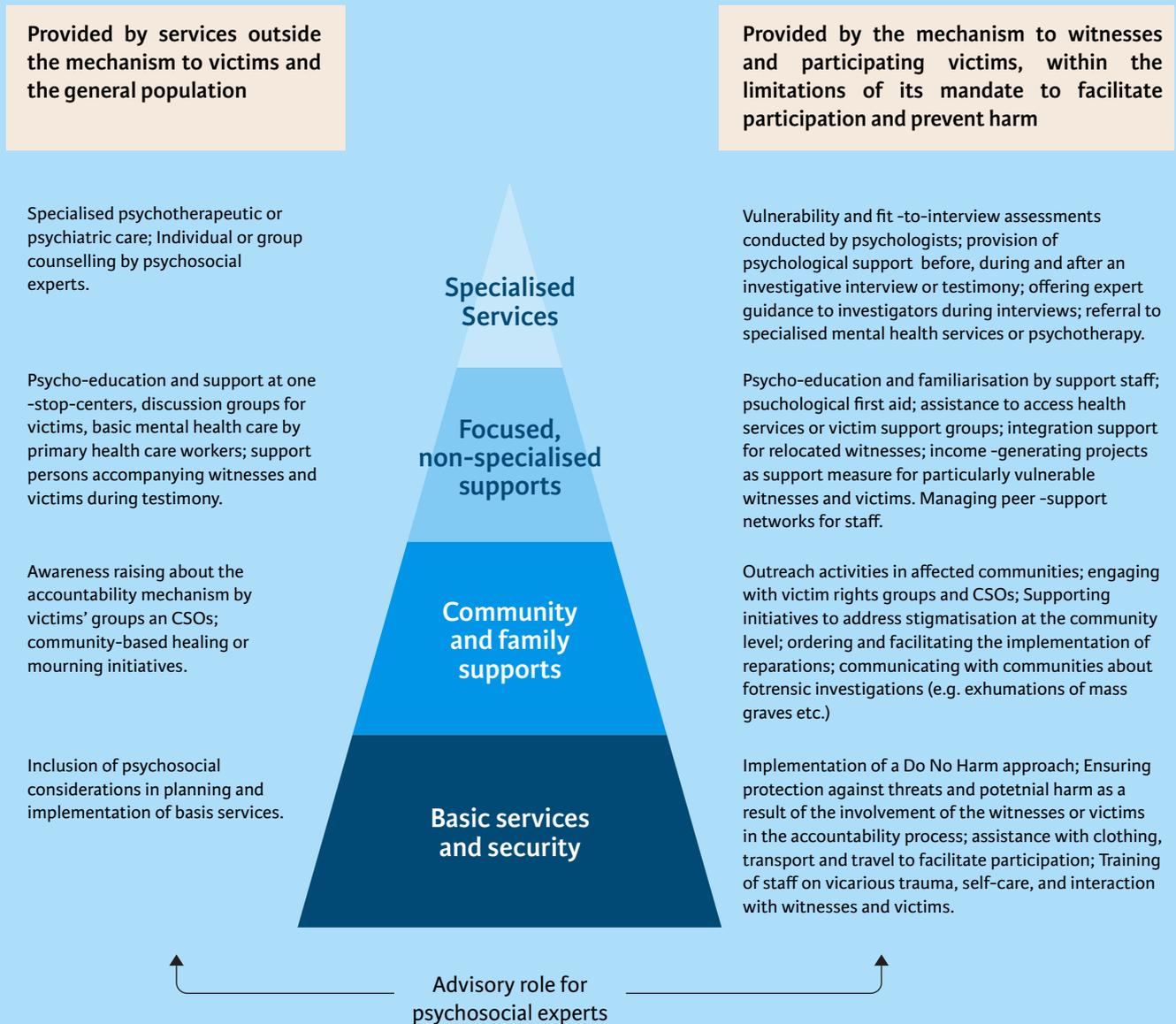


Figure 2 MHPSS interventions in the context of activities of accountability mechanisms (adapted from IASC mental health and psychosocial support intervention pyramid).⁶¹

In addition to the interventions, there is an important advisory role for psychosocial experts involved in the work of accountability mechanisms to mainstream a Do No Harm-approach throughout the mechanism, train staff and community-based organisations involved, advise Judges, prosecutors and others on matters related to mental

health and vulnerability of witnesses and victims and advise and implement strategies for staff support and prevention of vicarious trauma.

In most accountability mechanisms, MHPSS approaches for witnesses and victims are developed within the limitations of a clear legal, operational and ethical framework, which determines the boundaries of the support and assistance provided. For instance, the ICC regulatory framework, in particular its delineation of the mandate of the Victims and Witnesses Section, guides the scope of support and assistance as limited to measures put in place to facilitate interaction with the Court and prevent further harm resulting from this interaction.⁶²

In addition to the support provided by the mechanism, external entities such as **victim groups, civil society organisations and health services play an essential role in offering psychosocial support to victims.**

4.1 Mitigation of risk for psychological harm

The risk for psychological harm to witnesses and victims in accountability processes for atrocity crimes has been increasingly recognised by the international community.

Do No Harm is a fundamental principle of medical ethics that requires an assessment before providing an intervention or treatment to determine whether ‘*to do something good or to do nothing*’. Nowadays, the principle is also firmly anchored in the humanitarian and justice codes of conduct and practices.⁶³ The Do No Harm principle and

the obligation to protect victims’ and witnesses’ safety, physical and psychological well-being, dignity and privacy have been enshrined into the Statutes, legal frameworks and applicable international standards and guidelines.⁶⁴

Although the obligation to prevent harm and protect witnesses is a shared responsibility,⁶⁵ in many accountability mechanisms, a **specialised victims and witnesses section** is trusted with the mandate to protect witnesses and victims from harm. This unit usually operates as an independent and neutral entity inside the mechanism to ensure an objective assessment of risk and implementation of measures in the best interest of the witness or victim.

Psychologists and other psychosocial experts, often but not always connected to the victims and witnesses section, have an important role to play in advising the mechanism to mainstream a Do No Harm approach, and to integrate MHPSS approaches in policies and procedures which are focused on prevention of re-traumatisation and revictimisation.⁶⁶

Concretely, **the risk for re-traumatisation can be addressed by direct, specialised interventions and by focused non-specialist interventions.** For instance, culturally appropriate psychological support before, during, and after interviews or testimony, possibly preceded by a psychosocial vulnerability assessment, can help mitigate the risk of re-traumatisation. Interventions can focus on reducing anxiety and calming the witness or victim down, providing tools to manage traumatic reactions and monitoring risk. Psychologists can also advise interviewers on identifying

and removing triggers, building rapport, and approaching difficult parts of the questioning. Advising Judges and parties on the need for special measures can mitigate the risk of re-traumatisation during testimony. Information about the possible psychological impact of testimony can help manage witnesses' and victims' expectations and create predictability.

Addressing the risk of revictimisation demands a much broader effort, as it may require changes in the entire involvement process to make every step more victim and witness-centred. Efforts should focus on adapting processes to the vulnerabilities, capacities and, in the case of children, the developmental stage of victims and witnesses; offering a sense of control through ongoing contact with witnesses and victims, informed consent processes and applying the highest level of confidentiality regarding medical, psychological and other personal information; respecting professional roles, procedures and ethical standards are indispensable to protect the dignity of witnesses and victims, to avoid wrong expectations or unprofessional treatment of witnesses and victims. Respecting the personal boundaries of everyone involved serves the same purpose. Last but not least, the mitigation of risk for threats, stigmatisation, retaliation or physical harm is a basic condition to avoid re-victimisation by the justice system.

Staff support and training are also vital tools to protect victims and witnesses. Training on the psychosocial aspects of testimony, interviewing techniques, confidentiality, informed consent processes, and related topics is essential.

Protecting victims and witnesses should also include **the management of their expectations** and guidance in their decision to participate, as exaggerated expectations create a risk of re-victimisation. Fit-to-interview assessments can assist in probing for expectations and motivations to testify. However, rather than excluding witnesses or victims from the process because of their inflated or wrong expectations, more time needs to be spent on providing information, helping them to get a better insight into their motivations and emotions and guiding them through the process. This may be particularly important for victims who are strongly driven by emotions or suffering in their decision to participate. It has been shown that anger, for example, is a strong motivator to decide to participate in a trial as a victim, which is associated with higher levels of psychopathology in comparison with those who choose not to participate.⁶⁷

4.2 Enhancing the quality of evidence and facilitating testimony

The significant progress made in psychological research around memory processes has expanded our knowledge about **how trauma affects information processing** and how it influences information encoding, storage and recall.⁶⁸ This evolution impacts how MHPSS and trauma-informed approaches can be used to enhance the quality of evidence gathered from witness and victim statements and facilitate testimony.

It has been established that imprints of traumatic experiences include traumatic memories, which are qualitatively different from autobiographical memories of childhood events or lifespan milestones such as graduation from school. The traumatic memories are, at least initially, dissociated mental imprints of sensory and affective elements of the traumatic experience.⁶⁹ As a result, if recalled, these memories are often fragmented, non-chronological, sensory, and highly emotional snippets of information. Some parts are remembered vividly, while accessing other memories may be difficult.⁷⁰ Persons suffering from trauma may report that the memories sometimes come back suddenly as intense re-visualisations of the traumatic scene, also called flashbacks, or as intrusive thoughts, nightmares or other ‘flight or fight’ responses. Flashbacks consist of detailed images that provoke intense emotions of fear, helplessness and horror.⁷¹ Persons suffering from trauma report that they sometimes feel “as if it is all happening again”, while at the same time, they often try to avoid anything that reminds them of the event. Sometimes, they lack any emotional response and come across as numb. Or they report significant gaps in their memory of the event or experience, sometimes subtle, moments of ‘absence’. These can be moments of dissociation,⁷² a very powerful survival mechanism to protect against unbearable suffering that can affect the process of information processing in very significant ways.⁷³

The vicious circle of trying to forget and being forced to remember often has a destabilising effect on the lives of victims suffering from trauma. They often express how the traumatic events made them feel powerless, unable to act against their aggressor, and incapable of protecting themselves and their loved ones against the threat of being killed, raped or otherwise harmed. Afterwards, the trauma symptoms again cause a sense of loss of control, as the unwanted, intrusive thoughts, flashbacks or nightmares seem to appear arbitrarily, prompted by seemingly random triggers.⁷⁴

A lot of findings and practices developed in psychological care settings and research found their way to the criminal justice practice. These therapeutic interventions can significantly improve the interview process.

This dynamic also has significant **consequences for the interview and testimony process**. Accessing the memories during an interview can be daunting because of the strong emotions it provokes. Trauma reactions might be triggered by a state of hyperarousal or nervousness, by the type of questions, by non-verbal behaviours or the interviewer’s voice, and by the way rapport is established.⁷⁵ The characteristics of the interview room or other non-threatening situational cues or random aspects of the interview set-up

can also play a role; it can initially be challenging for interviewees to establish chronology or describe facts in an organised manner; they might suffer from nightmares after the interview or experience intense feelings of sadness, guilt, shame or suicidal thoughts in the days or weeks after. Also, if re-interviewed after a long time, persons with a high level of trauma face a higher likelihood that their accounts are inconsistent, especially in details they rate as peripheral to their experience.⁷⁶ If these trauma-related factors are not adequately addressed throughout the interview, they can ultimately affect the witness’s credibility.

For these reasons, the use of a **trauma-informed interview model** is of critical importance as it takes into consideration the knowledge about trauma and memory. The role of psychologists and other experts in this process can be two-fold: they can advise on the design of the interview protocols and court procedures and provide training to investigators, and they can provide vulnerability assessments and support vulnerable witnesses and victims before, during and after the interview.

Many findings and practices developed in psychological care settings and research have found their way into the criminal justice practice. These therapeutic interventions can significantly improve the interview process. For example, research showed that different approaches to regulating distress are regarded as essential to maintaining rapport in investigative interviewing of traumatised interviewees. In essence, the trauma-informed interview models build on the knowledge about trauma, memory, and memory-enhancing techniques, as well as on clinical expertise on creating a relationship of trust and giving control to the victim as a basis to share difficult memories and create a precise, chronological and truthful narrative of events.

Rapport-building reduces anxiety and increases the accuracy of recall, in particular in response to open-ended questions.

Building rapport and creating safety traditionally refer to clinical settings where therapists build an alliance and a shared understanding with their clients to create a safe space for psychotherapeutic interventions. In an investigative setting, building rapport is essential to reducing

anxiety. If familiarity and connection are developed, and survivors or witnesses feel that the interviewer is supportive, many will feel more at ease and less anxious. Further, if emotional reactions are appropriately managed and the interviewee becomes more at ease, the amount and quality of information obtained will likely increase.⁷⁷ It is easier for traumatised interviewees to stay within their window of tolerance⁷⁸ and experience less dissociation if they are in a relaxed state. Numerous empirical studies examining investigative interviews of children have shown that rapport-building by a supportive interviewer increases the overall accuracy of child witness reports and decreases the number of incorrect responses to misleading questions.⁷⁹ For adults, studies show that rapport-building reduces anxiety and increases the accuracy of recall, in particular in response to open-ended questions.⁸⁰ Concretely, rapport building occurs when interviewers recognise the emotional state of the interviewee, especially the non-verbal signs of distress. Often, the body is the first to react to the interviewer's questions. Communicating acceptance, modelling how to cope with painful emotions, responding to emotional needs and offering positive feedback are therapeutic skills which can contribute to better interview outcomes. However, developing these therapeutic skills requires training and practice. Psychologists can help interviewers by conducting pre-interview psychosocial assessments and being present during interviews or available to interviewers and interviewees to provide feedback, guidance and support.

Other elements of the trauma-informed interview model reflect current scientific knowledge about how trauma works. For instance, using a free narrative phase gives interviewees control to safely gather their thoughts and provide a narrative without being too quickly directed toward recalling painful memories or filling in memory gaps.

More specific questions can be asked to build on their narrative only when the person has safely explored their story. The same applies to **open-ended questions**, which allow the interviewee to scan fragile memories without being misled.⁸¹ **For interviews with children, questions need to be developmentally and culturally appropriate.** In conjunction with their cultural context, their cognitive, linguistic, emotional, and social development level must be considered to avoid incorrect answers, miscommunication, and misunderstandings.⁸²

Including an MHPSS approach in the interview process by making it trauma-informed and focusing more on rapport will enhance the quality and quantity of the evidence gathered. Research showed that interviewees in such settings reported substantially more information than in ‘non-rapport’ interview settings.⁸³

4.3 Improving well-being and contributing to healing

How can MHPSS approaches contribute to the well-being of witnesses and victims involved in the process and, ultimately, enhance the capacity of the accountability mechanism to contribute to healing?

To answer this question, two issues should be considered. Firstly, how should well-being be defined in this context? And secondly, do accountability mechanisms contribute to healing? And if so, how?

Ideally, accountability mechanisms should operate in such a way that victims involved can experience a sense of agency in the process, which helps them to regain control over their lives, find connection, no longer being in the grips of the past and thus improve their well-being.

There are different ways to define well-being, some focusing on the presence or absence of signs or symptoms of suffering and trauma, while others centre more on the factors that support health and well-being. One of the latter frameworks that can be very useful in this context of testimony and resilience is Antonovsky’s “Sense of Coherence” model as a conceptualisation of successful coping. This model has high cross-cultural validity and

strongly indicates well-being. In short, **a sense of coherence is a trait which refers to a person’s capacity to make sense of the world, find meaning, and, above all, experience a sense of manageability, predictability, control and agency.**⁸⁴ **Equally important for well-being is a sense of belonging and connection to others in the past, present and future. Well-being is also closely linked to broader socio-economic factors.** Specific to the key features of trauma and the multi-layered impact of conflict, it is clear that atrocity crimes destroy the ‘building blocks’ of well-being.⁸⁵ As a minimum goal, an accountability mechanism should not further undermine a victim’s sense of coherence or alienate them from their community. Ideally, **it should operate so that victims experience a sense of agency that helps them regain a grip on their lives, find connection, be unstuck from their past, and improve their well-being.**

Some research indicates a causal relationship between the interview style in an investigative interview and psychosocial well-being in terms of a sense of coherence. In settings where the interviewer had a ‘humanitarian style’,

interviewees reported a higher sense of coherence. Increased anxiety during the interview was associated with a lower sense of coherence.⁸⁶

There is a large and growing body of research showing that disclosure of traumatic events reduces stress and health problems. The formation of a narrative is a critical predictor of good mental health.⁸⁷ However, “Just revealing is not just healing”. The mere expression of emotions during a court hearing is not therapeutic.⁸⁸ Research indicates that delivering a victim impact statement in a trial does not have a therapeutic effect in significantly decreasing anger or anxiety. “ **The therapeutic effect of participation does not lie in the mere expression of emotion but in the sense of control perceived.** Victims who experience higher feelings of control over their recovery show a decrease in feelings of anger and anxiety.”⁸⁹ Empirical research on the impact of satisfaction with the criminal justice process on the emotional recovery of victims shows mixed results. While some studies indicate that satisfaction leads to improved well-being, other research report inconclusive findings.⁹⁰

It is not just the fact that mechanisms give space to victims to participate or testify, but rather how the process works, which seems to be the key-factor to well-being.

The above findings show the complexity of how testimony affects well-being and the complication of justice’s mechanisms’ ambition to bring healing. Above all, it is clear that it is not just the fact that mechanisms give space to victims to participate or testify, but rather *how* the process works, which seems to be the key factor to well-being. **When**

victims are given a role as active agents in a humane process focused on dignity, providing support, and bringing acknowledgement and meaning that meets their expectations, the process can contribute to their well-being and healing. The minimal research done on the psychological impact of the work of international criminal tribunals on participating victims and witnesses seems to confirm this conclusion.⁹¹

However, at the same time, **it is undeniable that participating victims and witnesses are often emotionally burdened by their involvement and that they take considerable risks to serve the bigger goals of accountability processes.** In criminal justice processes, which are still often retributive in nature, victims who agree to testify as witnesses serve the process. Their story is used to bring evidence. The direct purpose is not their healing but a decision about the guilt of the accused or the establishment of facts. Also, non-judicial processes and traditional justice mechanisms, often with a clear restorative goal, are not spared from this paradox. Some studies on the effectiveness of truth commissions and traditional justice mechanisms indicate that participating victims often felt significantly worse after their testimony or that giving testimony was an emotionally painful experience. However, the collective ritual of the hearings had a positive effect at a societal level, for instance, in terms of enhanced social integration and group identity.⁹²

The tension between personal distress and collective gain can be better understood as a sense of coherence in the context of well-being. **Victims are driven by their need for acknowledgement, their wish to create meaning and regain a sense of control,** or, as Stover put it: “their compelling need to tell their story”.⁹³ To reach this goal, they

are willing to accept – at least temporarily – an increase in emotional suffering by agreeing to bring forward their evidence. However, this does not mean that their emotional suffering should be taken for granted. In mechanisms that are not survivor-centred, where little or no psychosocial support is available, there is a higher likelihood that victims and witnesses look back at their experience in a more negative way. The risk for re-traumatisation and revictimisation is elevated under these circumstances.⁹⁴

Research on the work of international and hybrid accountability mechanisms confirms that accountability processes where support was available resulted in more positive feedback from witnesses and victims. Research on the SCSL reveals that witness' worries fade over time, and their well-being increases when their physical safety is ensured, information is familiar and accessible, and extensive psychosocial and other support is offered throughout the process.⁹⁵ Similar research indicates that victim-witnesses "...valued the opportunity to break their long-held silences and that testifying [...] caused them to feel a sense of great psychological freedom and relief."⁹⁶ Research conducted at the ICC concludes that providing psychosocial support and extensive familiarisation with the process is critical for witness well-being.⁹⁷

Clearly, factors related to the whole spectrum of MHPSS approaches, such as targeted psychosocial support, familiarisation with mechanism's processes, and fulfilment of basic needs such as safety, make a difference for witnesses and victims. It illustrates that integrating mental health and psychosocial approaches is not a 'nice to have' but rather an essential tool to improve well-being and allow mechanisms to fulfil their promise of healing.

Targeted MHPSS interventions in accountability mechanisms should be accompanied by broader initiatives to strengthen access to community-based mental health and psychosocial support for all victims.

However, the '**protection paradox**' or tension between efforts to ensure the protection of victims and witnesses on the one hand and interventions to enhance well-being on the other explains why community-based long-term support is a missing element in the spectrum of MHPSS approaches described above. Indeed, **the obligation**

to keep witnesses and victims' identities and the content of testimony confidential often limits the capacity for victims and witnesses to talk about their experiences as witnesses or victims outside the mechanism and seek support at the community level. For that reason, individually targeted psychosocial support is often the only available alternative. At the same time, other victims who do not participate directly in the accountability process may also need psychosocial support because the work of the mechanism may trigger painful memories or might stir up the underlying community dynamics. Therefore, **targeted MHPSS interventions in accountability mechanisms should be accompanied by broader initiatives to strengthen access to community-based long-term mental health and psychosocial support for all victims.**

However, even if the scope of the interventions is limited, MHPSS approaches are meaningful. Experience developed at the ICC thought us that the restricted space for intervention set by the institutional mandate creates an opportunity rather than a limitation. Indeed, the goal of the psychosocial work at the ICC is not therapeutic

but rather one of facilitating participation and preventing further harm due to involvement in the court process. Indirectly, by helping achieve positive and meaningful participation, psychologists contribute to bringing closure and ‘catharsis’ for witnesses and victims. The restorative impact primarily lies within the judicial process – enclosed in the different steps from statement taking to testifying to judgment – even if this process is mainly retributive. In this way, facilitating access to justice in a dignified way and ensuring meaningful interaction with the Court can ultimately have a therapeutic effect for many people.⁹⁸ Restorative processes, though, and even more so those with a mixed retributive–restorative justice design, such as the Colombian Special Jurisdiction for Peace, can be expected to have an even more substantial potential to bring healing and restore the social fabric.⁹⁹

4.4. Vicarious trauma and other mental health risks for professionals

Also, professionals working in justice processes and directly with victims and witnesses need to be protected from psychological harm. They can suffer from secondary trauma, vicarious trauma, and other mental health risks as a result of their exposure to stories, images and materials depicting and describing traumatic events.

Vicarious trauma refers to the process in which indirect exposure to trauma through a first-hand account or narrative of a traumatic event can in itself constitute a traumatic experience for the person involved. It is usually a slow, cumulative process that occurs over the course of being directly or indirectly exposed to a significant number of personal stories. Anyone who engages empathetically with survivors of trauma is potentially affected.

Secondary traumatic stress refers to symptoms that may appear after listening to trauma stories and which are similar to symptoms trauma survivors experience. The phenomenon is closely related to **compassion fatigue**, which refers to the physical, emotional, and psychological impact of helping others.¹⁰⁰

Workplace **burnout** is a psychological syndrome that involves an extended response to chronic occupational stress. It is not related to direct or indirect trauma exposure.¹⁰¹

Staff members who interact with witnesses and victims can only do so in a responsible way if they respect their boundaries, are aware of the risks of vicarious trauma, and have the tools to strengthen their coping skills. Overburdened, apathetic or over-involved staff members cannot build rapport with witnesses and victims, recognise their needs or appropriately interact with them. Psychologists are well placed to advise the mechanism of procedures and policies and monitor the boundaries and professional roles of everyone interacting with witnesses and victims.

For persons suffering from primary trauma, the additional exposure to vicarious trauma may exacerbate primary trauma-symptoms and suffering. This may be a risk for local staff of the accountability mechanism, who may have lived through the conflict themselves. Also particularly at risk are investigators and analysts who hear first-hand accounts of witnesses and victims. Many have to frequently review violent (social media) photos and video-footage. A

Professionals who interact with witnesses and victims can only do so in a responsible way if they respect their personal boundaries, are aware of risks for vicarious trauma, and have the tools to strengthen their coping skills.

safe approach is to assume that everyone who is exposed is at risk, independent from their professional position, as personal history of staff is often not known. Also, the field of transitional and international justice tends to attract people with a strong drive and sense of justice. Sometimes, the personal motivation to work for a justice mechanism can be rooted in a personal or family history

of trauma, displacement or conflict which may resonate with the stories of victims heard in a professional context.

The psychological burden of working with victims and witnesses also interferes with other work-related stressors that may be present in an accountability mechanism, such as high workload, high expectations of the (international) community, an adversarial environment, or a sometimes toxic work climate.

PART II Integration of MHPSS approaches throughout the testimony timeline – Good Practices

This section describes what the integration of MHPSS approaches and trauma-informed recommendations in accountability mechanisms concretely looks like, along with the practices for implementing them in justice settings.

From a victim- and witness-centred perspective, it is most logical to look at MHPSS approaches that align chronology with their use within each accountability mechanism.

For example, in the testimony timeline, different *phases of involvement* of victims and witnesses can be identified that are determined by each *stage of the legal process*. For instance, a witness can give a statement during investigations to the prosecution, and testify during the trial stage. The defence can identify witnesses during the pre-trial or trial stage, and, depending on the legal system, a legal representative for victims can also start representing a victim during the trial stage and continue to accompany them until reparations are ordered. Also, investigative and documentation processes follow some of the phases of this timeline. They can interview witnesses and victims during their investigations but hand over the case to national jurisdictions for a trial, in which a witness or victim can participate much later. For Commissions of Enquiry and similar processes the engagement with witnesses and victims would not proceed beyond the statement taking during investigations.

Within these phases of the testimony timeline *critical steps* are identified when considering the process with a psychosocial lens. **These are particularly important as they shape the experience of victims' and witnesses' involvement and are critical moments in establishing trust and agency in the process.**

Finally, a description of the different critical steps in the testimony timeline lists the good practices for each phase to address the risk of harm and facilitate participation. Those include specific MHPSS approaches and more general methods, which contribute to an essential pre-condition for MHPSS approaches to succeed.

Testimony timeline

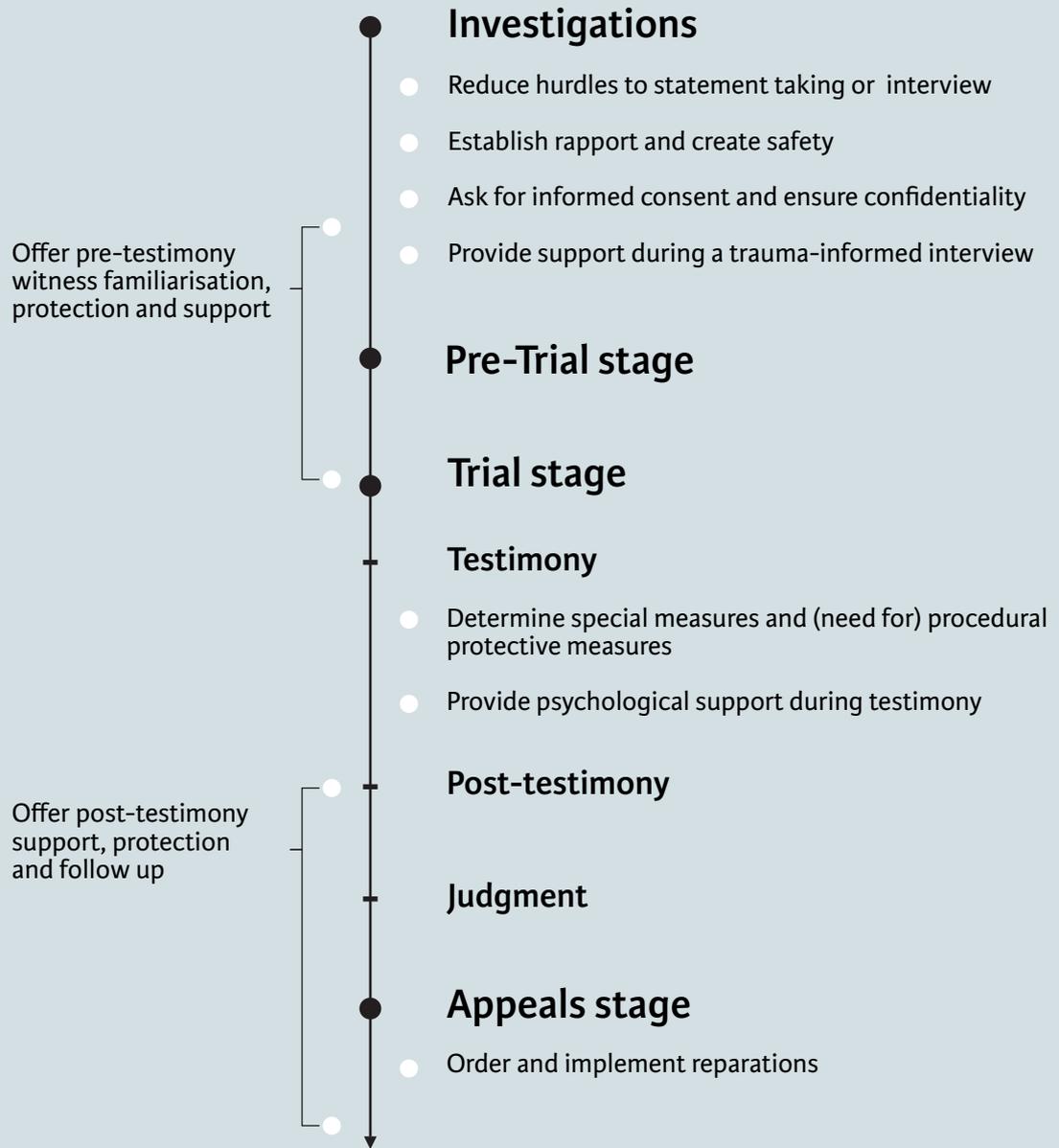


Figure 3 *Phases of the victim and witness-centred testimony timeline. This timeline spans all stages of the legal process.¹⁰² Critical steps have been delineated within each phase. They shape the experience of victims’ and witnesses’ involvement and are critical moments to establish trust and agency in the process.*

SUMMARY OF RECOMMENDATIONS

1. Principal Recommendations

1.1 Structural integration of MHPSS approaches in accountability mechanisms and the role of psychosocial experts.

- a Anchor MHPSS approaches and trauma-informed methodologies into the legal and operational framework of the accountability mechanism and in all stages of the victim and witness-centred testimony timeline, based on a Do No Harm approach.
- b Include the necessary human and financial resources in the core funding of the accountability mechanism to adequately support the delivery of MHPSS approaches and trauma-informed methodologies.
- c Develop an interdisciplinary senior leadership team, including a psychosocial expert, to ensure the incorporation of MHPSS approaches and a trauma-informed lens in strategic decision-making, planning and implementation of mental health and psychosocial services.
- d Ensure a multidisciplinary staffing composition at the operational level that includes psychologists and, where relevant, other psychosocial experts with expertise in trauma and MHPSS in conflict-affected settings.
- e Create a psychosocial support team to operationally coordinate MHPSS activities and engage with support networks of local psychosocial services and civil society.
- f Prioritise recruitment of psychosocial experts with a shared language and similar cultural background as the witnesses and victims.
- g Integrate victim and witness-centred and trauma-informed approaches throughout all processes, policies, and operational procedures.
- h Ensure provision of culturally appropriate support which protects the dignity and privacy of victims and witnesses and facilitates their involvement in the process.
- i Strengthen multidisciplinary and multisectoral collaboration within national justice processes.
- j Provide ongoing training on interacting with victims and witnesses to relevant staff.
- k Integrate MHPSS approaches in the design of the prosecutorial strategy for each case to include the short and long-term psychological harm suffered by victims and their communities resulting from atrocity crimes.

1.2 Address vicarious trauma, other mental health risks, and the need for staff support

- a Formulate a comprehensive strategy to identify and address risks for vicarious trauma, and other mental health risks as a result of working in a justice context.

- b Train all staff and managers on mental health risks and coping skills.
- c Design interview protocols, field missions and other procedures which ensure protection of staff and provide access to support.
- d Embed one or more staff counsellors inside the accountability mechanisms and make available staff support to everyone interacting with victims and witnesses of atrocity crimes, regardless of their contractual status.

2. Investigations

2.1 Reduce hurdles for victims and witnesses to report, give a statement, or otherwise engage with accountability mechanism

- a Create and support initiatives to tackle institutionalised stigma and victim-blaming.
- b Amend legal frameworks to align them with initiatives eradicating institutionalised stigma and victim-blaming.
- c Address institutional culture change necessary to fulfil the aims of eradicating institutionalised stigma and victim-blaming.
- d Provide relevant training of magistrates, law enforcement staff, and others.
- e Prioritize active engagement of community-based organisations (CBOs) and victims' rights groups to build trust in the accountability mechanism.
- f Create an environment in which victims and witnesses feel motivated and safe to engage with the accountability mechanism.
- g Facilitate awareness and grassroots support of victims by CBOs and victims' rights groups.
- h Inform victims about the judicial process.
- i Manage expectations of victims about possible outcomes of the judicial process.
- j In communicating with victims, contextualize the role of criminal prosecutions within the broader pursuit of transitional justice.
- k Clarify the roles and responsibilities of the different entities inside the accountability mechanism regarding interaction with witnesses and victims.
- l Clarify the roles of CSOs and victims' groups in investigative processes.
- m Ensure the effective coordination of CSOs' services throughout the investigative process.
- n Advocate for the establishment of integrated, comprehensive support centres for victims.
- o Facilitate access for victims to culturally appropriate, community-driven psychosocial support initiatives.
- p Implement initiatives designed to offer prompt assistance to victims and witnesses.
- q Construct an environment that supports ongoing investigative efforts with trauma-informed interview techniques.

- r Identify other existing barriers to active participation in accountability processes and take measures to reduce them.

2.2 Establish rapport and create safety

- a Establish a protocol for assessing threats and risks, specifically designed for victims and witnesses, to be implemented before conducting investigative interviews.
- b Anticipate and implement necessary protection measures for victims and witnesses who actively participate in the accountability process.
- c Perform pre-interview screenings and psychosocial vulnerability assessments for victims and witnesses at high risk of psychological harm or facing challenges during investigative interviews.
- d Prior to investigative interviews, equip victims and witnesses with culturally sensitive psychoeducation.
- e Provide a comfortable, quiet and safe meeting and interview setting.
- f Create a referral system to provide victims and witnesses engaged with the accountability process access to essential support services.
- g Integrate psychosocial interventions with investigative processes of atrocity crimes.
- h Enhance efforts to improve referral systems and build local capacities which serve all victims.
- i Allocate resources to training programs aimed at enhancing the ability to build rapport with witnesses and victims.
- j Evaluate how operational processes and practices impact rapport building.

2.3 Ask for informed consent and ensure confidentiality

- a Establish mandatory and standardised procedures to obtain informed, contemporaneous, and voluntary consent.
- b Allocate ample time for witnesses and victims to give their consent.
- c Implement consent as an ongoing, evolving process during the entire duration of victims' and witnesses' engagement with the accountability mechanism.
- d Utilise psychosocial support and, where possible, legal representation to assist victims and witnesses in making informed choices regarding their participation in the accountability mechanism.
- e Secure informed consent from parents or guardians and obtain assent from children for their participation in processes related to the accountability mechanism.
- f Include a focus on confidentiality in all witness and victim-related processes.
- g Clearly articulate the boundaries and limitations of confidentiality within the framework of the accountability mechanism.
- h Ensure the utmost confidentiality of victims' and witnesses' medical and psychological records.

- i Develop standardised tools and processes for the collection of forensic medical and mental health evidence.
- j Gather only the necessary medical or psychological information that is required for accountability mechanism processes.
- k Establish an independent Victim and Witnesses Section tasked with supporting and safeguarding witnesses and victims.

2.4 Provide support during the witness and victim-centred investigative interview

- a Use a trauma-informed interview model to interview witnesses and victims.
- b Use specific interview models to interview children.
- c Require the presence of a psychologist or child development expert in interviews of children.
- d Require advanced training in trauma-informed interviewing and culturally sensitive approaches for all interviewers.
- e Assure the presence of a support person, psychologist, or other psychosocial expert during the interview with victims or witnesses when needed.
- f Ensure that support is guided by a pre-interview psychosocial assessment.
- g Provide victims and witnesses with psychosocial debriefings immediately after the investigative interview to facilitate closure.
- h Develop a follow-up plan and refer individuals to specialized services as needed.
- i Credibility evaluation of victims or witnesses should be made by persons other than psychosocial experts providing support.
- j Invest in capacity building for psychologists outside the accountability mechanism.
- k In restorative or mixed retributive-restorative processes, provide psychosocial support to perpetrators to aid them in making truthful and detailed confessions and acknowledging responsibility.
- l Maintain a strict separation between the content of psychosocial support sessions and the confession process.
- m Provide guidance and support to interpreters to ensure their familiarity with the emotional reactions of victims and witnesses during interviews.
- n When suitable, empower interpreters to sensitise interviewers about the vocabulary used by victims and witnesses to express distress within their cultural context.

3. Pre-Trial stage

3.1 Offer pre-testimony witness familiarisation, protection, and support

- a Ensure impartial familiarisation, protection, and support for witnesses and victims before testimony.

- b Maintain ongoing communication with witnesses and victims to regularly reassess their consent and monitor their condition and circumstances.
- c Conduct regular protection risk assessments on an ongoing basis.
- d Provide necessary and tailored medical or psychosocial support as needed to facilitate testimony.
- e Prior to testimony, familiarise witnesses and victims with the nature of legal proceedings and the courtroom setting.
- f Ensure that targeted MHPSS interventions by accountability mechanisms are complemented by broader initiatives aimed at enhancing access to community-based, long-term mental health and psychosocial support for all victims.
- g Ensure the provision of effective legal representation to victims participating in the judicial process.

4. Trial Stage (Testimony, Post-Testimony and Judgment)

4.1 Determination of special measures and procedural protective measures

- a Implement special measures in the courtroom for vulnerable witnesses and victims, tailored to their individual needs and capabilities, and based on individual psychosocial vulnerability assessments.
- b Anticipate the presence of a supportive companion and provide in-court assistance by a trusted support person or psychosocial expert.
- c Implement special measures tailored to the specific vulnerability and protection needs of children.
- d Implement procedural protective measures in the courtroom to safeguard witnesses and victims against physical harm and stigmatisation.

4.2 Offer psychological support during testimony

- a Provide psychosocial support immediately before, during, and after testimony, when needed.
- b When needed, when suitable and with consent of the witness, communicate about the psychological condition of the witness or victim with the Judge(s) to facilitate a safe continuation of the testimony.

4.3 Offer post-testimony support, protection, and follow up

- a Provide information to victims and witnesses about the progress and outcome of the accountability process.
- b Assure post-testimony follow up of witnesses and victims.
- c Assure assistance for any other needs that arise as a consequence of participation in the accountability mechanism.
- d Offer post-testimony support and protection in case of risk for physical or psychological harm.

- e Ensure referral of witnesses and victims to specialised services when needed.
- f Ensure community outreach activities regarding judgment and sentencing hearings.
- g Facilitate the presence of victims' groups at judgment delivery and sentencing hearings.
- h Broadcast the hearings in the affected communities.
- i Translate and explain the ruling and judicial rationale to victim groups.

5. Appeals stage

5.1 Order and implement reparations

- a Provide access to meaningful reparations.
- b Ensure that victims receive accurate information about their entitlement to reparations.
- c Victims should be consulted by the mechanism in the decision on the type of reparations granted.
- d Processes to evaluate victims' and witnesses' eligibility for reparations should be based on reasonable criteria and should not require the disclosure of detailed medical or psychological records.

GOOD PRACTICE ANALYSIS

1. Principal recommendations

Several general measures need to be taken before victims and witnesses can be supported throughout all stages of their involvement.

1.1 Structural integration of MHPSS and the role of psychosocial experts

Mental health care and a psychosocial focus cannot be an afterthought or an ‘add-on’ to the work of an accountability mechanism. MHPSS approaches need to be structurally integrated for them to be economical, feasible, effective, sustainable, and successful.¹⁰³

Good Practices

Firstly, **the integration of MHPSS approaches should be anchored in the legal framework of the accountability mechanism and the laws governing the justice process.** The *Do No Harm principle* should guide all actions and processes. It must be translated into detailed and clear guidance to ensure protection against physical and psychological harm, including protecting the dignity and privacy of those involved.¹⁰⁴ Also, **access to psychological, medical, and other support for participating victims and witnesses,** within the limitations of the mechanism’s mandate, should be included in the legal framework. Finally, the **mandatory involvement of psychologists** in advising the mechanism and providing direct support to victims and vulnerable witnesses should be incorporated into the legal framework. The required professional credentials of psychologists and other experts must be specified and adhered to in recruitment processes to ensure that the mandate to advise on and provide psychological care can be implemented.

The **multidisciplinary composition of teams** is essential to ensure a comprehensive approach and the design of processes which are dignified and victim and witness-centred; a **psychosocial expert should be part of the senior leadership team** of the mechanism to ensure the mainstreaming of a survivor-centred and trauma-informed approach throughout all procedures, policies and operational activities as well as strategic decision making; a **psychosocial support team** should be created inside the mechanism to operationally coordinate MHPSS activities and engage with support networks, local psychosocial services and civil society. Processes governing the MHPSS interventions should be made mandatory (e.g., around using vulnerability assessments during investigations). The number of psychologists in the team should be proportionate to the number of witnesses and victims involved in the mechanism.

Agencies and organisations developing and using MHPSS interventions in transitional justice processes should systematically involve psychologists and psychosocial experts in designing, planning, evaluating, and implementing projects and staff training. This approach will ensure a multidisciplinary perspective, the use of a psychosocial lens, and efforts to strengthen and build MHPSS support capacity.¹⁰⁵

- Article 43.6 of the Rome Statute foresees that “[the Victims and Witnesses Unit of the ICC] shall provide, (...) protective measures and security arrangements, counselling and other appropriate assistance (...). *The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.*”
- In Bosnia Herzegovina, the National Strategy for War Crimes Processing incorporated provisions aimed at improving witness protection and support in all courts handling war crimes cases, including the hiring of psychologists and witness support officers in all prosecutors’ offices and courts and the establishment of coordinating mechanisms at the State and entity levels to improve exchange of information and prevent repeated interviewing of vulnerable witnesses.¹⁰⁶

Training and capacity building are essential components to ensure the structural integration of MHPSS into accountability processes. Everyone involved, especially those interacting with witnesses and victims or handling their statements and related materials, should be trained on trauma-sensitive approaches, confidentiality rules and self-care. Training should further include topics such as the multi-layered psychosocial impact of atrocity crimes, on how trauma manifests itself, how to interact with witnesses and victims in a culturally sensitive manner, and how to apply a child-sensitive approach. Investigators interviewing vulnerable witnesses and victims, in particular, those who interact with victims of CARSV, torture and child victims and witnesses, should receive **mandatory advanced training on trauma-informed interviewing**.

Finally, **MHPSS approaches should also be integrated into the design of the prosecutorial strategy of a case to include psychological harm suffered by victims and their communities.** Analysis should include assessing the impact of the crimes committed on the mental health and well-being of victims and a focus on the risks related to intergenerational trauma.

- At UNITAD, cumulative statistical data gathered from individual witness psychosocial assessments can be used to advise investigations or as evidence.¹⁰⁷

1.2 Vicarious trauma, other mental health impacts and the need for staff support

Vicarious trauma and compassion fatigue can lead to a wide range of serious psychological, physical or behavioural problems and can contribute to burn-out. In addition, it can impact the care for witnesses and victims and influence the capacity to build rapport, set boundaries, or be responsive to victims' and witnesses' needs, significantly affecting the quality of the analysis and receptivity to evidence or even court appearance.

Good Practices

The **management of risk for vicarious trauma should take place at different levels.** First and foremost, the organisation's responsibility is to protect its staff, which should be **integrated into the mechanism's structure and operational strategies.** Vicarious trauma care should further include **training and awareness-raising on self-care and coping skills.** Moreover, it should also be reflected in **clear rules for staff members** about rest and recovery times, travel, working in teams, mandatory or voluntary debriefings and rules about how to signal concerns about staff behaviour safely.

Peer-support networks can serve as low-threshold support mechanisms and promote an open atmosphere to discuss the unavoidable burden created by the work with victims and witnesses of atrocity crimes. **Strategies to address vicarious trauma should be embedded in broader efforts to address possible stressors related to work climate and workload, which should be addressed early and systematically.**

The accountability mechanism should employ one or more staff counsellors, and confidential referral pathways should be created for staff who need specialised psychological assistance outside the mechanism. Specialised support should be free of charge or at a low cost for staff.¹⁰⁸ It is not recommended to use for staff support psychologists hired to support witnesses and victims, as it is delicate and possibly unethical for them to offer specialist care to their colleagues. However, they can be involved in designing a staff welfare strategy or offering general advice and guidance.

- The Colombian Truth Commission successfully set up a system of low threshold peer-support, guided by a psychiatrist, which brought together staff from all levels and professions to share experiences and difficulties.¹⁰⁹
- Several NGOs have issued guidance and training for their analysts on the risks of vicarious trauma due to exposure to violent social media content.¹¹⁰

- Some independent psychologists and psychiatrists support the work of human rights activists, victim organisations, or accountability mechanisms in staff support through cooperation frameworks.

2. Investigations

2.1 Overcoming hurdles to reporting and statement taking or otherwise engaging with the accountability mechanism

For many survivors, the decision to engage with an accountability mechanism is hampered by significant hurdles. They may not know about the possibility of participating as a victim or giving a statement as a witness, insufficiently understand the legal process, or not fully realise that what happened to them is a crime. They may lack trust in the justice system or not see enough positive outcomes of justice processes to convince them to report their story. They may be afraid of reprisals, feel shame, fear the stigma if their story becomes public or not feel psychologically ready to share their experiences, which are often traumatic. Or they may simply feel excluded or invisible because of their gender, ethnicity, race, or age.¹¹¹

Good Practices

Efforts to engage victims in the work of accountability mechanisms start long before they come forward to give a statement or participate otherwise. Firstly, an environment and culture must be created where victims feel seen, recognised and safe enough to report a crime or give a statement. **Efforts to tackle institutionalised stigma and victim-blaming, reform laws to make them more survivor-centred, address culture change, or train magistrates and law enforcement staff are long-term endeavours that often require a myriad of broader actions to facilitate access to justice.**¹¹²

But apart from broader efforts to facilitate access to justice, steps can be taken to overcome hurdles. MHPSS approaches are essential in lowering the threshold for reporting and participating safely. Whatever the type of initiative or approach, victims should never be pushed to give a statement or engage with the accountability mechanism. Survivor-centred actions also imply that the physical and psychological risks to come forward are thoughtfully considered.

Active engagement with community-based organisations and victim rights groups collaborating with the accountability mechanism and explaining its role to survivors and affected communities is critical. Through close contact with survivors, these organisations can provide information, enhance trust in the mechanism, offer ac-

companiment and actively encourage victims to come forward. Low-threshold psychosocial initiatives such as discussion groups run by victim organisations or grassroots organisations, art projects or community mobilisation initiatives can raise awareness and create a conducive environment to discuss the possibility of coming forward and actively engaging with accountability mechanisms. At the same time, victim groups and CSOs can also provide important information about patterns of victimisation to the accountability mechanism, which serves to prosecute those crimes and ultimately helps more victims come forward.

However, within the particular context in which investigations take place, **there should be coordination efforts and clear rules about the roles of community-based organisations in statement-taking and documentation efforts to avoid multiple interviews of survivors, which can be harmful to victims and undermine their credibility** in case of inconsistencies, even if only in peripheral matters.¹¹³ Also, some investigative processes benefit from complete confidentiality to avoid putting anyone involved at risk. In these contexts, outreach activities or extensive collaboration with CSOs may not be advisable.

Community outreach is important to manage the expectations of victims. They should be informed early on about possible outcomes of the judicial process. The importance of fair trials, and the value of an acquittal should be emphasised. The role of criminal prosecutions should also be contextualised within the broader pursuit of transitional justice.

- After the genocide in Rwanda, women victims of sexual violence discussed extensively their wishes and fears about testifying before the upcoming Gacaca Courts during the meetings of their victim associations.¹¹⁴
- In Sierra Leone, it was recognised that the marginalisation of youth played a role in the war.¹¹⁵ Youth organisations raised awareness about the work of the Special Court for Sierra Leone among their members and shared their collective views with the TRC.¹¹⁶
- The Acknowledgement Chamber of the Special Jurisdiction for Peace in Colombia received, inter alia, reports from victims' organisations and conducted hearings with victims during site visits, supported by CSOs, before assessing the individual and collective responsibility for crimes.¹¹⁷
- The IIIM's mandate recognises that Syrian civil society organisations (CSOs) are key stakeholders with information and resources that support the work of the IIIM. The mechanism organises periodic roundtables with CSOs to discuss progress and challenges.¹¹⁸
- Civitas Maxima, LivArts and GJRP organised "Cartooning for Justice": Art workshops and debates in Liberia to raise awareness about justice and the need for accountability.¹¹⁹

- The Guernica³⁷ Center supported the local organisation “Powerful Mothers” in Venezuela. By initially responding to basic needs and by offering psychosocial support, the organisation built trust and strengthened victims’ capacity to participate in an accountability process.¹²⁰

Centres for integrated and comprehensive service delivery or “One-stop-centres”¹²¹ are often the first places where survivors seek medical and psychological assistance and can also receive livelihood support and legal advice. **The services’ low threshold and integrated, multidisciplinary nature can create a safe environment for survivors to seek legal remedy if they feel ready.** As part of the informed consent process to receive services, they can be offered the option to consent to share information about their experiences with accountability mechanisms anonymously.

- The Panzi Hospital in Bukavu, DRC, and other similar one-stop-centres run by the Mukwege Foundation work with legal counsellors or women lawyers who volunteer to provide women information about their rights and offer legal aid in case they want to report and seek justice.¹²²
- In Ukraine, a hotline for domestic violence victims run by La Strada Ukraine reaches out to women victims of (conflict-related) sexual violence and domestic violence, assists them with getting access to services and supports them if they wish to file a complaint at the police.¹²³
- The Barnahus child-friendly justice centres use a child-friendly office under one roof, where law enforcement, criminal justice, child protective services, and medical and mental health workers cooperate and assess the child’s situation together and decide upon the follow-up.¹²⁴

Community-driven psychosocial support, culturally appropriate psychotherapy, spiritual guidance and individual or group counselling serve an essential purpose in the aftermath of widespread violence. These approaches can help those affected to re-establish social connections and find individual or collective healing. They can also create a safe place for survivors to consider the decision to come forward and testify as part of their journey to restoring their dignity, agency, and well-being. For victims suffering from trauma, the process of learning to master their symptoms, verbalise their experiences and create a sufficiently large window of tolerance¹²⁵ can be an essential preparation in the process of deciding to come forward and testify. Survivors may also find a lot of support in psychosocial interventions with others in their community who suffered similar harm.

Healing processes should be given time. For some survivors, it takes many years to feel ready to come forward and determine what type of justice they want.

Specific psychotherapeutic techniques to assist victims of atrocities have been developed throughout the years. ‘Testimony Therapy’, or the creation of a testimony or narrative for psychotherapeutic purposes, has a long history.¹²⁶

Specialised trauma techniques like Eye Movement Desensitisation and Reprocessing (EMDR) are still contested as part of pre-testimony preparation. As they reduce the vividness and emotional load of the memories, the concern exists that the memory itself is affected.¹²⁷

Many victims of atrocity crimes do not have access to individual or group psychosocial support, counselling, or specialised psychotherapy.¹²⁸ Or they may be reluctant to seek individual help because of cultural or other reasons.¹²⁹ It is imperative to adapt interventions to the cultural environment. “Overlooking the need to contextualise MHPSS approaches within local settings can result in an insufficient understanding of the mental health needs of, and forms of resilience among, individuals and family and community members.”¹³⁰ Psychosocial interventions should therefore be set up after a thorough assessment of the context, the target population, and possible cultural biases. Local ownership of interventions should be encouraged. Psychosocial experts external to the context should have cultural awareness skills and the ability to demonstrate cultural humility. Interventions should take into consideration the number of victims in need of support.¹³¹ Community-based, collective initiatives which give space for processing, tap into existing resilience of survivors and focus on social reconnection, are in some contexts preferable and valid alternatives to individual approaches. However, they cannot replace specific mental health care for persons in need of specialised support.¹³²

- Narrative Exposure Therapy (NET) is one example of a psychotherapeutic methodology specifically developed to treat trauma resulting from war and torture. The technique integrates a narrative approach inspired by oral traditions, a common element among many cultures. It aims to help survivors verbalise events, master their anxiety as well as other trauma symptoms and create a narrative. The technique is proven to be safe and effective to treat children and adults in refugee settings in developing countries.¹³³
- The Centre for Victims of Torture implements in different conflict-affected settings a group counselling model which is interdisciplinary, incorporating cultural competency and trauma-informed approaches that support long-term healing.¹³⁴
- At the Centre de blessés (centre for the war-wounded) in Bujumbura, Burundi, Doctors without Borders (MSF) integrated low-threshold psychosocial activities for mothers and their children, such

as activities for children and discussion groups, in the medical care setting for war-wounded. In parallel, a referral pathway was set up for victims of sexual violence who reported in the centre.¹³⁵

Awaiting reparations, victims can benefit from initiatives to respond to an urgent need to restore their well-being and agency or provide immediate assistance. These measures can, *inter alia*, include medical, psychosocial, psychological care, and socio-economic support and thus potentially contribute to lowering the threshold to participate actively in justice mechanisms.

Ongoing investigative interventions using appropriate interview techniques can be a trigger for victims to disclose crimes which are associated with high levels of shame or stigma, such as sexual violence. It happens that victims, during an interview about another crime, suddenly disclose that they were also victims of sexual violence or torture. The relationship of trust developed between the interviewer or investigator and the victim as well as the interview methodology¹³⁶ are important factors in the decision of the survivor to disclose. Ongoing investigative mechanisms can be used as tools in these types of situations.

- It happens that male victims of sexualised torture in an interview initially talk about their detention and torture and only much later in the process mention the acts of sexual violence. In such situations, the emerging awareness about what sexual violence is, the growing trust in the interview process, as well as specific memories which are triggered by the interview can play a role in the disclosure.

2.2 Establishing rapport and creating safety

Once victims or witnesses have agreed to engage with the accountability mechanism the task of those representing the mechanism is to establish rapport and create safety for them. The environment of trust thus created is a first condition to provide accurate and precise testimony and assure the well-being of the witnesses and victims throughout the testimony process.

Good practices in this phase include general measures, such as security assessments, which are closely intertwined with specific MHPSS-related methodologies like establishing a referral system, investing in rapport-building and pre-interview assessments. Most of these interventions are put in place in preparation for the investigative interview.

Good practices

Threat and risk assessments and protection measures are critical to creating physical safety for victims and witnesses. Failure to establish a safe environment can significantly increase the risk of physical harm as a result of an investigative interview. Also, victims' and witnesses' subjective sense of insecurity should be addressed. Increasing a sense of safety and security facilitates access to traumatic memories and reduces feelings of anxiety, mitigating the risk of re-traumatisation and revictimisation.

Prior to a first contact with an investigator, an assessment needs to be made of the potential impact of an interview or statement taking. Is it possible to keep the contact between the survivor or witness and the investigator confidential? What will happen if it becomes known to the perpetrator or the community that a victim or witness was in contact with the accountability mechanism? Is it possible to reduce the risk or mitigate the impact of such exposure? At which cost? Can a witness or victim stay in the community if the involvement becomes known? Only if these questions can be answered satisfactorily should the contact or interview proceed. **If needed, additional protection measures need to be taken, such as the use of a pseudonym.¹³⁷ In case a child is interviewed, the need to have watertight security measures in place is even more critical.** It is much more difficult to mitigate any breach of confidentiality or security issue as it may jeopardise the child's daily life and future.

- At the ICC, security and risk assessments precede the start of the engagement with witnesses and victims.¹³⁸

A comfortable, quiet, and safe meeting or interview setting that assures privacy and confidentiality is not only an essential protection measure but also a first step to creating a psychologically safe space for victims to tell their stories. A safe place also implies limiting the number of persons present, avoiding people walking in and out of the interview room, explaining the role of interpreters, and clarifying rules about recording devices or the use of mobile phones. Preparations to make the room safe also include arranging childcare, in case a witness or victim brings a child to the interview. For the interviews of children, additional measures such as the use of one-way mirrors or camera-equipment, child-friendly interview spaces and the presence of a support person need to be put in place and age appropriately explained to the child.

- In Kosovo, the Kosovo Rehabilitation Centre for Torture Victims has arranged that victims of SGBV can be interviewed by the police in the office of an NGO instead of the police station to protect

them from stigmatisation and create an environment that is considered more welcoming by some survivors.¹³⁹

Establishing a referral system to facilitate access to support services is an essential pre-condition before engaging with victims and vulnerable witnesses. Providing access to services is a way to mitigate the risk for psychological harm, but also an ethical obligation, especially in case of specific crimes such as CARSV.¹⁴⁰ Where can a survivor receive psychosocial assistance after the interview, if traumatic symptoms, signs of grief or other types of suffering re-emerge in the days or weeks after the interview? Where can medical care be accessed if needed or if injuries caused by the crimes have not yet been treated? In low-resourced settings the referral system is often difficult to establish, due to the absence of specialised services for survivors. Ideally, therefore, **the launch of investigations of atrocity crimes should always be accompanied by efforts to strengthen the referral system for all victims, including capacity building.** Where needed, the accountability mechanism should make specialised support available (see below).

- In Bosnia Herzegovina, an extensive support network has been established of NGOs and government services to provide support to victims and witnesses involved in national proceedings to prosecute atrocity crimes.¹⁴¹
- UNITAD invested in MHPSS capacity building of a number of selected local, qualified mental health services in a Training-of-Trainers format.¹⁴²

Pre-interview screenings, psychosocial vulnerability assessments and ‘fit to interview’ assessments are indispensable tools for understanding individual vulnerability and capacities of a victim or vulnerable witness before the interview and mitigating risks accordingly.

A pre-interview screening, often carried out in conjunction with a protection assessment, can establish if the basic conditions are met to safely interview a person in that moment. Factors to be checked include the presence of any indications that an interview is not possible at the present time. Signs that a person might not be ready to interview include an inability to concentrate, signs of agitation, being under influence of drugs or being ill, no support system (friends or family), a limited understanding of the judicial process or the obligation to tell the truth, inability to give informed consent, limited motivation to participate, or incorrect expectations about the purpose or expected

outcome of the interview. An investigator can conduct a screening of the witness or survivor, if it does not require an evaluation of their mental health or psychosocial condition.

A psychosocial vulnerability assessment or 'fit to interview' assessment is a more thorough assessment of the mental health condition and psychosocial situation of witnesses or victims prior to their interviews and testimony that is administered by a qualified psychologist. **The assessment aims to evaluate their capacity to safely participate in the interview or testify, assess for their risk for psychological harm as a result of the interview and provide support measures that are adapted to their needs.** The evaluation primarily focuses on the cognitive capacity of the person, in particular concentration, attention span, and communication. It also considers the presence of trauma symptoms, signs of mental distress, and suicide risk. Importantly, it evaluates their coping skills, availability of social support, expectations, and their motivation to be interviewed. Particularly when conducted before testimony, a psychosocial vulnerability assessment should also give victims and witnesses an opportunity to indicate if there are parts in their story which they anticipate will be particularly hard to recount or might evoke a reaction. Obtaining their self-assessment can enhance the agency of the person during the interview process. At the same time, it is a good way to assess the person's level of insight about their possible reactions and signs of distress. It is, however, not recommended to ask the survivor to recount the complete, possibly traumatic, story during the assessment as this could unnecessarily provoke intense reactions. Consider their vulnerability as well as their protective factors in conjunction with their level of insight and motivation. Taken together, these factors can assist in deciding whether a person is currently fit to be interviewed.¹⁴³ The condition of witnesses and victims can change, and focused assessments are a snapshot. As a result, they must be repeated before a new interview occurs.

A psychosocial vulnerability assessment can be a basis to put support or special measures in place during the investigative interview (see below) or can lead to the decision to postpone or not move forward with the interview. The assessment indicates if the risks of interviewing a person outweigh the benefits or if any adverse outcomes might be difficult to mitigate. The decision not to move forward with an interview always needs to be balanced with the victim's or witness's wish to participate in the accountability mechanism. In practice, this can be a sensitive undertaking as the party calling the witness or those representing the victim have the responsibility to present the best evidence and protect a person from harm resulting from their involvement. But victims also have a right to seek justice and participate in the justice process. If an interview cannot take place or the victim cannot be called to testify, other ways of participating or seeking reparations can be sought.

Psychosocial vulnerability assessments should be considered for all victims and witnesses who are at increased risk of being harmed or experiencing difficulties during the interview (e.g., victims of CARSV). **In the case of children** who wish to give a statement, **this pre-interview assessment is critically important and mandatory in most international criminal justice mechanisms¹⁴⁴ and in many national jurisdictions.** Children's level of vulnerability is higher also because their capacity to self-assess their risk is still developing. Any decision regarding the participation of children and their right to participate in the justice process needs to be balanced with their right to be protected.¹⁴⁵

- ICC Rules and Regulations foresee the need for a mandatory pre-interview assessment of the physical and psychological well-being of those considered to be vulnerable by a psychosocial or another expert¹⁴⁶ and a psychological assessment of vulnerable persons prior to a court appearance by a psychologist within the Registry who works with witnesses and victims.¹⁴⁷ The established procedures of the IIMM, IIMM, UNITAD and KSC include similar requirements, especially for victims of CARSV and children.
- Legal representatives for victims and staff members of the Trust Fund for Victims and Victim Participation and Reparations Section can receive advice, training and guidance from the ICC Victims and Witnesses Section (VWS) on how to interact with victims and protect them against harm. If needed, a psychologist accompanies teams when they interview victims to assist with completing victim application forms and setting up a referral system.

Rapport building is a crucial step in any engagement with victims or witnesses. It starts at the moment of the first contact, so often before the actual interview (see above).

Similar to therapeutic processes, rapport building in an interview can be achieved through non-verbal signs, such as appropriate eye contact, smiling, the use of a warm and supportive voice and a calm and open body posture. Verbal interventions such as calling the interviewee by name, asking questions that show a general interest in the interviewee, and using open-ended questions can be beneficial. Creating a safe environment, including sorting out practical arrangements before the interview, can also foster rapport.

Especially in jurisdictions where investigative interviews are held in the presence of all parties, the rapport-building phase before the interview can reduce stress and anxiety.

Particular attention should be given to rapport building if victims or witnesses are requested to engage with the accountability mechanism based on previously issued statements. Experience shows that when witnesses or victims are asked to appear in a case based on statements or testimony they gave in another case, their expectations and attitude towards the new process are often very much shaped by their earlier appearance, by the outcome of previous proceedings or by whether or not they received any updates about the case. Witnesses or victims may feel negative about their previous experience or they may believe that they ‘closed the chapter’ after their last appearance or they may express that they are experiencing ‘testimony fatigue’.¹⁴⁸ They may also find it hard to return to recalling painful memories of past events and motivating themselves to engage with yet another accountability mechanism, especially if they felt abandoned after their earlier testimony. It is therefore essential to explore the emotions the previous testimony experience may still provoke, before attempting to ‘re-building’ rapport with the new mechanism.¹⁴⁹

- In high-risk settings, protection measures are taken prior to the first interview, such as issuing a pseudonym or conducting the interview outside the community or country of the witness or survivor.
- Psychologists working with witnesses who are called to appear based on previously issued statements, sometimes start by exploring the witness' or victim's experiences and the emotions the previous testimony still provokes, to allow 're-building' of rapport with the new mechanism.¹⁵⁰

Preparing the survivor or witness for the interview contributes to creating safety and building rapport. Informing the person about **practical aspects**, such as location, duration, and who will be present can make the process predictable and give a sense of control to the person interviewed. Also, preparation should be used to **manage expectations**, especially of survivors, about what to expect from the interview and the legal process in general. Unrealistic expectations or false promises can trigger revictimisation (see above).

- In different accountability mechanisms, the preparation for interview or testimony of vulnerable witnesses or victims includes grounding techniques, stress-reduction exercises and psychoeducation.¹⁵¹

In the psychosocial vulnerability follow-up assessment, the psychologist can provide **culturally sensitive psycho-education that can normalise strong responses by informing the victim or witness about common emotional reactions or expressions of stress**. Witnesses and victims with insight into their expected reactions can also better prepare themselves for the investigative interview or testimony, as experiencing strong emotional reactions and trauma-responses will not come as a surprise. However, more elaborate management of expectations, reactions, and emotions takes time. It should be part of the support provided before the interview (see above) or, depending on the context, before the testimony in court.

- UNITAD produced a written psychoeducation booklet for witnesses in Arabic and Kurdish titled: "Talking about traumatic events during investigative interviews: Understanding common reactions and ways to cope".¹⁵²

2.3 Asking for informed consent and ensuring confidentiality

The processes behind establishing consent and ensuring confidentiality are closely connected. Both have important legal and psychological functions and are equally hard to successfully accomplish, as they require sustained efforts from the first contact with the witness or survivor to the end of the judicial process.

The psychological importance of **seeking consent and ensuring confidentiality** cannot be underestimated. They **are essential tools to give control to survivors over the processes they choose to engage in, to protect their dignity and privacy, and to respect their boundaries**. These are three important elements of any mental health and trauma-informed approach used with victims or witnesses of atrocity crimes.

Informed consent implies, in its original meaning, that doctors cannot perform diagnostic or therapeutic medical procedures on patients without their permission. Without informed consent, they could harm their patients' integrity. In addition, consenting individuals must have sufficient knowledge and comprehension to understand their agreement.¹⁵³ Originating from medical ethics, this concept expanded from its original use in medical ethics to the psychosocial and legal disciplines. The Murad code defines informed consent as: "Provide a survivor with full, clear, understandable, objective, and honest information about their range of options, rights, and risks to allow them to make their own informed choices whether to engage with us or not, and on what terms. We will be careful not to make choices for them".¹⁵⁴

The consent given should be informed, contemporaneous, and voluntary.¹⁵⁵ In the investigation of atrocity crimes, the process of obtaining informed, voluntary consent for participation—including giving statements, undergoing medical or psychosocial assessments, sharing reports, testifying, or other forms of participation—is inherently complex. **Victims or witnesses may need time to fully understand and voluntarily agree to participate in a judicial process, and they should be allowed the time to do so.** They should have the opportunity to deliberate and make a decision after being informed rather than being asked to 'sign on the spot'. Victims and witnesses may feel intimidated by investigators representing an accountability mechanism, whom they often perceive as figures of authority they believe they must obey. It may also be difficult for victims or witnesses to fully comprehend the role and implications of the accountability mechanism or the process, particularly when it operates at a far distance from their communities. This distance can make it difficult for witnesses or victims to realistically evaluate the potential psychological or security impacts of their involvement. Trauma-induced reactions such as anxiety, numbness, hyperarousal or submission-compliance responses, due to fear of reprisals, may hinder their ability to act in their best interest and make an informed decision.¹⁵⁶ Therefore, it is essential to revisit the consent process regularly, each time a new action is taken or when time passes, allowing victims or witnesses to withdraw their consent at any time without repercussion. **Consent should be considered an ongoing, adaptable process, where psychosocial support facilitates the continual decision-making process of witnesses and survivors regarding their involvement.** Additionally, the broader life circumstances of the victim or witness, including community pressures and expectations regarding benefits from participation such as healthcare access and financial or psy-

chosocial support should be taken into consideration. Therefore, it is important that community-based support services are accessible to all survivors, not just those involved directly engaged with accountability efforts.

For children, the parent or guardian¹⁵⁷ will need to provide informed consent, but in situations where children are not legally empowered to give consent, they must still express informed willingness, or assent, to participate in the process.¹⁵⁸ In all cases, the wishes of the child must be prioritised such that they should not be interviewed unless they agree to participate. A child's evolving capacity should be considered in the process of obtaining consent.¹⁵⁹ Communication about the process must be tailored to the child's age and comprehension level, empowering them to make an informed choice about whether they wish to engage with the accountability mechanism.¹⁶⁰ Furthermore, depending on the jurisdiction, legal provisions may allow older adolescents to consent on their own behalf, in lieu of their parents.¹⁶¹

The **mandatory use of consent forms**, which are explained to the interviewee in a language they understand and include a script or checklist for the interviewer, ensures all necessary information is clearly conveyed and comprehended. This approach is considered best practice.

- It is standard practice in investigative mechanisms to obtain explicit consent from witnesses and victims before their statements are shared with a national jurisdiction.
- However, judicial processes often have constraints on the option to withhold consent; for instance, a Judge may mandate the disclosure of a statement or summon a witness. If applicable, these constraints must be clearly communicated to the witnesses or victims at a suitable point during the process.

Confidentiality is fundamental to establishing trust between healthcare providers and their patients or clients, essential for encouraging the disclosure of sensitive information. Similarly, in judicial processes, victims and witnesses are more likely to share their complete stories if they trust in the confidentiality of the process.¹⁶² However, medical confidentiality is considered absolute¹⁶³, a standard not entirely mirrored in accountability mechanisms due to numerous **confidentiality limitations**. Statements made may be shared with investigators, and, depending on the type of process, they may also be shared with the opposing party and with Judges. While trials are, in principle, public, measures can be taken to protect the testimony of vulnerable witnesses and victims, such as SGBV victims or children, maintaining partial confidentiality. It is crucial to clearly communicate the bounds of confidentiality, along with the potential impact of these limitations on the lives of victims and witnesses, as an essential element of the consent process.

Victims are often requested to provide medical and psychological reports to justice mechanisms for forensic purposes, to substantiate claims of physical and psychological harm, seek reparations, or validate their need for support. Given the highly personal and sensitive nature of this information, sharing it, even with consent, may impact the victim's or witness's dignity and privacy. Therefore, the confidentiality of these records is paramount; **the necessity for sharing such records should be critically assessed, and alternatives to disseminating full reports should be considered.** It is essential to develop standardised methods for gathering medical and mental health evidence. When shared with the accountability mechanism, **this information must be securely stored, and access strictly restricted on a 'need to know'-basis.**¹⁶⁴ This is especially critical for reports created by external health care providers in a therapeutic setting, as well as for reports and records produced by the mechanism itself in the context of investigative or support activities, such as psychosocial vulnerability assessment reports or reports regarding medical or psychosocial support. However, reports generated by mechanism staff, such as psychologists conducting assessments, may have confidentiality limitations since these staff members represent the organisation. Ethically, they must conduct appropriate procedures of informed consent, clarify confidentiality limits to victims and witnesses, and direct clients to external services for clinical treatment or therapy when necessary.¹⁶⁵

Establishing a **neutral victims and witnesses section** within the accountability mechanism can significantly enhance confidentiality and the consent processes. **This section, detached from the investigation efforts, offers impartial psychosocial support, prioritizing the well-being and testimonial readiness of victims and witnesses without being involved in evidence collection.** Consequently, this separation usually exempts the section from legal disclosure obligations, allowing for greater protection of the dignity and privacy of witnesses and victims.¹⁶⁶ But even if psychosocial professionals directly participate in investigations, for instance by attending interviews, established best practices can still protect private information—for example, by providing support without drafting detailed reports, using only aggregated data for investigative purposes, or limiting reports strictly to essential information, thereby preserving the credibility and integrity of the witnesses.¹⁶⁷

- At the ICC, psychosocial vulnerability assessment reports for the purpose of testimony are solely disclosed to Judges, while only the recommendations for special measures (see below) are shared with parties and participants.¹⁶⁸
- International or hybrid criminal tribunals typically establish a Victims and Witnesses Section or Unit within the Registry. This entity is responsible for the protection and support of witnesses and victims, functioning as a neutral and independent service provider to all parties and participants.¹⁶⁹
- Physicians for Human Rights invests in the development of tools and processes to ensure that medical and mental health evidence is collected efficiently, safely stored, and securely transmitted.¹⁷⁰

2.4 Providing support during the trauma-informed investigative interview

The investigative interview or any other recording of victims' and witnesses' accounts is a critical component of their interaction with an accountability mechanism, often marking the first occasion for victims to formally recount their experiences. However, this stage also presents the greatest risk of harm, as it unavoidably brings interviewees face-to-face with painful and potentially traumatic recollections. The resurgence of trauma symptoms, with the attendant danger of re-traumatisation and the impact on the quality of information obtained, is highly contingent on the interview's approach and methodology.¹⁷¹

Good practices

Utilising a **trauma-informed interview model** is indispensable when interviewing victims and witnesses of atrocity crimes, given the high probability that they have experienced trauma. This method should be part of a broader mental health and trauma-informed approach. There are comprehensive guides detailing the conduct of a survivor-centred and trauma-informed interviews, including specific models for child witnesses and CARSV victims.¹⁷²

Key elements shared by these models include:

- Adherence to the overarching principle of *Do No Harm* to prevent re-traumatisation.
- A *structured interview conducted in phases*, with each phase having a specific goal and interviewer responsibilities.
- Emphasis on *building rapport*, allowing for an *uninterrupted narrative by the interviewee*, encouraged by open-ended questions, a section for *detailed inquiries* to establish a chronological timeline, and a *concluding phase*.
- The *interviewer's role* is to be attuned to the interviewee's verbal and non-verbal cues *and maintain a supportive attitude* through active listening.
- The requirement for *interviewers to have adequate training in trauma-informed interviewing techniques*.

Trauma-informed interview models are grounded in an understanding of trauma and memory, incorporating memory-enhancing methods and clinical practices to foster trust and empower survivors, enabling them to share difficult recollections and construct an accurate, truthful, and sequential narrative of events.¹⁷³

When interviewing children, interview models incorporate additional procedures such as verifying a child's comprehension of the obligation to tell the truth and conducting a 'practice interview,' which involves responding to open questions on a neutral and safe topic. These steps also help the interviewer gauge the child's cognitive, emotional and social maturity. Whenever possible, children should be accompanied by a parent or guardian.¹⁷⁴

Following the pre-interview psychosocial assessment, a decision may be made regarding **the accompaniment of a support person or psychologist during the interview** to provide comfort. A familiar support person can provide a sense of security for the victim, and in some cases, a legal representative with a strong rapport with the victim may fulfil this role.¹⁷⁵ Nonetheless, the suitability of any support person must be carefully evaluated, and the clear consent of the victim or witness is required before permitting a support person to be present.¹⁷⁶

The **psychologist's role during interviews with victims or witnesses is primarily supportive**, provided the interviewee has given consent. They are tasked with **assisting the individual in managing strong emotions or trauma responses, signalling when breaks are necessary, or advising if the interview should be halted** due to the person's compromised state or acute risk of harm to self or others. Additionally, psychologists can **offer the interviewer advice on question phrasing and responding** to emotional reactions, drawn from prior psychosocial assessments. In some restorative processes, psychologists can also **support survivors to formulate their questions to the perpetrator** or help verbalise what they want to say to them during dialogue, interview, or court hearing. Maintaining **the psychologist's impartiality is crucial for the integrity of the process**. It is considered best practice for psychologists not to engage directly in evidence collection or to assess the credibility or integrity of witnesses unless explicitly given the mandate to do so. Ethical standards demand that the psychologist's interview role and reporting responsibilities be clearly explained to the interviewee.¹⁷⁷ A neutral support person is ideal to prevent or minimise re-traumatisation while facilitating conditions conducive to eliciting the most informative testimony. Forensic roles, which involve evaluating credibility, should be distinctly separate from supportive ones. **Psychologists, particularly those external to the accountability mechanisms, require specialised training and guidance on conducting vulnerability assessments and providing support in investigative settings.**

Even when a psychologist's presence is not feasible, permitted, or desired by the victim or witness during the interview, it is crucial to offer **psychological debriefings immediately afterward**. This allows the individual to release and process emotions, regain composure after the interview, ask questions, or engage in calming or breathing exercises to reduce hyper-arousal before departing. **Debriefings help ensure that witnesses and victims can achieve a sense of closure, return home safely, and reintegrate with their social support networks.** They also provide a critical opportunity to evaluate the person's mental state, including assessing risks of suicide or self-harm. Based on this assessment, appropriate referrals and follow-ups should be arranged (see above), making debriefings an integral component of comprehensive support.¹⁷⁸

In child interviews, it is standard practice in many jurisdictions to include a psychologist or child-development expert. Legal frameworks may dictate that this expert directly questions the child, while legal representatives of involved parties observe and pose questions indirectly. The interview is typically video-recorded for court evidence.¹⁷⁹ Alternatively, the choice of interview lead is guided by determining what best serves the interest of the child, which may vary by setting.¹⁸⁰

In restorative or mixed restorative-retributive processes, offering psychosocial support to perpetrators is crucial for facilitating their engagement to deliver full and detailed confessions and to acknowledge responsibility, which are vital elements to these mechanisms. Such support not only aids the accountability process but also aligns with victims' interests in uncovering the complete truth.

Given the international scope of atrocity crime investigations, **utilising interpreters** during interviews is a standard practice to bridge language barriers between investigators and witnesses or survivors.¹⁸¹ This necessitates that interpreters be **well-informed about confidentiality rules, trained in working with war victims and highly traumatised individuals, capable of handling emotional expressions or lack thereof, and adept at navigating the specific terminologies of psychosocial assessments and cultural nuances in expressing distress.** Rather than 'sanitising' language, Interpreters must accurately convey the expressions used by victims and witnesses without moderating the intensity of the language, especially regarding acts of violence and emotional suffering, grief, or trauma. Interviewers and interpreters should be aware of taboos regarding the use of certain terms, particularly in reference to body parts and in cases of sexual violence. Interpreters should not assume a supportive role during interviews, even though victims and witnesses tend to turn to the person speaking their language, as this can blur professional boundaries, just as support personnel should not serve as interpreters. Therefore, clear arrangements must be made between the investigator, psychologist or support person and the interpreter in pre-interview planning to clarify roles and responses to distress. Moreover, interpreters are often members of the local community and therefore require support to mitigate their high risk for vicarious trauma (see above).

- At the Special Jurisdiction for Peace in Colombia, perpetrators engaging in the restorative process receive psychological support from the SJP, aiding them in making detailed, complete confessions and accepting responsibility.
- NGOs involved in supporting atrocity crime trials under universal jurisdiction occasionally provide witnesses with psychological briefings and debriefings as part of their trial support services.
- At the ICC, Registry field interpreters undergo specialised training in collaboration with the Victims and Witnesses Section, before assisting in psychosocial assessments. These training sessions also cover topics like cultural nuances in language use and are also used to inform interpreters about the risks of vicarious trauma and coping strategies.

3. Pre-Trial Stage

3.1 Pre-testimony witness familiarisation, protection, and support

When a witness or victim is scheduled to testify in court, they enter a new phase of engagement with the accountability mechanism. The nature of their court appearance can vary significantly by jurisdiction, ranging from delivering a complete testimony with questioning or cross-examination by involved parties to merely responding to questions, engaging in dialogue with a perpetrator, or potentially not appearing in person. Despite the various protective measures and preparatory support available for witnesses and victims, appearing in court invariably induces stress.

Good Practices

At the pre-trial stage, **an independent victims and witnesses section** often becomes more prominent, providing independent and impartial support and protection.¹⁸²

This phase bridges the gap between the investigative interview and potential court appearance, and is crucial for **maintaining contact with witnesses and victims**. Such engagement not only keeps them informed about the process but is vital for **monitoring their mental and personal well-being, reassessing their consent** as political and private circumstances evolve, and conducting **regular risk assessments** to identify any new threats to their safety.

Appropriate support, tailored to the needs of victims or witnesses in preparation for their testimony, is essential.

This may include medical or psychosocial support to facilitate travel and testimony, or to prevent harm or possible re-traumatisation.¹⁸³ It may also address acute health problems likely to impact the ability of victims or witnesses to travel and testify, or to provide counselling or psychotherapeutic support in preparation for testimony. Victims and witnesses may also require monitoring of their coping mechanisms and potential emotional reactions during this stage. Additionally, other forms of assistance, such as protection measures, should be considered before the court appearance. To ensure that support is aimed solely at facilitating testimony or preventing harm, without being perceived as an incentive or inducement to testify, clear assessment criteria and boundaries are necessary.¹⁸⁴ These criteria should evaluate the proportionality, necessity, and legality of the proposed support.

Efforts to **familiarise witnesses with the proceedings and the courtroom** are essential. The practice of familiarisation should ideally include a visit to the courtroom or, at a minimum, an extensive and detailed explanation of what to expect during testimony, including taking the oath, the role of the different parties, the type of questions asked, the presence of an accused, the use of a microphone, and so forth.¹⁸⁵ Visual aids such as video or picture of a court in session can greatly help witnesses and victims imagine how the court hearing will proceed, increasing a sense of control, reducing anxiety, and assisting in providing the best evidence. **Familiarisation also plays a role**

in managing the expectations of witnesses and victims. The more precisely a person knows what will happen, who will be present, and who is allowed to ask questions, the less likely their expectations will be unrealistic, for instance, regarding the limitations of testimony or addressing the accused.

In the field of international criminal justice, practices and viewpoints diverge on the preparation of witnesses by the party calling them versus their familiarisation by a neutral victims and witnesses section.¹⁸⁶ These variations primarily reflect the varying practices across legal systems. From a psychosocial perspective, both methods have advantages and disadvantages for witnesses and victims. Familiarisation by an impartial victims and witnesses unit, coupled with statement review,¹⁸⁷ can empower witnesses and victims to narrate their experiences in their own words, avoiding any feeling of being led or needing to respond in a specific manner. On the other hand, preparation by legal counsel can benefit witnesses by increasing their comfort with the examiner and providing an opportunity to rehearse their responses. However, in both instances, the presence of neutral support personnel from a department distinct from the Prosecution, dedicated exclusively to the witness's welfare, is crucial.

The provision of effective legal representation to victims participating in the judicial process is crucial for empowering them, enhancing the predictability of the process, and enabling them to articulate their views and concerns. In many international and hybrid accountability mechanisms, having a lawyer represent victims is *de facto* mandatory for their participation.¹⁸⁸ However, only *effective* representation can alleviate anxiety, lessen the risk of psychological harm, and encourage active participation, thereby benefiting victims. This necessitates procedural transparency, especially concerning the limitations and scope of legal representatives' roles. Often, lawyers feel obligated to extend beyond their professional boundaries to offer psychosocial support to their clients, which falls outside their mandate, could be detrimental, and is typically emotionally taxing. Thus, effective representation also demands that counsel receive adequate training on culturally sensitive and trauma-informed client interactions and have access to self-care resources, including peer support and psychosocial support.

- At the ICC, the Victims and Witnesses Section is tasked with the familiarisation of witnesses, with a significant emphasis on the psychosocial facets of witness testimony. VWS Staff inform witnesses and victims about the forthcoming process early on and dedicate efforts to building a trustful relationship with them through its psychosocial personnel.¹⁸⁹
- In certain national jurisdictions, NGOs and CSOs are instrumental in maintaining continuous communication with victims, preparing them for their testimonies, or aiding in their travel arrangements to the testimony site.

4. Trial Stage: Testimony

4.1 Determination of Special and Protective measures

At the trial stage, when witnesses or victims are required to testify in court, employing special and procedural protective measures for safeguarding them from physical or psychological harm and enabling their testimony is necessary.

Special measures cater to the needs and capacities of vulnerable witnesses or victims, aiming to centre the trial process around victims and witnesses, thereby aiding their ability to present their best evidence.¹⁹⁰ The availability and implementation of these measures vary across legal systems and are determined based on an individual assessment of the witness's or victim's vulnerability. Generally, special measures may include:

- Adjusting the courtroom setup to meet the witness's needs, such as testifying through an audio-visual link, utilising pre-recorded testimony, employing a screen to shield the witness, limiting courtroom attendance, conducting testimony *in camera*, or other accommodations;
- Adapting the questioning to the witness's needs and abilities, including developmentally appropriate questions, using an intermediary for questioning, prohibiting embarrassing or unnecessarily intrusive questions, and protecting witnesses from direct cross-examination by the accused;
- Providing in-court assistance, typically involving the presence of a psychologist or a support person alongside the witness.

Given the unique needs and capacities of each witness and victim, it is crucial for special measures to stem from individual **psychosocial vulnerability assessments**.¹⁹¹ These assessments, conducted by a psychologist, must evaluate various vulnerability factors, including those related to the individual, the crime, and specific circumstances. The decision to implement special measures should always involve consultation with, and consent from, the witness or victim.¹⁹²

Children should be granted special measures, due to their particular vulnerability and protection needs. Although such measures are standard in most jurisdictions for children, it is important to consult them as much as possible and in line with their evolving capacities, on the proposed measures.¹⁹³

Procedural protective measures, such as use of a pseudonym, voice and face distortion, a shield, or conducting hearings *in camera*, aim to protect the witness and victim's identity from the public, safeguarding them against threats, intimidation, stigmatisation, or physical harm. These measures can also serve as special measures, for example, by creating a more private environment that encourages victims, such as those of SGBV, to testify without fear of stigmatisation.¹⁹⁴

4.2 Providing psychological support during testimony

Offering **psychological support immediately before, during or after testimony is essential for assisting very vulnerable witnesses or victims**. A brief session with a psychologist or support person before testifying can alleviate anxiety and remind them of coping mechanisms for when they feel overwhelmed. Additionally, **a support person or in-court assistant may be permitted to accompany the witness or victim in court**, enhancing their sense of security. In certain cases, a psychologist might monitor the witness or victim directly in the courtroom or through a one-way screen, ensuring their well-being through the process. Psychological support during breaks, or when emotional overwhelm occurs, can be crucial to enable the continuation of testimony. Post-testimony debriefings are vital for emotional processing, achieving closure, and assessing any risk of self-harm before the individual returns home, reinforcing the importance of support throughout the victim-centred investigation process (see also above: *Providing support during the victim-centred investigative interview*).

If emotional difficulties arise during testimony, and with the consent of the witness or victim, **communicating their psychological state to the Judge(s)** may be necessary to ensure the testimony can proceed safely.

- At the ICC, witnesses and victims appearing in person are assessed for psychosocial vulnerability by VWS psychologists, who recommend tailored special measures based on established vulnerabilities. These assessments are shared with Judges, while recommendations are shared with all involved parties. The KSC follows a similar model.¹⁹⁵
- In Bosnia Herzegovina's national courts, vulnerable witnesses and victims receive special psychological measures based on a psychologist's report, which is shared with the Chambers.¹⁹⁶
- At the SJP's Acknowledgement Chamber in Colombia, victims could observe perpetrator interrogations from a separate room via video link, allowing them to freely express themselves and submit written questions through their counsel.
- Child witnesses at the SCSL testified from a remote room, adjacent to the courtroom, accompanied by a psychologist or support person.
- The ICC sometimes uses a shield to prevent witnesses, such as former child soldiers, from seeing the accused, especially when testifying against former commanders.

5. Trial Stage: Post-testimony and Judgment

5.1 Post-testimony support, protection, and follow up

After providing testimony, the involvement of witnesses and victims with the accountability mechanism continues. They retain the right to receive necessary protection and support. Victims who have participated are entitled to remain informed about ongoing proceedings and, depending on the jurisdiction, may have a right to express their views during proceedings to determine sentencing and reparations.

Good practices

Post-testimony follow up is an essential step to acknowledge the contributions of victims and witnesses, aiding in closure and ensuring they can reintegrate into their communities without problems. This support should continue through the final stages of the judicial process, including Judgment and Appeal phases. Follow-up includes **providing information about case progress and outcomes**, a right for victims that enhances their sense of participation. Research indicates that perceived benefits from participating in criminal justice processes are often tied to the act of participation itself rather than decision control over the sentence.¹⁹⁷ Nonetheless, hearing the verdict is an emotionally significant moment for victims, positive in case of a conviction and potentially devastating if there is an acquittal. Ideally, **victims should have the opportunity to process the outcome collectively, supporting one other**. In restorative or mixed restorative–retributive processes, the outcome may involve an acknowledgement of responsibility, marking the start of reparative efforts, where victims still deserve support. Legal representatives and psychosocial experts play a crucial role in this phase.

Post-testimony support and protection may be necessary if victims or witnesses are at risk of physical or psychological harm due to their involvement with the mechanism. For example, they might still require protection measures in the face of serious threats. When needed, post-testimony support could entail referrals to specialised mental health services or community-based initiatives.

- At the ICTY, victim groups were invited to The Hague to collectively witness the reading of the verdict in their case. Similarly, other tribunals and CSOs organise group viewings of judgment hearings within affected communities.

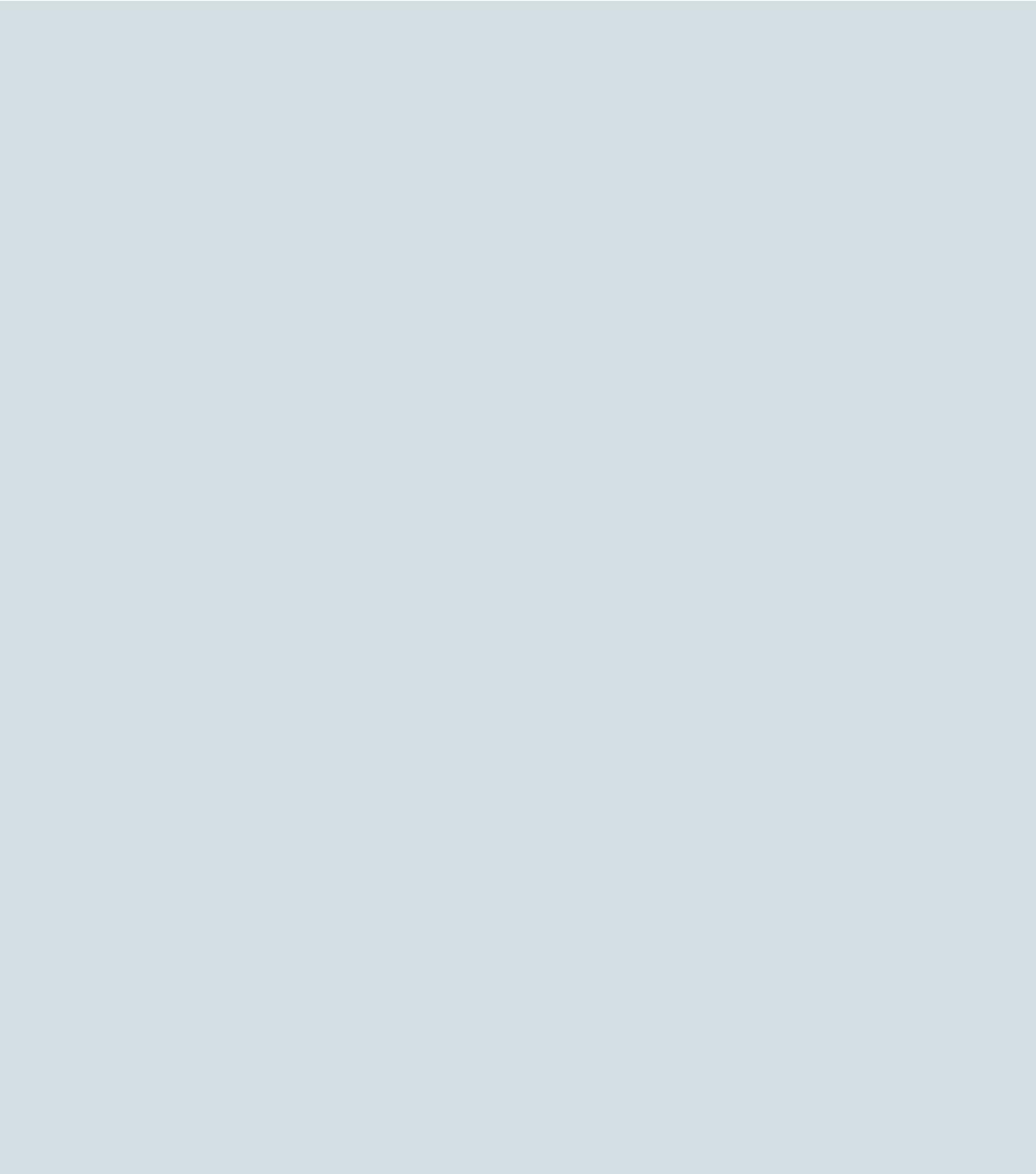
6. Appeals Stage

6.1 Order and implement reparations

During the appeals stage, the ordering and implementation of reparations is a crucial step for victims of gross human rights violations. **Victims have the right to reparations**, which should offer a range of material and symbolic benefits to them, their families, and affected communities, aimed at addressing the violations endured. These reparations must be adequate, effective, prompt, and proportional to the gravity of the crimes and the extent of harm suffered.¹⁹⁸ Reparations can either be an independent transitional justice measure or result from an accountability process, and they may be awarded on an individual or collective basis. This can include monetary compensation, sustainable support such as healthcare, psychosocial services, education, efforts to locate missing individuals, or symbolic gestures such as memorials or a public apologies. Given the complexity and duration of legal processes, **it is important to clearly communicate to victims their rights to reparations and involve them in deciding the form these should take.**¹⁹⁹ The procedure for seeking individual reparations can be challenging, particularly when detailed ‘proof of harm’ is required, posing potential mental health concerns. **The criteria for assessing eligibility for reparations should be reasonable** and protect victims’ dignity while preventing the unnecessary release of medical information and further victimisation.

Reparations not only serve as crucial instruments for addressing past injustices but can also play a significant role in bolstering mental health capacities within conflict-affected communities, offering long-term psychosocial support to victims. Furthermore, the reparations received often represent the final and tangible outcome of the accountability process for victims, significantly influencing the perception of its effectiveness.

- The ICC Trust Fund for Victims has a mandate to implement Court-ordered reparations and to provide physical, psychological and material support to victims and their families. The fund supports programmes in affected communities.²⁰⁰
- Under Kosovo law, victims of CARSV are entitled to a pension as a form of reparations, which they claim by submitting relevant documentation to corroborate their experiences, without the need for a forensic medical report.²⁰¹



PART III The way forward: the Antigone Project

1. Outcomes of the consultation meeting

As part of the consultation process for this study, a closed online expert meeting was held on 30 November 2023. The meeting brought together experts and organisations to discuss draft recommendations. The goals for developing the recommendations included enhancing witnesses' and victims' well-being, improving the quality of evidence gathering, and strengthening survivors' access to justice. The meeting also offered a forum to explore possible next steps towards systematically integrating MHPSS approaches into justice and accountability mechanisms.

In their observations and discussions, the project experts welcomed the opportunity to participate in this study. The project goals were perceived as both valuable and timely, as there is a growing need for guidance and knowledge exchange regarding the topic of MHPSS in accountability mechanisms for atrocity crimes to support processes at the international and national levels. It was mentioned that although several guidelines exist, a more structural and interdisciplinary approach towards the topic is required. It would be important to move away from solely considering MHPSS the responsibility of mental health experts who support witnesses but instead focus on the structural integration of an MHPSS lens into the management and organisational design of accountability mechanisms, strategic decision-making, and operational planning. The need for developing this cross-cutting approach was compared to a similar process that resulted in the development and application of the 'gender lens' concept that is now integrated into programming and policy work.

This project was praised for its potential to build bridges between legal professionals, mental health experts and academics involved with transitional justice programmes, peacebuilding, and criminal justice processes. This collaborative meeting brought forward a shared goal of integrating the well-being of victims and witnesses into a range of differing justice mechanisms. Elucidating the connections between different types of processes could create opportunities to exchange know-how and enhance the impact of each approach implemented in the aftermath of conflict. Notably, the experts agreed that it would be advantageous to establish an active and robust community of practice to further build consensus and create a forum for exchanging knowledge across multidisciplinary settings.

The experts felt that it was essential to consider the macro- and micro dimensions of witness and victim involvement in different phases of the testimony timeline. Creating an environment where victims can seek justice and respecting the time it takes for them to come forward is as important as improving interview techniques or designing special measures in the courtroom.

Questions were raised by the experts about how existing good practices pertaining to MHPSS integration consider the existing tension between the demands of the accountability process and the interests of victims and witnesses, as they are not always aligned. Several experts mentioned ‘testimony paradoxes’, particularly those that focused on evidence collection versus attention to victim and witness well-being, as key factors hindering the development of actual victim and witness-centred justice processes.

Finally, a consensus emerged among the experts around the need to build on and refine the recommendations and outcomes developed by this study. It was recognized that this project was a positive and powerful first step toward developing formal guidelines and, eventually, standards that would inform the integration of MHPSS approaches into all accountability mechanisms for atrocity crimes.

2. Moving towards guidelines and standards: The Antigone Project

In Greek mythology, Antigone, the daughter of Oedipus and Jocaste, buries her brother Polynices’ body against the order of her uncle, King Creon. Her act, driven by empathy, clashes with the objectivity of the law. As such the story expresses the tension that exists in justice processes between the law and need for humanity and dignity in applying the law.

Based on the emerging consensus to further develop methods to structurally integrate MHPSS approaches in accountability mechanisms for atrocity crimes, the idea of a follow-up project is taking shape. Building on the results of this study, the future Antigone Project (working title) intends to consolidate consensus results, further develop and refine methods that strengthen the use of good practices, and widely disseminate the findings from this project. Our short-term goal to achieve these aims is

to establish a community of practice that will work to establish formal guidelines and methods for applying and integrating MHPSS into accountability processes for atrocity crimes. Our long-term goal is to further develop select guidelines into standards. The work described in this report details the first steps in addressing this critical issue. It provides practical steps that can be taken now to integrate MHPSS approaches into accountability mechanisms for atrocity crimes. Our study provides a solid foundation for the evolution of identified recommendations and best practices into a standardized approach that will enhance the quality of victim and witness-centred justice processes.

ANNEXES

Experts and organisations consulted²⁰²

Alberto Fergusson	Psychiatrist	Advisor to the Colombian Truth Commission
Catalina Diaz Gomez	Magistrate	Chamber for Acknowledgment of Truth, Responsibility and Determination of Facts and Conduct, SJP Colombia
Javier Perez	Child Rights Specialist	Child Justice team, Global Rights Compliance
	Director and Staff	Civitas Maxima
Dylan Drenk	Forensic Psychologist	Department of Criminology, Faculty of Law, VU Amsterdam
Maartje Weerdesteijn	Assistant Professor	Department of Criminology, Faculty of Law, VU Amsterdam
Kate Gibson	Barrister, Defence Counsel	Doughtystreet Chamber
Megan Hirst	Barrister, Legal Representative for Victims	Doughtystreet Chamber
Stephan Parmentier	Professor, Vice-Dean for International Relations	Faculty of Law and Criminology, University Leuven
Barbora Hola	Associate Professor	Faculty of Law, VU Amsterdam
Martien Schotsmans	Director	Federal Institute for the Protection and Promotion of Human Rights, Belgium
Ahmad Shaikhani	Psychotherapist, MHPSS advisor, supervisor	GIZ
Michael Reed Hurtado	Chief Program Officer	Guernica 37 Centre
Alexander Mayer-Rieckh		Human rights, transitional justice and security sector reform expert

Daryn Reicherter	Professor, Director	Human Rights in Trauma Mental Health Laboratory, Department of Psychiatry and Behavioural Sciences, School of Medicine, Stanford University
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Doris Voorbraak	UN Inter agency Coordinator PSEAH	IASC
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Franziska Eckelmans	Legal advisor	ICC Trust Fund for Victims
Roger Duthie	Policy/Research Director	ICTJ
Virginie Ladisch	Senior Expert, Programs	ICTJ
Fernando Travesi	Director	ICTJ
Carmen Valle-Trabadelo	Co-chair IASC MHPSS Reference Group	IFRC Psychosocial Centre
Esther Kamau	Operations Officer	Impunity Watch
Habib Nassar	Director Policy and Research	Impunity Watch
Marlies Stappers	Director	Impunity Watch
Michelle Bouchebel	Senior Programme Officer	Impunity Watch
Thomas Unger		Independent Consultant/IW
Naomi Press	Psychologist	Independent Expert
Karim Abdessallem	Co-founder INOVAS	International Network of Victims and Survivors of Serious Human Rights Abuses (INOVAS)

Ram Bhandari	Co-founder INOVAS	International Network of Victims and Survivors of Serious Human Rights Abuses (INOVAS)
Carlos Beristain	Associate Professor	Institute for Human Rights, University of Deusto
Gabriel Oosthuizen	Programme Director	Institute for International Criminal Investigations
Brandon Hamber	Professor	International Conflict Research Institute, Ulster University
Eveline de Bruijn		Justice and Mental Health Consultant
Mary Diaz Marquez	National Justice Senior Programme Officer	Justice Rapid Response
Simon Emonet	Executive Director	Justice Rapid Response
Feride Rushiti	Founder and Executive Director	Kosovo Rehabilitation Center for Torture Victims; Sema
Katrien Coppens	Director	Mukwege Foundation
Paolina Massida	Head	Office of Public Counsel for victims
Andreas Mueller	Federal Prosecutor	Office of the Attorney General of Switzerland
Jan Hessbruegge	Legal Advisor – Support to Investigative Bodies, Rule of Law Section	OHCHR
Julia Raue	Transitional Justice focal point	OHCHR
Hajer Bouyahia	Human Rights Officer	OHCHR
Helena Rodriguez-Bronchu	Human Rights Officer	OHCHR
Zoe Poznicek	Human Rights Officer	OHCHR
Lindsey Green	Senior Program Officer	Program on Sexual Violence in Conflict Zones, Physicians for Human Rights
Payal Shah	Director	Program on Sexual Violence in Conflict Zones, Physicians for Human Rights
Suzanne Kidenda	Senior Programme Officer	Program on Sexual Violence in Conflict Zones, Physicians for Human Rights
Nina Winkler		Psychologist, PhD.
Céline Aucouturier	International Relations Officer	Service for Foreign Policy Instruments, European Commission

Renet van der Waals	Coordinator Humanitarian Policies and Mental Health and Psychosocial Support in crises and Coordinator Ukraine	Stabilisation and Humanitarian Aid Department, Ministry of Foreign Affairs, The Netherlands
Manon Olsthoorn	Senior Policy Coordinator Rule of Law/Access to Justice	Stabilisation and Humanitarian aid Department, Ministry of Foreign Affairs, The Netherlands
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Ingrid Elliot	Prosecutor, Director	Synergies for Justice
Pablo de Greiff	Senior Fellow, Director, Commissioner, UN Independent Commission of Inquiry on Ukraine	Transitional Justice Program, Center for Human Rights and Global Justice School of Law, NYU
	Staff	Trial International
Sofia Gerbase	Victim Care Officer	UNHCR
Zuhura Mahamed	Victim Care Officer	UNHCR
Alina Budeci	Witness Support Officer	UNIIM
	Support Officer	UNIIM
Nenna Ndukwe	Lead Psychologist	Witness Protection and Support Unit, UNITAD
Lorena Mellado	Rule of Law, Security and Human Rights Specialist, Crisis bureau	UNDP

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Nika Saeedi	UNDP Global Advisor MHPSS	UNDP
Helinä Häkkänen	Criminal Psychologist	University of Helsinki
Valerie Chmara	Psychosocial Support Specialist	UNODC Global Programme to End Violence Against Children
Helena Vranov-Schoorl	Associate Support Officer	UNIRMCT
Natacha Schauder	Senior Manager	Victims and Witnesses Section, Registry ICC
Alma Taso-Deljkovic	Psychologist, Head	Witness Support Office, Bosnia Herzegovina
Fahmy Hanna	Co-chair IASC MHPSS Reference Group	WHO, Department of Mental Health and Substance Abuse

Resource material

International Conventions, Instruments and Standards

- Rome Statute of the International Criminal Court (1998). [Rome Statute \(icc-cpi.int\)](https://www.icc-cpi.int/); ICC Rules of Procedure and Evidence. [Rules-of-Procedure-and-Evidence.pdf \(icc-cpi.int\)](https://www.icc-cpi.int/~/media/Default/Default/ICC-Rules-of-Procedure-and-Evidence.pdf)
- Statute of the Special Court for Sierra Leone (2000). [Statute of the Special Court for Sierra Leone \(rscsl.org\)](https://www.rscsl.org/)
- Updated Statute of the International Criminal Tribunal for the former Yugoslavia (1993). [UNITED \(icty.org\)](https://www.icty.org/)
- Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994. (1994) [ICTR | OHCHR](https://www.ohchr.org/)
- Rules of Procedure and Evidence before the Kosovo Specialist Chambers. KSC (2020) [Rules of Procedure and Evidence | Kosovo Specialist Chambers & Specialist Prosecutor's Office \(scp-ks.org\)](https://www.scp-ks.org/)
- Implementation of the resolution establishing the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011 - Report of the Secretary-General. UN General Assembly Resolution A/71/755 (2017) [A/71/755 | OHCHR](https://www.ohchr.org/)
- Human Rights Council resolution 39/2 establishing the Independent Mechanism for Myanmar to collect, consolidate, preserve and analyse evidence of the most serious international crimes in Myanmar since 2011 (2018) [Independent Investigative Mechanism for Myanmar | OHCHR](https://www.ohchr.org/)
- Implementation of the resolution on the establishment of the Independent Institution on Missing Persons in the Syrian Arab Republic UN GA A/78/627 (2023) [Implementation of the resolution on the establishment of the Independent Institution on Missing Persons in the Syrian Arab Republic : \(un.org\)](https://www.un.org/)
- International standards on the right to physical and mental health, Special Rapporteur on the right to health. <https://www.ohchr.org/en/special-procedures/sr-health/international-standards-right-physical-and-mental-health>
- Declaration on basic principles of justice for victims of crime and abuse of power. UN General Assembly (1985). [GA 40/34 \(ohchr.org\)](https://www.ohchr.org/)
- International Convention for the protection of all persons from enforced disappearances (2019). [International Convention for the Protection of All Persons from Enforced Disappearance | OHCHR](https://www.ohchr.org/)
- Istanbul Protocol: Manual on the effective investigation and documentation of torture and other cruel inhuman or degrading treatment or punishment (2022 edition). <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-o>
- Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. UN General Assembly resolution 60/147. <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

- European Parliament Directive establishing minimum standards on the rights, support and protection of victims of crime. EU (2012). [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012](#) See also: EU Strategy on victims' rights (2020-2025). [EUR-Lex - 52020DC0258 - EN - EUR-Lex \(europa.eu\)](#)

Policies and guidelines

A. Transitional Justice

- UN Security Council, report of the Secretary General on The Rule of law and transitional justice and post-conflict societies (2004). [The rule of law and transitional justice in conflict and post-conflict societies : \(un.org\)](#)
- Guidance note of the Secretary General on Transitional Justice: A strategic tool for people, prevention and peace. (2023) [Guidance Note of the Secretary General on Transitional Justice: A Strategic Tool for People, Prevention and Peace | OHCHR](#)
- Policy Brief: Women's meaningful participation in transitional justice. UNDP (2022). [UNDP-UNWomen-Womens-Meaningful-Participation-in-Transitional-Justice-Policy-Brief.pdf](#)
- From justice for the past to peace and inclusion for the future. A development approach to transitional justice. UNDP (2020). [From Justice for the Past to Peace and Inclusion for the Future: A Development Approach to Transitional Justice \(undp.org\)](#)

B. Mental health, Psychosocial Support and Trauma-informed approaches

- IASC Guidelines for mental health and psychosocial support in emergency settings (2007). [IASC Guidelines for mental health and psychosocial support in emergency settings \(who.int\)](#)
- International consensus on principles and minimum standards for psychosocial work in search processes and forensic investigations in cases of enforced disappearances, arbitrary or extrajudicial executions (OHCHR translation 2011). [Principles and minimum standards for psychosocial work in search processes and forensic investigations](#)
- Trauma-Informed Investigations Field Guide. UNITAD-Stanford University Human Rights in Trauma Mental Health Program. (2021) [Trauma-Informed Investigations Field Guide | Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL \(UNITAD\)](#)
- SAMHSA's concept of trauma and guidance for a trauma-informed approach. US Substance Abuse and Mental Health Services Administration. (2014) [SAMHSA's Concept of Trauma and Guidance for a Trauma-informed Approach](#)
- Transitional Justice, mental health and psychosocial support. OHCHR (2023) [SG-GuidanceNote-TJ-Mental-Health-digital.pdf \(ohchr.org\)](#)

- Post-traumatic integration awareness raising guidelines; Low-level Psychosocial Support and Intervention for Refugees. (2019) EU Erasmus+. [Guidelines/PTI Guidelines EN.pdf \(posttraumatic-integration.eu\)](#)
- Manual on human rights monitoring. Chapter 12: Trauma and self-care. OHCHR (revised 2011) ([OHCHR Chapter 12_Trauma and Self-care.indd](#))
- How to Prevent, Identify and Address Vicarious Trauma — While Conducting Open Source Investigations in the Middle East. Bellingcat (2018). [How to Prevent, Identify and Address Vicarious Trauma — While Conducting Open Source Investigations in the Middle East - bellingcat](#)

C. Children

- Guidelines on justice in matters involving child victims and witnesses of crime. UN ECOSOC (2005). [Child victims and witnesses \(un.org\)](#)
- Policy on children. ICC Office of the Prosecutor (2023). [2023-policy-children-en-web.pdf \(icc-cpi.int\)](#)
- Juvenile Justice Bulletin: Child Forensic Interviewing: best practices. US Department of Justice, Office of Justice Programs (2015). [Child Forensic Interviewing: Best Practices \(ojp.gov\)](#)
- Anti-human trafficking manual for criminal justice practitioners. Module 9: Interviewing child victims of trafficking in persons. UNODC (2009) [Anti-human trafficking manual for criminal justice practitioners: Module 9 \(unodc.org\)](#)
- Protecting children’s rights in criminal justice systems. A training manual and reference point for professionals and policymakers. Penal Reform International (2013). [Protecting children’s rights in criminal justice systems. | Save the Children’s Resource Centre](#)
- Listening to young voices. A guide to interviewing children and young people in truth seeking and documentation efforts. ICTJ (2018). [Child_statement_EN_Final.pdf \(ictj.org\)](#)
- An ecological framework for child assessment. A Resilience-focused model for children associated with armed and organized criminal groups, including those designated as terrorist groups. UNODC (2023). [AN ECOLOGICAL FRAMEWORK FOR PSYCHOSOCIAL CHILD ASSESSMENT \(unodc.org\)](#)

D. Gender-based violence

- International Protocol on the Documentation and Investigation of Sexual Violence in Conflict. Best Practice on the Documentation of Sexual Violence as a Crime or Violation of International Law (2017) [Second edition of the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict - GOV.UK \(www.gov.uk\)](#)
- WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies (2007). [WHO ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies](#)
- Guidance note of the Secretary General: Reparations for conflict-related sexual violence (2014). [Guidance Note Reparations for CRSV 3-June-2014 \(ohchr.org\)](#)

- Global code of conduct for documenting conflict-related sexual violence (Murad Code). [Murad Code](#)
- IIM Gender strategy and implementation plan (abridged version 2022). [Gender-Strategy-Implementation-Abridged.pdf \(un.org\)](#)
- Policy on gender-based crimes. ICC Office of the Prosecutor (2023). [2023-policy-gender-en-web.pdf \(icc-cpi.int\)](#)
- Principles for Global Action: Preventing and addressing stigma associated with conflict-related sexual violence [PSVI Principles for Global Action.pdf \(un.org\)](#)
- Guidelines for investigating conflict-related sexual and gender-based violence against men and boys. International Institute for Criminal Investigations (2016). [IICI Investigation Guidelines Conflict Related SGBV againstMenBoys.pdf \(un.org\)](#)

E. Other

- Principles on effective interviewing for investigations and information gathering (Mendez Principles). [Mendez Principles](#)
- Representing victims before the International Criminal Court. A manual for legal representatives. OPCV – ICC (2018). [Manual-victims-legal-representatives-fifth-edition-rev1.pdf \(icc-cpi.int\)](#)
- Documenting international crimes and human rights violations for accountability processes: guidelines for civil society organisations. Eurojust – ICC (2022) [Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations \(icc-cpi.int\)](#)
- Achieving best evidence in criminal proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures. UK Ministry of Justice (2011) [Achieving best evidence in criminal proceedings - GOV.UK \(www.gov.uk\)](#)
- Integrating MHPSS and peacebuilding, a mapping and Recommendations for practitioners. IASC (2024) [IASC Guidance Integrating MHPSS and Peacebuilding, a Mapping and Recommendations for Practitioners | IASC \(interagencystandingcommittee.org\)](#)

Notes

- 1 ICC Rome Statute, Preamble. [RS-Eng.pdf \(icc-cpi.int\)](#)
- 2 Hola, B., Nzitatira, H., Weerdesteijn, M. (2022) Introduction: Atrocity Crimes and Atrocity Studies. In: Hola, B. (ed.) et al. *The Oxford Handbook of Atrocity Crimes*. 2022 online edn., Oxford Academic. <https://doi.org/10.1093/oxfordhb/9780190915629.013.38><https://doi.org/10.1093/oxfordhb/9780190915629.013.3>
- 3 UN Framework of Analysis for Atrocity Crimes. (2014.). [Doc.1 Framework of Analysis for Atrocity Crimes_EN.pdf \(un.org\)](#)
- 4 UN General Assembly. (2016). Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. A/71/298, para. 48-51.; Mendez Principles: Principles on effective interviewing for investigations and information gathering. [Mendez Principles](#)
- 5 IASC. (2007) Inter-Agency Guidelines on Mental Health and Psychosocial Support in Emergency Settings. p. 1. [IASC MHPSS Guidelines](#).
- 6 See for details: IASC Definition and Principles of victim/survivor centered approach. [IASC Survivor-centered Principles \(interagencystandingcommittee.org\)](#)
- 7 UNICEF Caring for Survivors Training manual. [Caring for survivors \(unicef.org\)](#); Inter-Agency Gender-based Violence Case Management Guidelines. (2017). [Interagency-GBV-Case-Management-Guidelines_Final_2017.pdf \(gbvims.com\)](#)
- 8 Saunders, K., McGuinness, E., Barnett, P. et al. (2023). A scoping review of trauma -informed approaches in acute, crisis, emergency, and residential mental health care. *BMC Psychiatry* 23, 567.
- 9 Substance Abuse and Mental Health Services Administration. (2014). *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. HHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration, p.9.
- 10 *Ibid* p. 10.
- 11 ICC Regulations of the Registry, Reg. 94bis
- 12 ICC Regulations of the Registry, Reg. 94bis; Michels, A. (2020).The Psychologist-Client Relationship at the ICC: A Road Map for the Development of the Counsel-Victim Relationship. In: Jasini, R. and Townsend G. (eds.) *Advancing the Impact of Victim Participation at the International Criminal Court: Bridging the Gap between Research and Practice*, ICCBA-Oxford. Oxford Law In-house publication). (pp. 114-124), p. 116. [ICCBA/Oxford Victim Participation](#)
- 13 See ICC Rules of Procedure and Evidence, Rule 85(a) and (b); See: ICC – OPCV (2019). Representing victims before the International Criminal Court: Manual for Legal Representatives. [manual-victims-legal-representatives-fifth-edition-rev1.pdf \(icc-cpi.int\)](#). There is also reference to ‘witnesses and victims who appear before the Court, and others at risk on account of testimony given by such witnesses’ (Rome Statute, Art 43.6). The Rome Statute further refers to ‘persons’.
- 14 See Rome Statute Art 43.6: “The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.”; see also Regulation 94bis of the Regulations of the Registry; See Special Court for Sierra Leone, Rules of Procedure and Evidence, Rule 34(A)(iii) and (B).
- 15 “When a meeting, or part thereof, is held under the *Chatham House Rule*, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” [Chatham House Rule | Chatham House – International Affairs Think Tank](#)

- 16 Report of the Secretary General. (2004) The rule of law and transitional justice in conflict and post-conflict societies. <https://digitallibrary.un.org/record/527647?v=pdf> in: OHCHR (2023) Guidance Note of the Secretary-General. Transitional Justice, a strategic tool for people, prevention and peace. p. 2.
- 17 *Ibid.*
- 18 Martina Fischer and Olivera Simic, eds., (2015) *Transitional Justice and Reconciliation: Lessons from the Balkans*, New York: Routledge, p. 276. In: ICTJ. (2020) A mixed approach to international crimes: The retributive and restorative justice procedure of Colombia’s Special Jurisdiction for Peace, p. 10. [ICTJ_Report_Colombia_MixedProcedures.pdf](#); Fairclough, S. (2023) Resilience-building in adversarial trials: witnesses, special measures and the principle of orality. *Social & Legal Studies* 1–26. DOI: 10.1177/09646639231201913
- 19 Hamber, B. (2009) *Transforming Societies after Political Violence. Truth, Reconciliation and Mental Health*. Springer. p. 61.
- 20 Berckmoes, L. (2022) In the Aftermath of Atrocities: Research on the Intergenerational Transmission of Trauma and Violence. In: Hola, B. (Ed). *The Oxford Handbook of Atrocity Crimes*. (pp. 555 – 578). Oxford University Press.
- 21 UNDP. (2020). From Justice for the past to peace and inclusion for the future. A development approach to transitional justice. [UNDP-From-Justice-for-the-Past-to-Peace-and-Inclusion \(1\).pdf](#); Michels, A. p.120 n 12. [ICCBA/Oxford Victim Participation](#).
- 22 Jasini, R. and Townsend G. (eds.) (2020) *Advancing the Impact of Victim Participation at the International Criminal Court: Bridging the Gap between Research and Practice*, ICCBA-Oxford. Oxford Law In-house publication. [ICCBA/Oxford Victim Participation](#). There are considerable differences in the role of victims between civil law countries and common law countries. Since the Rome Statute set the standards for victim participation at the international level, more statutes of hybrid tribunals have facilitated victims’ participation, such as the STL, KSC, ECCC. In: ICTJ (2017). Briefing Paper: The Role of Victims in Criminal Proceedings. p 9. [The Role of Victims in Criminal Proceedings | International Center for Transitional Justice \(ictj.org\)](#)
- 23 ICTJ. (2020) A mixed approach to international crimes: The retributive and restorative justice procedure of Colombia’s Special Jurisdiction for Peace, p. 2. n 18
- 24 Sometimes very vulnerable witnesses present their evidence in court while experiencing a form of dissociation, which is protective and allows them to testify but which negatively affects their daily life.
- 25 Bracken, J. ‘Hidden Agendas: Deconstructing Post Traumatic Stress Disorder’ In: Bracken, J. and Petty, C. (Eds). (1998). *Rethinking the Trauma of War*. Free Association Books/London/New York.
- 26 In: ICTJ. (2020) A mixed approach to international crimes, p. 10. n 18
- 27 The concept of ‘testimony and protection paradoxes’ was developed in: Michels, A. (2018). *Transitional Justice as field work: A psychosocial perspective*. Lecture for the Transitional Justice Module of the European Master Programme in Human Rights and Democratisation in Venice, Italy.
- 28 ICC Regulations of the Registry, Reg. 94bis.
- 29 See for instance: ICTY (2016). Echoes of Testimonies, A Pilot Study into the Long-Term Impact of Bearing Witness before the ICTY. http://www.icty.org/x/file/About/Registry/Witnesses/Echoes-Full-Report_EN.pdf; Human Rights Center, UC Berkeley School of Law (2014). Bearing Witness at the International Criminal Court, an Interview Survey of 109 Witnesses. [Bearing-Witness_FINAL\(3\).pdf \(berkeley.edu\)](#);
- 30 See for instance: UN Security Council Resolution 1325, 1820; S/RES/1325 (2000), S/RES/1820 (2008).
- 31 Vogel, L. (2019) How and why women participate in armed conflict: a population-level quantitative model. In: Mouthaan, S (ed.) *Gender and War, International and Transitional Justice Perspectives*, (p. 11 – 40). Intersentia.
- 32 See for instance: UN – IIIM (2022). Gender strategy and implementation plan. [Gender-Strategy-Implementation-Abridged.pdf \(un.org\)](#); ICC – OTP (2023). Policy gender-based crimes. [2023-policy-gender-en-web.pdf \(icc-cpi.int\)](#).

- 33 Overall, the fact that women are more likely to experience mental health problems than men can, to a large extent, be explained by reasons linked to cumulative and intersectional factors (more poverty, more care tasks, more exposure to (sexual) violence, etc.). See for instance: Viertiö, S. et al. (2021). Factors contributing to psychological distress in the working populations, with a special reference to gender difference. *BMC Public Health* 21:611.
- 34 See also: L Bianchini, B., Rubert, S. (2020). A sustainable psychosocial model to support the national investigation and prosecution of conflict-related sexual violence crimes. *Journal of International Criminal Justice* 18, 425–448.
- 35 Synergy for Justice (2022). CARSV Stigma Toolkit for Justice, Pilot Version. Toolkit for assessing and tackling stigma, myths, stereotypes and misconceptions about conflict and atrocity related sexual violence in criminal justice systems and courts.
- 36 Machel, G. (2001). The impact of war on children. *Hurst&Company, London*.
- 37 Save the Children (2021). Advancing Justice for Children. Innovations to strengthen accountability for violations and crimes affecting children in conflict. [Advancing Justice for Children: Innovations to strengthen accountability for violations and crimes affecting children in conflict | Save the Children's Resource Centre](#)
- 38 Michels, A. (2010). Psychosocial Support for Children: Protecting the Rights of Child Witnesses in Transitional Justice Processes. Paper for Expert Paper Series Transitional Justice and Children – UNICEF Innocenti Research Centre/Harvard School of Law. [UNICEF Children and Transitional Justice](#)
- 39 Hamber, B. p. 65 n 19.
- 40 UNSC resolution 1820 (2008). *S/RES/1820(2008)* [Etpu \(un.org\)](#); Seelinger, K., Wood, J. (2022). Sexual violence as a practice of war: Implications for the investigation and prosecution of atrocity crimes. Chapter in: Hola, B. (ed.) et al. *The Oxford Handbook of Atrocity Crimes*. 2022 online edn., Oxford Academic.
- 41 Smith, E. (2020). Victim testimony at the ICC: Trauma, Memory and Witness Credibility. In: . In: Jasini, R. and Townsend G. (eds.) *Advancing the Impact of Victim Participation at the International Criminal Court: Bridging the Gap between Research and Practice*, ICCBA-Oxford. Oxford Law In-house publication, (pp. 125-136). p.128 [ICCBA/Oxford Victim Participation](#).
- 42 Herman, J. (1992). *Trauma and Recovery*. New York: Basic Books.; Sangalang, C., Vang, C. Intergenerational Trauma in Refugee Families: A Systematic Review. *Journal for Immigrant Minority Health* (2017). 19: 745-754. Cordero, M., et al.; Berckmoes, L., n 20
- 43 Substance Abuse and Mental Health Services Administration (2014). *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. HHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration, p.7.
- 44 American Psychiatric Association (2013). *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*. Arlington, VA, American Psychiatric Association.
- 45 Especially anxiety disorders, depression, substance abuse, anti-social and suicidal behaviour increase in post-conflict settings. Krug, Etienne G., Dahlberg, Linda L., Mercy, James A., Zwi, Anthony B., Lozano, Rafael. et al. (2002). *World report on violence and health*. World Health Organization. p. 222. <https://iris.who.int/handle/10665/42495>; de Jong, J., Komproe, I, Van Ommeren, M. (2003). Common Mental Disorders in Post-Conflict Settings. *The Lancet*, Volume 361, Issue 9375, 2128-2130.
- 46 Harvey, M. (1996). *An ecological view of psychological trauma and trauma recovery*. *Journal of Traumatic Stress*, vol. 9 (1).
- 47 Bracken, J. (1998). 'Hidden Agendas: Deconstructing Post Traumatic Stress Disorder' In: Bracken, J. and Petty, C. (eds) *Rethinking the Trauma of War*. Free Association Books/London/New York,), 38-59.; Hamber, B. p. 20, n 19

- 48 WHO. *Mental health and psychosocial support for conflict-related sexual violence: 10 myths*. [Mental health and psychosocial support for conflict-related sexual violence – 10 myths \(who.int\)](https://www.who.int/publications/m/item/mental-health-and-psychosocial-support-for-conflict-related-sexual-violence-10-myths)
- 49 See as well: UNITAD-Stanford University Human Rights in Trauma Mental Health Program (2022). Trauma-Informed Investigations Reference Guide. p. 16. [Trauma-Informed Investigations Field Guide | Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL \(UNITAD\)](#)
- 50 Schippert, A., Grov, A., Bjørnnes A. (2021). *Uncovering re-traumatization experiences of torture survivors in somatic health care: a qualitative systematic review*. w. *PLoS ONE* 16(2): e0246074. [Uncovering re-traumatization experiences of torture survivors in somatic health care: A qualitative systematic review | PLOS ONE](#); Steel, Z., Chey, T., Silove, D., Marnane, C., Bryant, R. A., & van Ommeren, M. (2009). Association of torture and other potentially traumatic events with mental health outcomes among populations exposed to mass conflict and displacement: A systematic review and meta-analysis. *Journal of the American Medical Association*, 302(5), 537; Human Rights in Trauma Mental Health Laboratory, Department of Psychiatry and Behavioural Sciences, Stanford University School of Medicine. Submission in: Prosecutor v. Jean Pierre Bemba Gombo, Case ICC-01/05-01/-08. 01/05-01/08-3417-AnxA-Red 22-09-2016 2/49 EK A2.; UNITAD. Trauma-Informed Investigations Field Guide. n 52
- 51 Michels, A. p.120, n 12. [ICCBA/Oxford Victim Participation](#).
- 52 UNITAD – Stanford University Human Rights in Trauma Mental Health Program. Trauma-Informed Investigations Field Guide, p. 38.
- 53 Alexander, P. C. (2012). Retraumatization and revictimisation: An attachment perspective. In M. P. Duckworth & V. M. Follette (Eds.), *Retraumatization: Assessment, treatment, and prevention* (pp. 191–220). Routledge/Taylor & Francis Group. p.191.
- 54 CARSV Toolkit for Justice. n 35
- 55 *Ibid.*
- 56 European Commission, communication on EU Strategy on victims’ rights. (2020) [EUR-Lex - 52020DC0258 - EN - EUR-Lex \(europa.eu\)](#): “Victims’ difficulties in accessing justice are mainly due to lack of information, insufficient support and protection. Victims are often exposed to secondary victimisation during criminal proceedings and when claiming compensation (...)”.
- 57 Buitter, M., Boelen, P. et. al. (2022). The mediating role of state anger in the associations between intentions to participate in the criminal trial and psychopathology in traumatically bereaved people. *Int. Journal of Law and Psychiatry*, 85 p. 1.
- 58 Lens, K. M. E., Pemberton, A., & Groenhuisen, M. S. (2010). Het spreekrecht in Nederland: Een bijdrage aan het emotioneel herstel van slachtoffers? *INTERVICT*. In: Buitter, M et. al. p. 1. n 57
- 59 IASC. (2007) Inter-Agency Guidelines on Mental Health and Psychosocial Support in Emergency Settings. [IASC MHPSS Guidelines](#); IASC (2011) Mental Health and Psychosocial Support in Humanitarian Emergencies. What should protection programme managers know? ([interagencystandingcommittee.org](#))
- 60 *Ibid.* IASC (2007)
- 61 *Ibid.* IASC (2007)
- 62 Michels, p. 118, n 12
- 63 See for instance: UNHCR. [Humanitarian principles | UNHCR](#)
- 64 See for instance: ICC Rome statute Art. 68, Art. 43.6, Rule of Procedure and Evidence, Rule 87, 88. Regulations of the Registry, Regulation 79, 94bis; KSC Rules of Procedure and Evidence, Rule 27; IIIM UN General Assembly Resolution A/71/755, Art. 26 [A_71_755-EN \(1\).pdf](#); EU Victims’ Rights Strategy. [EUR-Lex - 52020DC0258 - EN - EUR-Lex \(europa.eu\)](#). ECOSOC Resolution 2005/20 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, [Resolutions \(unodc.org\)](#); [EU strategy victims’ rights fact sheet.pdf](#); Basic Principles and Guidelines on the Right to a

Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law [UNGA 60/147 OHCHR](#); International Consensus on principles and minimum standards for psychosocial work in search processes and forensic investigations in cases of enforced disappearances, arbitrary or extrajudicial executions, OHCHR et. al. 2011. For more protocols, see also: Resource Material.

- 65 See e.g. Rome Statute Art 68.1: “The Court shall take appropriate measures [...]. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes.”
- 66 See e.g. Rome Statute Art 43.6.
- 67 Buiter, M. n 57
- 68 van der Kolk, B. (2015) *The Body Keeps the Score: Mind, Brain and Body in the Transformation of Trauma* (Penguin Books).
- 69 van der Kolk, B., Fisler, R. (1995). Dissociation and the Fragmentary Nature of Traumatic Memories: Overview and Exploratory Study. *Journal of Traumatic Stress*, Vol. 8, No. 4.
- 70 Bedard-Gilligan, M., Zoellner, L., Feeny, N. (2017). Is trauma memory Special? Trauma narrative fragmentation in PTSD: Effects of treatment and response. *Clinical Psychological Science* 2017, Vol. 5(2) 212–225. <https://doi.org/10.1177/2167702616676581>; Reicherter, D., Wang, S., Ohrtman, T., Ndukwe, N., Vaaitainen, S., Alcalay, S. Brown, L. (2021). Implementation of trauma-informed best practices for international criminal investigations conducted by the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD). *Psychological Injury and Law* (2022) 15:319–329. <https://doi.org/10.1007/s12207-022-09457-x>
- 71 Hellawel, S., Brewin, C. A (2004) Comparison of flashbacks and ordinary autobiographical memories of trauma: content and language. *Behaviour Research and Therapy* 42 1–12.
- 72 Dissociation is described as a discontinuity in the normally integrated functions of memory, identity, perception, experience, and consciousness. Dissociative experiences include subjective phenomena such as amnesia, depersonalization, derealization, absorption, and identity alteration. It exists on a continuum and can to some degree be present in everyone, but is much stronger in persons with trauma. Özdemir, O., Guzel, P., Boysan, M. Yilmaz, E., (2015). Relationships Between Dissociation, Attention, and Memory Dysfunction. *Arch. Neuropsychiatr.* 52: 36–41
- 73 van der Kolk, n 68; Özdemir, n 72
- 74 Michels, A. n 12
- 75 For instance: over- or under-involvement by the investigators or lack of professional distance can also impact on the feeling of safety of the interviewee.
- 76 Herlihy, J., Scragg, P., Turner, S. (2002). Discrepancies in autobiographical memories— implications for the assessment of asylum seekers: repeated interviews study. *British Medical Journal*, Vol, 324, 324 – 327.
- 77 Milne, R. Risan, P. Binder, P. (2019) Regulating and Coping With Distress During Police Interviews of Traumatized Victims. *Psychological Trauma: Theory, Research, Practice, and Policy* 2016, Vol. 8, No. 6, 736–s744.; Madsen, K., Holmberg, U. (2015) Interviewees’ Psychological Well-being in Investigative Interviews: a Therapeutic Jurisprudential Approach. *Psychiatry, Psychology and Law*, 22:1, 60–74.
- 78 The concept *window of tolerance*: “When the individual is within the boundaries of the window of tolerance, he or she is in a state of optimal emotional arousal for healthy functioning and well-being, where thoughts and feelings are manageable and can be integrated. Traumatized individuals, on the other hand, may experience a state of mind strongly influenced by prior fear evoking experiences in ways that narrows their window of tolerance, making it difficult to be receptive, flexible, connected and open.” Siegel, D. J. (1999). *The developing mind: Toward a neurobiology of interpersonal experience*. New York NY Guilford Press. In: Milne R. Risan, P. Binder, P. n 77; Corrigan, F.M. Fisher, J.J and Nutt, D.J. Autonomic dysregulation and the Window of Tolerance model of the effects of complex emotional trauma. *Journal of Psychopharmacology* 25(1) 17–25.

- 79 Lamb, M. (2019). *Tell me what happened?* Wiley; Pipe, E., Orbach, Y., Lamb, M., Abott, C., Stewart, H. (2013). Do case outcomes change when investigative interviewing practices change? *Psychology, Public Policy, and Law*. Vol. 19(2), 179-190.
- 80 Vallano, J.P., Schreiber Compo, N. A. (2011). Comfortable Witness Is a Good Witness: Rapport-Building and Susceptibility to Misinformation in an Investigative Mock-Crime Interview. *Applied Cognitive Psychology*, 25: 960–970.
- 81 Lamb, M., Orbach, Y., Hershkowitz, I., Horowitz, D., Abbott, C. (2007). Does the Type of Prompt Affect the Accuracy of Information Provided by Alleged Victims of Abuse in Forensic Interviews? *Applied Cognitive Psychology* 21: 1117–1130.
- 82 Schuman, J., Nicholas Bala, N. Lee, K. (1999). Developmentally Appropriate Questions for Child Witnesses, *Queen's Law Journal*. US Department of Justice, Office of Justice Programs (2015). Juvenile Justice Bulletin: *Child Forensic Interviewing: best practices*. [Child Forensic Interviewing: Best Practices \(ojp.gov\)](http://ChildForensicInterviewing:BestPractices(ojp.gov)); UNODC: Anti-human trafficking manual for criminal justice practitioners. Module 9: Interviewing child victims of trafficking in persons. [Anti-human trafficking manual for criminal justice practitioners: Module 9 \(unodc.org\)](http://Anti-humantraffickingmanualforcriminaljusticepractitioners:Module9(unodc.org)); Lamb, M. n 79
- 83 Madsen, K., Holmberg, U. n 77; Milne, R. et. al. n 77 ; Vallano, J.P et. al. n 80
- 84 Ibid. p. 61. n 35.; Antonovsky, A. (1993). The structure and properties of the sense of coherence scale. *Social Science and Medicine*, 36, 725–733. Sense of Coherence consists of three components: Comprehensibility refers to the extent to which individuals perceive stimuli to make cognitive sense, that is, to be ordered, clear, consistent, structured and predictable. Manageability refers to how individuals perceive the resources at their disposal to be adequate for dealing with stimulus demands. Meaningfulness refers to the extent to which individuals perceive their lives to make sense from an emotional point of view and to what extent they find it worth investing their time, energy and effort in stressful experiences
- 85 Hamber, B (2009). *Transforming Societies after Political Violence. Truth, Reconciliation and Mental Health*. Springer. n 19
- 86 Madsen, K, Holmberg, U. p. 69, n 77
- 87 van der Kolk, n 68; Madsen, K., Homburg, U. n 77
- 88 Hayes, G. We suffer our memories: Thinking about the past, healing and reconciliation. *American Imago* 55 no. 1, p. 43. In: Hamber, B. (2003). A psychological perspective on political strategies for dealing with the legacy of political violence. p 154 – 174, p. 160. In: Biggar, N. Eds. (2003). *Burring the Past. Making peace and doing justice after civil conflict*. Georgetown University Press.; Rimé B, Kanyangara P, Yzerbyt V and Paez D. (2011) The impact of Gacaca tribunals in Rwanda: Psychosocial effects of participation in a truth and reconciliation process after a genocide. *European Journal of Social Psychology* 41: 695–706.; Brounéus, K. (2010). The trauma of truth telling: Effects of witnessing in the Rwandan Gacaca Courts on psychological health. *Journal of Conflict Resolution*, 54(3), 408–437.; Lens, K., Pemberton, A., Brans, K., Braeken, J., Bogaerts, S., Lahla, E. (2015). Delivering a Victim Impact Statement: Emotionally effective or counterproductive? *European Journal of Criminology*. Vol. 12(1) 17–34, p. 30.
- 89 Lens, K. et. Al. p. 31. *ibid.*
- 90 Kunst, M. Popelier, L., Varekamp, E. (2015) Victim satisfaction with the criminal justice system and emotional recovery: a systematic and critical review of the literature. *Trauma, violence and abuse*. Vol 16(3) 336-358.
- 91 Stover, E. (2005). *The Witnesses: War Crimes and the Promise of Justice in The Hague*. Philadelphia: University of Pennsylvania Press; ICTY (2014) Echoes of Testimony. UC Berkeley School of Law, Bearing Witness at the International Criminal Court, an Interview Survey of 109 Witnesses n 29; Stepakoff, S., Reynolds, S., Charters, S. (2015) Self-Reported Psychosocial Consequences of Testifying in a War Crimes Tribunal in Sierra Leone. *International Perspectives in Psychology: Research, Practice, Consultation*, Vol. 4, No. 3, 161-181; ICTY (2016) Echoes of Testimonies, n 26.
- 92 Rimé et. al. n 88; Hamber B. n 19.; Byrne, C. Benefit or Burden: Victims' Reflections on TRC Participation. *Peace and Conflict: Journal of Peace Psychology*, 10(3), 237- 256.
- 93 Stover, E. n 91
- 94 *Ibid.*

- 95 Horn, R., Vahidy, S., & Charters, S. (2011). Testifying in the Special Court for Sierra Leone: witness perceptions of safety and emotional welfare. *Psychology, Crime and Law*, 17(5), 435-456.
- 96 Stepakoff, S., Reynolds, G., Charters, S. n 91
- 97 Human Rights Center, UC Berkeley School of Law. Bearing Witness at the International Criminal Court, an Interview Survey of 109 Witnesses. n 29
- 98 Michels, A. (2020) n 12
- 99 Restorative processes can allow more victims to participate, give primary importance to victims’ suffering and needs, and have the potential to facilitate reconciliation between perpetrator and victim. They also include the offender’s participation in communitarian work and psychological therapy. However, in the absence of any retributive sanctions, many victims are likely to feel that perpetrators pay no real price for the crimes they committed. In a mixed model, the retributive elements may more effectively deter those perpetrators in positions of power. ICTJ. A hybrid approach to international crimes: p. 11. n 18; Dejusticia.org. Uprimny, R., Saffon, M., (2017) *Transitional Justice, Restorative Justice and Reconciliation. Some insights from the Colombian Case*. p. 6. [final paper \(dejusticia.org\)](#)
- 100 Symptoms of vicarious trauma include: anger, anxiety, depression, emotional exhaustion, low self-esteem, numbness, withdrawal, indifference, difficulties to make decisions, fatigue, changes in eating/sleeping patterns, addiction etc.; For a detailed overview, see: UNITAD – Stanford University Human Rights in Trauma Mental Health Program. Trauma-informed investigations Field Guide, p. 65 – 71. n 52; UNITAD Stanford University Human Rights in Trauma Mental Health Program Reference Manual, 79 – 97. n 49
- 101 UNITAD – Stanford University Human Rights in Trauma Mental Health Program. Reference Guide, p 79. n 49
- 102 Based on the stages of the ICC legal process, See: [How the Court works \(icc-cpi.int\)](#)
- 103 MHPSS should be integrated into the legal framework and thus considered a mandatory activity. Required resources should be included in the mechanism’s regular budget or core funding.
- 104 See: UNGA Resolution 60/147 (2006). Basic principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law stipulates: “The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation”. VI.10. [UNGA 60/147 OHCHR](#) See for example: PSVI (2019) [PSVI Principles for Global Action.pdf \(un.org\)](#); CARSV Stigma Toolkit for Justice, Pilot version, n 35
- 105 See also: Hamber, B., n 19, p. 44.
- 106 OSCE. Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014–2016. p. 74. [BiH witness support.pdf](#)
- 107 UNITAD – Stanford University Human Rights in Trauma Mental Health Program. Field guide. p. 64, n 52
- 108 Medical insurances for staff should include affordable specialised psychological care.
- 109 Meeting with A.F. on 21 September 2023.
- 110 See for instance: Bellingcat (2018). [How to Prevent, Identify and Address Vicarious Trauma — While Conducting Open Source Investigations in the Middle East - bellingscat](#)
- 111 PSVI (2019). Principles for Global Action, Preventing and addressing stigma associated with conflict-related sexual violence. [PSVI Principles for Global Action.pdf \(un.org\)](#)
- 112 CARSV Stigma Toolkit for Justice, Pilot Version. n 35
- 113 For detailed guidance, see Eurojust, ICC. (2022) Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations, p. 8. [2_Eurojust_ICC_CSOs_Guidelines_2-EN.pdf](#)

- 114 Michels, A. (2002). Ils disent que je suis traumatisée - trauma-counselling in Rwanda, *Tijdschrift voor Klinische Psychologie*, 32.
- 115 Mohamed Gibril Sesay and Mohamed Suma, (2009). Transitional Justice and DDR: The Case of Sierra Leone. In: ICTJ. A mixed approach to international crimes: The retributive and restorative justice procedure of Colombia's Special Jurisdiction for Peace, p. 7. n 18
- 116 Michels, A. (2005) Transitional Justice and Children': Outcome Report of the UNICEF Expert Discussion in Florence, 10-12 November 2005. UNICEF, Florence. Available at: http://www.unicef-icdc.org/cgi-bin/unicef/research/main.sql?file=scheda_projects.sql&id=170
- 117 ICTJ. A mixed approach to international crimes: The retributive and restorative justice procedure of Colombia's Special Jurisdiction for Peace, p. 4. n 18
- 118 See: [Who We Work With – IIM \(un.org\)](#)
- 119 See: [Cartooning for Justice – Civitas Maxima \(civitas-maxima.org\)](#)
- 120 Meeting on 07 November. 2023 with M.R.
- 121 [UN Resolution 2106 \(2013\)](#) stipulates: “recognising the importance of providing timely assistance to survivors of sexual violence, urges UN entities and donors to provide non-discriminatory and comprehensive health services, including sexual and reproductive health, psychosocial, legal and livelihood support and other multi-sectoral services for survivors of sexual violence, taking into account the specific needs of persons with disabilities.”
- 122 See: [Holistic Care – Dr. Denis Mukwege Foundation](#)
- 123 See: [la-strada.org.ua](#)
- 124 See: [About Barnahus - Barnahus](#)
- 125 Siegel, D. J. (1999). n 78
- 126 Testimony therapy was for instance developed to treat victims of the Chilean political repression. (Cienfuegos, A., Monelli, C. The testimony of political repression as therapeutic instrument. *American Journal of Orthopsychiatry*, 53(1), 1983.) Similar techniques were developed for Holocaust survivors or victims of war in Bosnia. See for instance: Hassan, J. *A door next to trauma: learning from holocaust survivors how to respond to trauma*. Jessica Kingsley Publishers, NY. (2003)
- 127 Otgaar, H., Houben S.T.L., Rassinc, E., Merkelbach, H. Memory and eye movement desensitization and reprocessing therapy: a potentially risky combination in the courtroom. *Memory*, Vol. 29. No. 9, 2021, 1254–1262..
- 128 Neuner, F., Schauer, M., Klaschik, C., Karunakara, U., Elbert, T. (2004) A Comparison of Narrative Exposure Therapy, Supportive Counseling, and Psychoeducation for Treating Posttraumatic Stress Disorder in an African Refugee Settlement. *Journal of Consulting and Clinical Psychology*. Vol. 72, No. 4, 579–587.
- 129 Hamber, B. n 19
- 130 Ocampo, J, Audi, M, Wessels, M. (2021) Cultural bias and MHPSS. *Forced Migration Review*. Issue 66. p. 15 <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/issue66/magazine.pdf>
- 131 Ibid.; Neuner, F. n 128
- 132 IASC Guidelines, n 4 . See also: Hamber, B. Transitional Justice, mental health and psychosocial support. Renewing the United Nations Approach to Transitional Justice. p. 14. [SG-GuidanceNote-TJ-Mental-Health-digital.pdf \(ohchr.org\)](#)
- 133 Onyut, L., Neuner, F., Schauer, E., Ertl, V., Odenwald, M., Schauer, M., & Elbert, T. (2005) Narrative Exposure Therapy as a treatment for child war survivors with posttraumatic stress disorder: Two case reports and a pilot study in an African refugee settlement. *BMC Psychiatry*, 5:7.; Neuner, F., et. al. n. 128

- 134 [Group Counseling Model for Torture Survivors \(cvt.org\)](#)
- 135 Michels, A. (2003) L'appel de la souffrance, le centre de blessés de Bujumbura, *Répères, Journal of MSF Belgium*.
- 136 Trauma-informed interview techniques which encourage the use of a free narrative, such as the PEACE Model, can be conducive for further disclosure.
- 137 [understanding-the-icc.pdf \(icc-cpi.int\)](#); [Witnesses \(icc-cpi.int\)](#)
- 138 [understanding-the-icc.pdf \(icc-cpi.int\)](#); ICC-OTP (2023). OTP Policy on Children. p.30. [2023-policy-children-en-web.pdf \(icc-cpi.int\)](#)
- 139 Meeting with F.R on 27 September 2023.
- 140 WHO. Guidelines for medico-legal care for victims of sexual violence. [MedLeg \(who.int\)](#); Murad Code [Murad Code — Murad Code](#);
- 141 Meeting with A.T on 15 September 2023.
- 142 Reicherter, D. *et.al.* n 70
- 143 Michels, n 12
- 144 See for example ICC Reg. Registry 94bis
- 145 Michels, n 38
- 146 ICC, Regulations of the Office of the Prosecutor. Reg. 36.3
- 147 ICC, Regulations of the Registry, Reg. 94bis.3
- 148 ICTY Echoes of testimony. n 18
- 149 *Ibid.*
- 150 Meeting with N.W. on 1 September 2023.
- 151 ICC VWS SOP on Psychosocial Assessments, internal document.; UNITAD – Stanford University Human Rights in Trauma Mental Health Program. Field guide, p. 128. n 52.; Grounding exercises can include breathing exercises or learning to take control if an interviewee feels overwhelmed or notices signs of dissociation, e.g. by holding or touching the table, drinking water or feeling the ground under their feet.
- 152 Reicherter, D. *et. al.* n 70
- 153 Bazzano, L., Durant, J., Rhode Brantley, P. (2021) A Modern History of Informed Consent and the Role of Key Information. *Ochsner Journal* 21:81–85,..
- 154 Murad code, 1.4 [Murad Code — Murad Code](#)
- 155 Eurojust, ICC. Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations, p. 8. n 113
- 156 For instance, it has been established that for trauma survivors, non-threatening situational cues often activate sympathetic nervous system (SNS) activity and fight flight responses, while dangerous situations instead elicit parasympathetic non-responsiveness or submission–compliance responses. Corrigan, F.M. *et. al.* n 50.
- 157 Or another appropriate adult (such as a chosen family member, or other adult with a duty of care towards the child).
- 158 See for instance: ICC-OTP (2023). OTP Policy on Children. p.30. [2023-policy-children-en-web.pdf \(icc-cpi.int\)](#)
- 159 PSVI. (2017) International Protocol on the Documentation and Investigation of Sexual Violence in Conflict. [International Protocol 2017 2nd Edition.pdf](#)
- 160 See Eurojust, ICC, n 113

- 161 See PSVI (2017), p. 256, n 159: “In the absence of clear laws, the following general rules should apply (although maturity must also be taken into consideration): aged 16-18: informed consent given by the child and consent from the parent or adult with a duty of care sought only if deemed necessary in the circumstances; aged 12-15: informed consent should be given by the parent or adult with a duty of care, unless it is not deemed appropriate in the circumstances, and informed assent by the child; below age 12: informed consent should be given by the parent or adult with a duty of care and assent given by the child.”
- 162 ICC. Victims and Witnesses Unit Report on confidentiality of medical records and consent to disclose medical records. para. 3, 4. ICC-01/04-01/06 2166 02-09-2009 IO T.
- 163 Only in specific circumstances, such as risk to life of the patient or others, or in case a patient is not in a position to consent or in case of a court order, can medical confidentiality be breached. See also: the American Psychological Association’s definition of confidentiality, article 4.01 of the «Ethical Principles of Psychologists and Code of Conduct» (“APA Principles”). Similarly, the International Code states: ‘A doctor shall preserve absolute secrecy on all he knows about his patient because of the confidence entrusted in him’, <http://www.apa.org/ethics/code2002.html>.
- 164 PSVI (2017) n 159
- 165 Michels. p. 118. n 12. See also: Ethical Principles of Psychologists and Code of Conduct, American Psychological Association, Rule 3.05 “Multiple Relationships”; The European Federation of Psychologists’ Associations Meta-Code. In: Francis, R. (2009) Ethics for Psychologists. Respect for a Person’s Rights and Dignity, 2. Privacy and confidentiality: “Obligation that clients and others that have a professional relationship are aware of the limitations under the law of the maintenance of confidentiality”.
- 166 See for instance: ICC. *Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses* (ICC-01/14-01/21-446-AnxII 10-08-2022 1/11 NM T). [CR2014_10208.PDF \(icc-cpi.int\)](#)
- 167 See : The European Federation of Psychologists’ Associations Meta-Code. n 164: “Obligation when the legal system requires disclosure to provide only that information relevant to the issue in question, and otherwise to maintain confidentiality”.
- 168 See: ICC Vulnerability Protocol, n 166. In principle, the decision to share the document further is at the judges discretion.
- 169 See for instance: ICC Rome Statute Art. 43.6; SCSL Rules of Procedure and Evidence, Rule 34(B)
- 170 See: [We Document - PHR](#)
- 171 Fisher, R., Geiselman R. (2010). The Cognitive Interview method of conducting police interviews: Eliciting extensive information and promoting Therapeutic Jurisprudence. *International Journal of Law and Psychiatry* 33 321–328.; Risan, P., Binder, P. n 77 Horn, R., Vahidy, S., & Charters, S. (2011). Testifying in the special court for Sierra Leone: witness perceptions of safety and emotional welfare. *Psychology, Crime and Law*, 17(5), 435-456.
- 172 See Resource material.
- 173 See also: Reicherter, D., et. al, n 70
- 174 Lamb (2019) n 79; Baugerud, G.A., Johnson, M.S. (2017). The NICHD Protocol: Guide to Follow Recommended Investigative Interview Practices at the Barnahus?. In: Johansson, S., Stefansen, K., Bakketeig, E., Kaldal, A. (eds) Collaborating Against Child Abuse. Palgrave Macmillan, Cham. p. 122. https://doi.org/10.1007/978-3-319-58388-4_6 ; ICC – OTP Policy on Children. n 127
- 175 See for instance: UK Ministry of Justice (2011). Achieving Best Evidence in Criminal Proceedings. Guidance on interviewing victims and witnesses, and guidance on using special measures. [Achieving best evidence in criminal proceedings - GOV. UK \(www.gov.uk\)](#)
- 176 See: ICC Regulations of the Registry Reg. 91 - “Accompanying support person”.

- 177 See for instance: APA, (Rule 3.05 (c)) “When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur”.
- 178 Single-session debriefings after traumatic experiences are not recommended. WHO. Single-session psychological debriefing: Not recommended. [Note on debriefing.doc \(mhpss.net\)](#)
- 179 See: Baugerud, G.A., et. Al. p. 101. n 174
- 180 UK Ministry of Justice. (2011) n 175
- 181 Howes, L. (2020) Interpreted investigative interviews under the PEACE interview model: police interviewers’ perceptions of challenges and suggested solutions. *Police Practice and Research*, Vol. 21, No. 333-350.
- 182 See e.g.: Rome Statute Art 43.6; also: Unified Protocol on the Practices Used to Prepare and Familiarise witnesses for Giving Testimony at Trial, *Prosecutor v. Laurent Gbagbo, Charles Blé Goudé*, ICC-02/11-01/15-355-Anx 03-12-2015 1/24 EK T (“Familiarisation Protocol”)
- 183 See for example: ICC Regulations of the Registry, Reg. 79.1 “the Registrar shall develop and, to extent possible, implement policies and procedures to enable witnesses to testify in safety, so that the experience of testifying does not result in further, harm, suffering or trauma for the witnesses.” Reg. 83.1 *Support programme*: The Registry shall develop a support programme, which shall also apply to field, in order to provide psychological and social assistance and advice to witnesses, victims who appear before the court, the dependants of all such persons, accompanying support persons and persons at risk the earliest stage possible.” Reg 83.2 “In addition, the support programme shall provide, where appropriate, and for the duration of their stay at the seat of the Court or at the site of the judicial proceedings, appropriate assistance to witnesses (...)”. see also: [understanding-the-icc.pdf \(icc-cpi.int\)](#)
- 184 PLAN criteria. See Operations: Tactical Planning Principles. Authorised Professional Practice. UK College of Policing, available at: <http://www.App.college.police.uk>. In: Michels. 2020 p. 118. n 12
- 185 [Witnesses \(icc-cpi.int\)](#)
- 186 At the ICC, each Trial Chamber is free to adopt a ‘witness preparation protocol’ or a ‘witness familiarisation protocol’. “Most trial chambers, however, have decided not to allow witness preparation”. See: ICC: *Prosecutor v. Al Hassan Abdoul Aziz Ag Mohamed Ag Mahmoud*. Decision on witness preparation and familiarisation. p. 5. ICC-01/12-01/18-666 17-03-2020 1/22 RH T
- 187 See: ICC Familiarisation Protocol, n 182
- 188 Hirst, M., Sahyouni, S. (2020) *Effective legal representation for participating victims: challenges and some solutions*. In: Jasini, R. and Townsend G. (eds.) *Advancing the Impact of Victim Participation at the International Criminal Court: Bridging the Gap between Research and Practice*, ICCBA-Oxford. Oxford Law In-house publication, November. p. 4 – 32. [ICCBA/Oxford Victim Participation](#)
- 189 Michels, A., n 12; See also: ICC Familiarisation Protocol, n 182; [Witnesses \(icc-cpi.int\)](#)
- 190 UK Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings*, n 175; EU Directive, Art. 23.1. [Directive 2012/29/ EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA \(europa.eu\)](#); ICC Rules of Procedure and Evidence, Rule 88.; Fairclough, S. n 18
- 191 ICC, Regulations of the Registry, Reg. 94bis. EU Directive, Art 22.1. n. 190.
- 192 See n 175.; Michels, n 12
- 193 ECOSOC Resolution 2005/20 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, [Resolutions \(unodc.org\)](#); ICC, n. 62.
- 194 ICC, RPE Rule 87, 88. Reg, Registry Reg. 94bis; UK Ministry of Justice, n. 175.
- 195 Michels, n 12; meeting with N.W. on 1 September 2023.

- 196** Meeting with A.T. on 15 September 2023.
- 197** Lens, K. et. Al. p. 31. n 86
- 198** UNGA. (2005) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. A/Res/60/147, n 108; See also: [Reparations | OHCHR](#)
- 199** For instance, to explain that reparations are only granted in case of a guilty verdict and, in case of individual reparations, only to victims of the crimes for which the accused was found guilty. See: Ferstman, C. (2019) Reparations at the ICC: The need for a human rights based approach to effectiveness. Accessed via: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3451182
- 200** See: [Trust Fund for Victims \(icc-cpi.int\)](#)
- 201** Meeting with F.R on 28 September 2023.
- 202** Experts consulted individually or in attendance at the closed expert consultation meeting on 30 November 2023. Their input contributed greatly to this project

