

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.

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

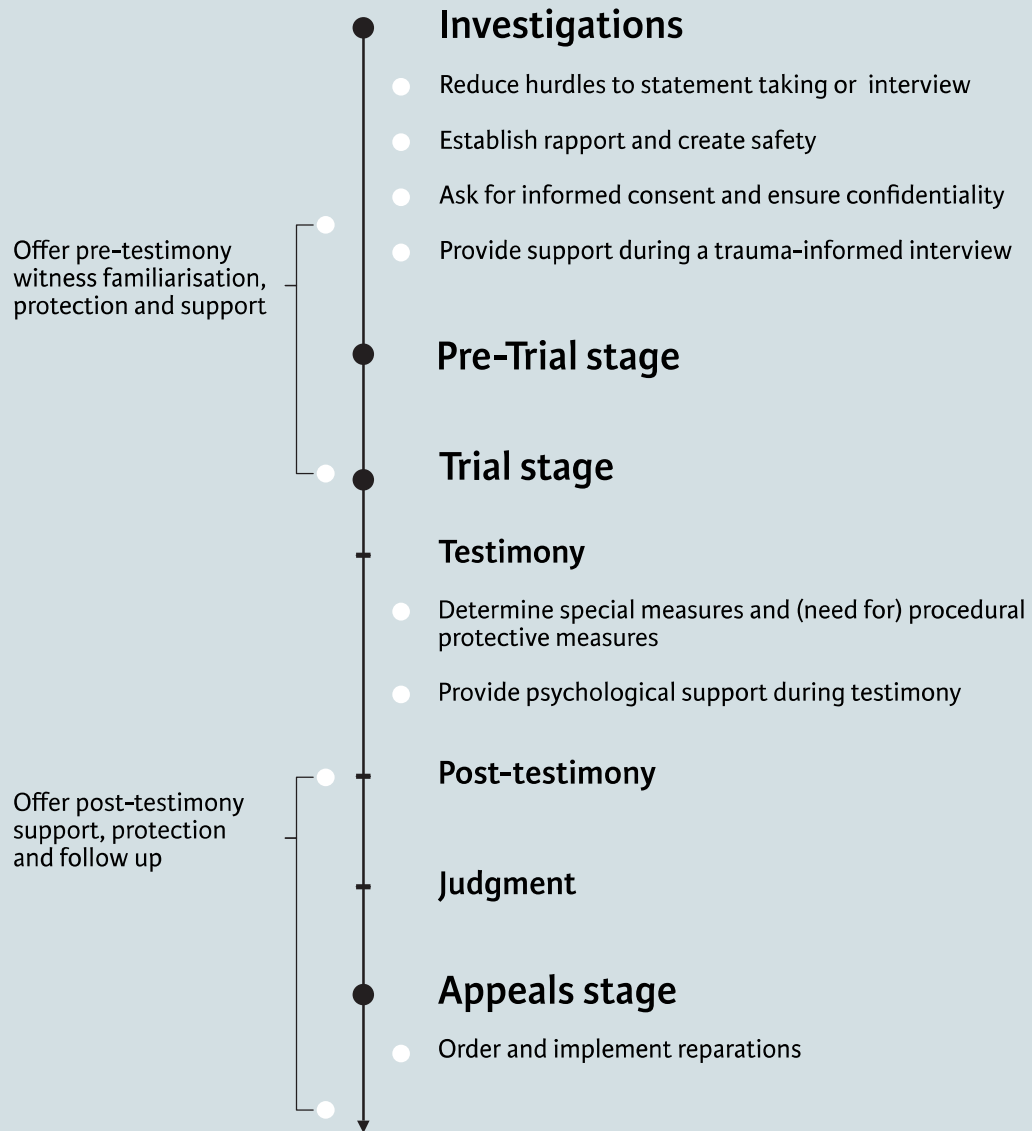


Figure 3

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.