Oñati Socio-Legal Series (ISSN: 2079-5971)
Oñati International Institute for the Sociology of Law
Avenida Universidad, 8 – Apdo. 28
20560 Oñati – Gipuzkoa – Spain
Tel. (+34) 943 783064 / opo@iisj.net / https://opo.iisj.net

Identifying and Locating Potential Witnesses of International Crimes through Third Parties 'On the Ground': A Trauma-Informed Process?

OÑATI SOCIO-LEGAL SERIES FORTHCOMING
DOI LINK: HTTPS://DOI.ORG/10.35295/OSLS.IISL.2352
RECEIVED 30 APRIL 2025, ACCEPTED 2 SEPTEMBER 2025, FIRST-ONLINE PUBLISHED 6 NOVEMBER 2025

SUZANNE SCHOT*

Abstract

Victims and witnesses of international crimes, such as genocide, war crimes, and crimes against humanity can suffer from psychological trauma or related sequalae as a direct consequence of the crimes. Recounting such experiences carries a substantial risk of secondary victimisation or retraumatisation. This risk must be carefully considered not only during international criminal investigations and prosecutions, but also at the preliminary stage of identifying and locating potential witnesses. This article critically examines the involvement of third parties in the identification of potential witnesses, distinguishing between organisations with varying mandates and so-called intermediaries. The analysis draws upon relevant scholarly literature, case law, and transcripts of proceedings. The findings suggest that, although there have been efforts to (increasingly) regulate the involvement of third parties to locate potential witnesses, the implementation of a trauma-informed process requires more precisely formulated procedures. This is essential to safeguard the psychological well-being of victims and witnesses from the earliest stages of investigations.

Key words

Victims; witnesses; trauma; criminal investigations; international crimes

I am grateful to the coordinators of the Workshop 'Opening the Black Box of International Criminal Investigations: Challenges of Culture and Practice': Annelies Vredeveldt (Vrije Universiteit Amsterdam), Nandor Knust (UiT The Arctic University of Norway), Dylan Drenk (Vrije Universiteit Amsterdam) and Jack Staniland (Griffith University), as well as the participants who commented on the first draft during the workshop that took place at the Oñati International Institute for the Sociology of Law in June 2024. Thank you for including me in this special issue. My colleagues at the Vrije Universiteit Amsterdam have also been indispensable in the process of writing this paper, and I thank you for our conversations about the topic and encouragement. In addition, I would like to thank the anonymous reviewers for their helpful and constructive comments, and Leire Kortabarria for her assistance during the peer review process.

* Suzanne Schot. Assistant Professor of International Criminal Law at the Department of Criminal Law of the Vrije Universiteit Amsterdam, the Netherlands. Email: suzanneleontineschot@vu.nl, ORCID: https://orcid.org/0000-0002-5102-4526.

Resumen

Las víctimas y los testigos de crímenes internacionales, como el genocidio, los crímenes de guerra y los crímenes contra la humanidad, pueden sufrir traumas psicológicos o secuelas relacionadas como consecuencia directa de los crímenes. Relatar estas experiencias conlleva un riesgo considerable de victimización secundaria o retraumatización. Este riesgo debe tenerse muy en cuenta no solo durante las investigaciones y los enjuiciamientos penales internacionales, sino también en la fase preliminar de identificación y localización de posibles testigos. En este artículo se examina de forma crítica la participación de terceros en la identificación de posibles testigos, distinguiendo entre organizaciones con diferentes mandatos y los denominados intermediarios. El análisis se basa en la bibliografía académica pertinente, la jurisprudencia y las transcripciones de los procedimientos. Las conclusiones sugieren que, aunque se han realizado esfuerzos para regular (cada vez más) la participación de terceros en la localización de posibles testigos, la aplicación de un proceso que tenga en cuenta el trauma requiere procedimientos formulados con mayor precisión. Esto es esencial para salvaguardar el bienestar psicológico de las víctimas y los testigos desde las primeras etapas de las investigaciones.

Palabras clave

Víctimas; testigos; trauma; investigaciones penales; crímenes internacionales

Table of contents

1. Introduction

Victims and witnesses of international crimes, such as genocide, war crimes and crimes against humanity, may have suffered, or continue to suffer, from psychological trauma as a result of experiencing or witnessing extremely traumatic events (Schot 2024, 33-34). Once they become involved in criminal investigations – and subsequently prosecutions – it is essential to prevent as much as possible secondary victimisation or retraumatisation (Schot 2024, 6-8). This also applies to the preliminary stage of identifying and locating victims and witnesses of international crimes for investigative purposes. The process of identifying and locating victims and witnesses can be challenging due to various circumstances. These may include the continuation of violence or armed conflict (Whiting 2013, 180), significant geographical distance between investigators and witnesses or other types of evidence (Findlay and Ngane 2012, 80), substantial lapse of time between the commission of the crimes and the opening of an investigation (Wald 2002, 227), or the deliberate obstruction of evidence collection by perpetrators or state authorities. Violence and displacement often result in witnesses being dispersed across various locations, for example within internal displacement camps, in refugee camps in neighbouring states, or relocated to third countries – sometimes under new identities (Wald 2002, 227; Jarvis and Nabti 2016, 87). In practice, investigators of international crimes rely on third parties with close proximity to the crime scene to facilitate the identification and location of potential witnesses. A distinction can be drawn between organisations operating at the scene with varying mandates (including international organisations, non-governmental organisations, civil society organisations and other fact-finding bodies) and so-called intermediaries, who are affiliated with the investigators.

This article examines the extent to which the involvement of such third parties is regulated, and the degree to which the traumatic nature of the events is considered when they engage with victims and witnesses. The analysis is grounded in a review of relevant scholarly literature, case law and transcripts of proceedings. The transcript analysis draws partly on a selection compiled in prior research on traumatised witnesses in international criminal trials and has been supplemented with additional proceedings in which third-party involvement was addressed during trial. The aim of this article is to analyse current practices, identify existing safeguards and highlight additional measures – derived from research on secondary victimisation and retraumatisation – that should be considered for implementation. The outline of this article is therefore as follows: first, the concepts of *trauma*, *secondary victimisation* and *retraumatisation* are defined for the purpose of this article, along with their potential intersections with the process of identifying and locating witnesses for (international) criminal investigations. The article then turns to the involvement of organisations with varying mandates on the one hand, and intermediaries on the other hand, assessing their engagement with potential witnesses through the lens of safeguarding psychological well-being and accountability efforts.

2. Setting the Scene: Trauma, Secondary Victimisation and Retraumatisation

This section analyses the concept of psychological trauma and its impact on the well-being of victims and witnesses who become involved in (international) criminal

investigations. For the purpose of this analysis, trauma is understood to originate from the initial criminal event, although interactions with investigators or other parties involved in evidence-gathering can further compromise victims' or witnesses' psychological well-being.

An event can be considered traumatic when it elicits extreme (di)stress, fear, anxiety, guilt or shame (Kahana *et al*. 1988, 58, McNally 2003, 237, Fink 2016, 5). IAccording to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5, American Psychiatric Association), a traumatic event in involves exposure to actual or threatened death, serious injury or sexual violence, whether experienced directly or witnessed. Empirical research conducted in current or post-conflict settings has demonstrated that war and other gross human rights violations significantly increase the risk of developing mental health disorders (Reicherter and Aylward 2011, 15), including Post Traumatic Stress Disorder (PTSD) (de Jong *et al.* 2001, 555-562), depression (Reicherter and Aylward 2011, 16, 22, 24), and anxiety (Ayazi *et al.* 2014, 2, 9-10). While some PTSD symptoms are cross-culturally consistent, others – such as neck soreness and dizziness, noted among traumatised Cambodians following the Khmer Rouge atrocities – may be culturally specific and not universally recognised as being trauma-related (Good and Hinton 2016, 21-22; Hinton and Good 2016, 64). Beyond these conditions, victims and witnesses may also experience other psychological sequalae that can have serious implications, for example profound grief and loss or other personal injuries (Reicherter and Aylward 2011, 25). However, it should also be noted that not all who experience a traumatic event develop PTSD, depression or other psychological sequalae (Kahana *et al*. 1988, 68), but they can still have been affected by the crimes. These observations highlight the diverse psychological sequelae that victims or witnesses can experience or suffer from as a result of the crimes under investigation.

When victims and witnesses are asked to provide statements about the crimes, there is a risk of secondary victimisation or retraumatisation (Orth 2002, 315-316, Stover 2005, 81, Schock and Knaevelsrud 2013, 64-66, Ciorciari and Heindel 2016, 267, 278). *Secondary victimisation* is a result of, broadly speaking, any negative social or societal reaction to the primary cause of victimisation (Montada 1994), which may occur during criminal proceedings as a result of their outcomes (Orth 2002, 315). *Retraumatisation,* occasionally referred to as "reactivation", denotes the re-emergence or intensification of pre-existing trauma symptoms (Schock and Knaevelsrud 2013, 64). This can occur due to being triggered by trauma-associated stimuli such as smells or noise or even by recounting the events (Schock and Knaevelsrud 2013, 64-66). Unlike secondary victimisation, which can be experienced irrespective of trauma, retraumatisation requires the existence of trauma symptoms to occur. As observed by an investigator of the International Criminal Court (ICC) "there is always the possibility of retraumatisation through the interview process" (ICC, *The Prosecutor v Katanga and Chui*, Transcript, 25 November 2009, 11). Although the extent to which this can be fully prevented is doubtful, procedural safeguards should aim to minimise their occurrence, including in the early stages of an investigation.

Given the potential harmful nature of recounting traumatic experiences, victims and witnesses can be considered "vulnerable" when participating in interviews about the events more broadly (Eurojust *et al.* 2002, 11-13) or statement-taking for criminal proceedings (ICC, *The Prosecutor v Ntaganda*, Annex I, 5 February 2015). Therefore, this

article will also consider how vulnerability is construed and taken into account when potential witnesses are identified and located. It is crucial, however, not to conflate being a victim or witness of international crime(s) with an inherent state of vulnerability. Rather, the processes underlying the investigation and prosecution of crimes introduces situational vulnerabilities that must be addressed to safeguard the victims' or witnesses' psychological well-being.

3. On the Scene: Third Parties who Assist with Identifying and Locating Witnesses

As explained above, third parties present at the scene where international crimes are, or have been, often operate in a close proximity to potential victims and witnesses. Owing to inherent difficulties of conducting international criminal investigations, such as the continuation of armed conflict and the geographical dispersion of victims and witnesses, such third parties often play a significant role in locating and identifying victims and witnesses. Below, the involvement of organisations operating with varying mandates and intermediaries is analysed by paying specific attention to the attendant risk that interactions with victims and witnesses may give rise to secondary victimisation, retraumatisation or other forms of harm to their well-being and to broader accountability efforts.

3.1. Organisations Operating at the Scene with varying Mandates

A range of organisations may maintain personnel within the territory in which the crimes were committed. This includes international organisations (IOs), non-governmental organisations (NGOs), civil society organisations (CSOs), and other fact-finding bodies. Local or international organisations may have been "on the scene" well in advance of the arrival of criminal investigators and, in many instances, are likely to have identified and engaged with witnesses about the crimes prior to contact with criminal investigators (Grace and Coster Van Voorhout 2014, 11). For the purpose of this research, these organisations can be distinguished by the diversity of their mandates (Robertson 2010, 27-28, Fujiwara and Parmentier 2012, 581, Grace and Coster Van Voorhout 2014, 16, Aksenova and Bergsmo 2015, 1-4), which guide their operational activities, and by the variation in the applicable diverging standards of proof. Certain fact-finding missions tasked with investigating specific crimes may adopt thresholds such as "reasonable suspicion" or "balance of probabilities", while of others may articulate no evidentiary standard of proof at all (Sunga 2011, 190, Grace and Coster Van Voorhout 2014, 15). Consequently, statements obtained from victims and/or witness may be collected for varying purposes and interests, for example to provide humanitarian aid or to determine the eligibility for refugee status (Jarvis and Nabti 2016, 44, 88-89).

3.2. Involvement in Locating Potential Witnesses

Reports produced by various organisation are, at times, used in the initial stages of international criminal investigations to locate potential witnesses for testimonial evidence (Goldstone 2004, 382, Adeniran 2018, 73, ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 17-18). Investigators of the International Criminal Tribunal for the former Yugoslavia (ICTY), for example, examined "information from the multiple fact-finding bodies that collected evidence of sexual violence in the former

Yugoslavia prior to the ICTY's establishment" (Jarvis and Nabti 2016, 88). Such bodies included, *inter alia*, Human Rights Watch, the Lawyers Committee for Human Rights (former Human Rights First), and Amnesty International (Jarvis and Nabti 2016, 88). Similarly, with respect to the ICC, the NGO Global Rights recorded that it was "asked [by the ICC] to trace witnesses" identified by a local partner NGO working under its guidance "for further collaboration with the court" (Baylis 2009, 142-143). Organisations may therefore play a role in the identification of witnesses and have been reported to actively encourage them to cooperate with criminal investigators (Nuzban 2018, 285).

3.2.1. Guidelines

Specifically for CSOs, Eurojust, Genocide Network and the Office of the Prosecutor of the International Criminal Court jointly issued guidelines for documenting international crimes and human rights violations for accountability purposes in 2022 (Eurojust *et al.* 2022). These guidelines acknowledge that "[c]ivil society organisations can primarily and very effectively support accountability efforts by identifying and locating victims and potential witnesses, mapping victimisation and alleged crimes, as well as escape routes taken and places where victims and potential witnesses received support or were relocated to" (Eurojust *et al.* 2022, 16). At the same time, the guidelines recognise the risks of such engagement. In particular, they stress that "[t]he presence of multiple civil society organisations and stakeholders in the same accountability sector using different standards and tools also gives rise to the risk of over-documentation, increases the risk of re-traumatisation and has the potential to compromise the quality of evidence ultimately available for accountability purposes" (Eurojust *et al.* 2022, 4). Accordingly, the guidelines seek both to support CSOs in fulfilling their functions and to safeguard the safety and well-being of persons who provide them with information (Eurojust *et al.* 2022, 4).

Regarding interactions with vulnerable (traumatised) persons, the guidelines stipulate that such engagement should be limited to what is strictly necessary for the fulfilment of the organisation's mandate (Eurojust *et al.* 2022, 11). CSOs are therefore encouraged, insofar as possible, to refrain from taking direct accounts from vulnerable individuals, in particular traumatised persons and children (Eurojust *et al.* 2022, 14). Instead, their focus should be on identifying and locating victims and potential witnesses and gathering relevant information about them, including their vulnerabilities, to transfer this to competent investigative authorities to facilitate future interviews (Eurojust *et al.* 2022, 14). The guidelines further require the involvement of healthcare professionals to ensure well-being of victims and witnesses and prevent retraumatisation, which such professionals assessing vulnerability on a case-by-case basis (Eurojust *et al.* 2022, 11-12). A non-exhaustive list of vulnerability indicators is provided, including age; being a victim of sexual or gender-based crimes, torture, or other violent crimes; presence of disabilities or signs of psychological trauma; or detention status (Eurojust *et al.* 2022, 11). Where it remains necessary to take a general first account in pursuit of a mandate, CSOs are directed to elicit only the minimum information required to achieve their documentation objectives, in compliance with the "do-no-harm" principle (Eurojust *et al.* 2022, 14). Any such information should demonstrably necessary, add clear value, and cannot be obtained from other sources (Eurojust *et al.* 2022, 11). Yet, a critical question remains: what constitutes "minimum" in practice? The challenge lies in striking an

appropriate balance between the fulfilment of an organisational mandate, however well-intentioned, and the imperative of preventing as far as possible secondary victimisation and retraumatisation.

3.3. Risks involved for Well-Being and Accountability Efforts

Although such organisations and their reports may play a useful role in the preliminary identification of witnesses for subsequent international criminal investigations or prosecutions, their involvement may also call into question the evidentiary value of the information obtained. This is particularly so "due to the risk that the witness statements had been unwittingly tainted by the manner in which they were collected" (Fujiwara and Parmentier 2012, 581, Jarvis and Nabti 2016, 89). It has been documented that certain organisations have interviewed witnesses collectively, in group settings, during which the factual details of individual accounts may become conflated or interwoven with those of others (Jarvis and Nabti 2016, 89). The extent to which group interviewing may contribute to secondary victimisation or retraumatisation, and the nature of any safeguards to mitigate such risks, remains unclear.

While the CSO guidelines discussed above emphasise the need to assess and minimise risks to future accountability efforts, it is uncertain whether this assessment involves the potential of (subsequent) testimonial distortion. Differences in organisational mandates, objectives, or interviewing practices may result in witness statements that differ from those later provided to criminal investigators. The manner in which such inconsistencies are addressed at trial, should the witness be called to testify at trial, will depend on the content and significance of the discrepancies and on the specific circumstances of the case. Notably, judges have, on occasion, underscored the difference in agendas between those to whom statements are made in the field. For example, during the *Kunarac et al*. proceedings before the ICTY, Judge Mumba explained to the parties during trial the distinction between the objectives pursued by investigators and those pursued by journalists:

> Let me explain the other problem I think I'm noticing. You see, every investigator, just like every journalist, has his own or her own agenda, and when they're interviewing anybody, they will ask questions elicited to produce what they want for their own agenda. So even the investigators who go to these witnesses have their own agenda, and they only elicit from the witness what they want to fulfil their own agenda, all right? So it's totally different from the Court situation, because we have an indictment before us and we want only evidence to cover the indictment, that's all. You've heard me so many times cautioning witnesses: Only answer questions put to you by counsel. All right? So when you are dealing with what you said to this investigator, what you said to this journalist, always remember that. The witness knows so much about what happened to her, so much about what happened during the war. And this was war time. So everybody has their own agenda. So whatever is elicited, signed by the witness, is according to that agenda. Please remember that. (ICTY, *Prosecutor v Kunarac* et al., Transcript, 26 April 2000, 2364-2365)

The consequences for the eventual assessment of the weight and probative value of testimony will depend, *inter alia*, on whether an inconsistency constitutes a minor discrepancy or concerns the essence of the incident charged (ICTY, *Prosecutor v Kunarac* et al., Trial Chamber Judgment, 22 February 2001, para 564). However, the manner in

which interviews conducted by organisations take place, and the extent to which they may distort a witness's recollection, has not yet been assessed in relation to the reliability of testimony ultimately presented in criminal proceedings.

Moreover, the extent to which the potential traumatisation of victims and witnesses is considered when they are interviewed by these organisations remains uncertain. Although the publication of guidelines for CSOs in 2022 is a welcome development, there remains a pressing need for greater harmonisation of practice in this regard. To mitigate the risk of (further) secondary victimisation or retraumatisation, the circumstances under which previous statements were obtained warrant specific scrutiny during investigators' initial interviews with such witnesses. Investigators should ascertain the extent to which, and the manner in which, staff members of organisations considered the possible trauma of those they interviewed. This necessarily entails as assessment of the criteria applied to determine whether individuals were traumatised of otherwise vulnerable, and whether such determinations would align with, or diverge from, those reached by Court personnel or Counsel.

It has been proposed that investigators of international crimes should liaise with NGOs or other fact-finding bodies to determine whether re-interviewing a victim or witness is necessary if they have already been interviewed (Jarvis and Nabti 2016, 88). This proposal rests on the view that prior statements to NGOs or the media may reveal the potential substance of testimony to be given in criminal proceedings (Adeniran 2018, 73), thereby informing prosecutorial decisions as to relevance and potentially sparing witnesses from providing multiple accounts of traumatic experiences. Nevertheless, in light of the different mandates and objectives that may guide such interviews, parties should exercise caution when calling witnesses to testify whom investigators have neither met nor interviewed prior to their in-court appearance. The scope of questioning by other fact-finding bodies may differ substantially from that of a criminal investigation, and the methods employed during such interviews may raise concerns regarding evidentiary liability or risk further inflecting harm upon the well-being of the witness.

3.4. Intermediaries

In the course of locating and identifying potential witnesses, investigators may also use so-called "intermediaries" (Baylis 2009, 125, Putt 2018, 174). In domestic criminal justice systems, an intermediary is typically defined as a person "with specialist communication skills, whom a court may approve to communicate with what is assessed as a vulnerable witness in order to ask the questions formulated by the court, the defence and prosecution teams, and to communicate the answers that the witness gives in response" (Putt 2018, 172; United Kingdom Ministry of Justice 2019). Under such schemes, a witness may be deemed vulnerable by reason of age (under 18 years), the presence of a mental disorder, a significant impairment of intelligence and social functioning, or a physical disability or disorder (UK Youth Justice and Criminal Evidence Act 1999, Section 16).

In the context of international criminal investigations, intermediaries are currently defined as "(…) someone who comes between one person and another; who facilitates contact or provides a link between one of the organs or units of the Court or Counsel on

the one hand, and victims, witnesses, beneficiaries or reparations and/or affected communities more broadly on the other" (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 5). These intermediaries differ markedly from those recognised in domestic criminal justice systems: their appointment is generally not prompted by communication difficulties on the part of a witness, but rather by the inability of an international court organ or other investigative authority to establish direct contact with potential victims or witnesses in their country of residence (Putt 2018, 172). The analysis that follows examines the evolution of the regulatory framework governing intermediaries' activities, and considered the extent to which issues of trauma and vulnerability are taken into account to mitigate the risk of secondary victimization or retraumatisation.

3.4.1. Concerns surrounding the Use of Intermediaries

The first time the use of intermediaries was discussed at trial occurred during the *Lubanga* proceedings before the ICC; the first case to be tried before the Court. Both the trial proceedings and the judgment illuminated the extent to which intermediaries were utilized by ICC investigators. In *Lubanga*, the Prosecution had used 7 intermediaries to initiate contact with approximately half of the prosecution witnesses who ultimately testified against the accused (ICC, *The Prosecutor v Lubanga*, Decision on Intermediaries, 31 May 2010, para 2). During the trial, certain witnesses alleged that intermediaries acting on behalf of the Office of the Prosecutor (OTP) had instructed them to provide false testimony in return for money, education or free housing (ICC, *The Prosecutor v Lubanga*, Trial Chamber Judgment, 14 March 2012, paras190-293; De Vos 2011, 8). The Court found that as a result "there was a real basis for concern as to the system employed by the prosecution for identifying potential witnesses" (ICC, *The Prosecutor v Lubanga*, Decision on Intermediaries, 31 May 2010, para 138). In response, the Trial Chamber ordered the disclosure of further information relating to three intermediaries, and called two intermediaries to deal with the suggestion (from a range of witnesses) that they attempted to persuade one or more individuals to give false evidence (ICC, *The Prosecutor v Lubanga*, Decision on Intermediaries, 31 May 2010, para 141), and ordered the Prosecution to present some of its staff to answer questions about the OTP's investigative approach and the procedures applied to intermediaries (ICC, *The Prosecutor v Lubanga,* Decision on Intermediaries, 31 May 2010, para 146). Consequently, the OTP's lead investigator in the case gave testimony before the Court regarding the course of the investigations and the use of intermediaries.

Concerns regarding the use of intermediaries were not confined to *Lubanga*. In *Ngudjolo*, the Trial Chamber was similarly critical of the Prosecution's investigative practices. Two intermediaries whose reliability had been questioned in *Lubanga* were also used for this case, who had introduced 15 prosecution witnesses to the investigators (Buisman 2013, footnote 126). Owing to several factors assessed in the judgment, including the unreliability of key Prosecution witnesses, the Trial Chamber found that the evidence did not establish beyond reasonable doubt that Ngudjolo was responsible for the crimes charged (ICC, *The Prosecutor v Ngudjolo Chui*, Trial Chamber Judgment, 19 December 2012, paras 100, 500-503). Issues relating to intermediaries also arose in the *Ruto and Sang* case, in which the Trial Chamber ordered the confidential disclosure of a list of Prosecution intermediaries identifiable by way of a pseudonym, who had interacted

with Prosecution witnesses. The order required provisions of the dates of such contacts and brief descriptions of their general purposes (ICC, *The Prosecutor v Ruto and Sang*, Decision on Disclosure of Information related to Prosecution Intermediaries, 4 September 2013).

3.4.2. Categories of Intermediaries

During his testimony in *Lubanga*, the lead investigator of the OTP distinguished between two categories of intermediaries. The *first* category, described by the investigator as "human rights activists" (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 48-50), was responsible for locating and approaching potential witnesses and facilitating contact between those witnesses and ICC investigators. The initial identification of a witness, as well as any meeting(s) between the intermediary and the witness, occurred outside the direct supervision or control of the investigators (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 64). In addition, these intermediaries organise, or assist in organising, meetings between the witness and investigators, and, where necessary, arrange for the witness to be examined by a psychologist (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 49, 62, 65; ICC, *The Prosecutor v Lubanga*, Transcript, 17 November 2010, 10). Typically, such intermediaries initiated contact with investigators on the basis that they possessed relevant information or knew individuals who could contribute to the investigation (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 62). While they would be aware of the investigators' activities, they were not aware of the content of the investigations, although they might become aware of certain matters indirectly, for example through media reports concerning the court's work (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 50, 62-63). The *second* category of intermediaries provided the investigators with information regarding the prevailing security situation (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 49-51). These categories were not mutually exclusive; in some instances, intermediaries who identified potential witnesses also reported on security conditions relevant to those witnesses (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 68). Consequently, their activities included having both pre-investigative contact with potential witnesses, and the providing security-related information.

3.4.3. The Adoption of Guidelines

In light of the challenges concerning the use of intermediaries in *Lubanga* and the other aforementioned cases, and in view of the absence of any definition of "intermediary" in the Rome Statute of Rules of Procedure and Evidence, the ICC adopted the *Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel Working with Intermediaries*, a *Code of Conduct for Intermediari*es and a *Model Contract for Intermediaries* in March 2014.

The *Guidelines* adopted the definition mentioned above and specified that intermediaries "assist a party or participant to conduct investigations by identifying evidentiary leads and/or witnesses and facilitating contact with potential witnesses" (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 5). The *Code of Conduct* further prescribes that an intermediary shall not "(…) deliberate[ly] jeopardize the safety, physical or psychological well-being, dignity or privacy of persons" (ICC, *Code of Conduct for Intermediari*es, March 2014, section 3.4), nor "harass, intimidate,

pressure, bribe or compel any person to testify or not to testify before the Court or to engage or not to engage in any dealings with the Court or Counsel" (ICC, *Code of Conduct for Intermediari*es, March 2014, section 6.4). The formal role of intermediaries is thus limited; at no point are they involved in the selection of witnesses for statements or other investigative decisions. As the Trial Chamber observed in *Lubanga*,

> [a]t no stage during the investigation were intermediaries involved in taking statements of potential witnesses, making decisions as to which witnesses to retain or withdraw or which lines of investigations/inquiry to pursue […] Instead, it is submitted that the evidence reveals that they served two main purposes: to identify and then contact potential witnesses, and to collect and provide security information regarding the region, particularly to the extent that this material was relevant to potential witnesses'. (ICC, *The Prosecutor v Lubanga*, Decision on the Defence Application Seeking a Permanent Stay of Proceedings, 7 March 2011, 125-126)

Nevertheless, while these parameters formally delimit their engagement with witnesses, it remains the case that intermediaries are the initial actors in locating and approaching potential witnesses for testimony. In doing so, they effectively present investigators with "their" pool of potential witnesses. Accordingly, intermediaries have a certain influence over the enlistment of persons who may be interviewed and later called to testify at trial.

3.5. Recruiting Intermediaries

According to the OTP, its investigative practice is to "find witnesses through various sources and try to ascertain the location of those witnesses before employing intermediaries to work on their behalf" (ICC, *The Prosecutor v Katanga and Ngudjolo Chui*, Transcript, 25 November 2009, 62). Intermediaries may, however, become necessary where prevailing security measures pose risks to both witnesses and investigators (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 23-24, 48). The processes by which intermediaries are recruited, and the manner in which they interact with potential witnesses, are of particular significance when traumatised victims and witnesses are involved. Also contact at this stage can give rise to secondary victimisation or retraumatisation.

During the *Lubanga* and *Katanga and Chui* investigations, no formal recruitment procedure for intermediaries was in place (ICC, *The Prosecutor v Katanga and Ngudjolo Chui*, Transcript, 25 November 2009, 53-55). OTP investigators instead relied on their professional judgment, verifying information where possible, for example by seeking confirmation from third parties or NGOs (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 55, 57). Such verification could include "accounts of their activism in human rights activities, having taken certain risks in the field to successfully carry out investigations and the fact that they did not receive any negative information about them" (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 55). In *Katanga and Chui*, investigators tested the reliability of potential intermediaries by conducting background checks, assessing their motives during an initial meeting, and assigning a preliminary task unrelated to witnesses as a practical reliability test (ICC, *The Prosecutor v Katanga and Ngudjolo Chui*, Transcript, 25 November 2009, 37-38).

The ICC *Guidelines* were adopted in March 2014, after the conclusion of these proceedings, and appear to reflect the selection practices employed by investigators in

those cases. However, the *Guidelines* only apply to intermediaries with a contractual relationship with either the prosecution or defence, which creates a regulatory gap between intermediaries sourced by the prosecution or the defence on an *ad hoc* basis (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 3). This regulatory gap is significant given that the *Guidelines* contain "ethical provisions relevant to the functions [intermediaries] perform" (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 11) as well as explicit selection criteria for intermediaries, including prior experience working respectfully with victims – particularly traumatised and other vulnerable individuals, such as women and children (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 9). It remains unclear to what extent these ethical provisions and criteria nevertheless do apply to *ad hoc* intermediaries, and, if so, how this is regulated.

3.5.1. Risks involved for Well-Being and Accountability Efforts

The ICC *Guidelines* do not define with precision what constitutes "experience" in relation to trauma, nor do they explicitly regulate the manner in which intermediaries may approach potential witnesses. This lacuna is noteworthy: intermediaries require clear guidance as to what information may, or may not, be disclosed to witnesses and how contact should be initiated. In *Lubanga,* the trial chamber criticised the risk of manipulation arising from the OTP's inadequate supervision of intermediaries involved in investigative activities (ICC, *The Prosecutor v Lubanga*, Trial Chamber Judgment, 14 March 2012, para 482). Similarly, in *Ntaganda,* the trial chamber considered the possibility that an intermediary might have exerted "pervasive influence" during investigations (ICC, *The Prosecutor v Ntaganda*, Trial Chamber Judgment, 8 July 2016, para 266) but held that prior contact between an intermediary and potential witnesses, in and of itself, did not establish collusion or improper influence. While acknowledging that such circumstances could necessitate an inquiry into whether the evidence was tainted, the trial chamber refrained from providing criteria for such a determination (ICC, *The Prosecutor v Ntaganda*, Trial Chamber Judgment, 8 July 2016, para 268).

The necessity of providing intermediaries with guidance as to their interaction with potential witnesses arises not only from the risk of undue influence, but also from the need to appropriately handle witnesses who are traumatised (Sandick 2012, 106, 125). Posing intrusive questions that rigger memories of the traumatic event may, for example, retraumatise them or increase other trauma-related symptoms (Sandick 2012, 106, 125). Although the *Guidelines* envisage that intermediaries *may* receive training in "gender sensitivity and best practices for working with traumatised or particularly vulnerable victims" (ICC, *Guidelines Governing the Relations between the Court and Intermediaries*, March 2014, 14), and indicate that such trainings *may* occur "when necessary on a regular basis", such instructions ought to be essential for all intermediaries on an on-going basis. This is particularly important at the recruitment stage, given that prospective intermediaries may have had direct access to witnesses prior to their formal association with investigators. Poorly trained intermediaries may invertedly jeopardise witness well-being or undermine evidentiary integrity, for example if testimony is later deemed inadmissible (Putt 2018, 177).

While the adoption of the *Guidelines* marks progress compared to the absence of any regulatory framework, unresolved issues remain. Given that intermediaries have direct

contact with potential witnesses, the *Guidelines* should be revised to regulate their conduct more precisely when locating and approaching traumatised individuals. Although the selection criteria require consideration of prior experience working with traumatised victims, it must be recognised that eyewitnesses may also be traumatised and thus warrant equally careful handling. Moreover, because the *Guidelines*, and by extension the selection criteria, do not apply to ad hoc intermediaries, there is no assurance that such individuals possess relevant experience working with traumatised persons.

Intermediaries may be local individuals or staff from organisations operating in the region where the crime took place who facilitate contact between investigators and potential witnesses (ICC, *The Prosecutor v Lubanga*, Decision on Intermediaries, 31 May 2010, para 30). They may supply investigators with names of potential witnesses, sometimes based on their own interviews (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 48). In *Lubanga,* the intermediaries' prior engagement with victims or witnesses was addressed in further detail:

> Q. (…) The intermediaries and their meetings with the potential witnesses, was it regular, or is it a one-off basis, or were they constantly in contact with the witnesses? How did it happen?
>
> A. For the first stage of their activities, that is the identification of the witness, any possible meeting with the witness took part out of our control. We do not know how many times these intermediaries would meet with the witnesses. The fact is that, thanks to them, we would eventually be able to organise a meeting to begin by screening the witness to see whether he or she could be useful. The initial meeting was used for a basic interview that enabled us to determine the potential usefulness of the witness. (ICC, *The Prosecutor v Lubanga*, Transcript, 16 November 2010, 64-64)

The degree of prior engagement engaged between intermediaries and witnesses is critical. Repeated interviews, combined with additional in-court testimony, can give rise to "witness fatigue" (King and Meernik 2019, 354) or "testimony fatigue" (Jarvis and Vigneswaran 2016, 43). Continuous retelling of traumatic experiences during prolonged trial proceedings demands

considerable energy, patience and additional coping skills from witnesses (University of North Texas (UNT) and VWS 2016, 90). Such fatigue may result from repeated pre-trial statements, re-examination, or the presentation of identical evidence across multiple cases (Human Rights Watch and Justice at Risk 2004, UNT and VWS 2016, 90). As observed in *Echoes of Testimonies*, the impact of testifying multiple times may may cause witnesses to feel permanently bound to the "witness role". As one witness stated, "Once a witness, always a witness" (UNT and VWS 2016, 90). Some ICTY witnesses have reported feeling "trapped" between their determination to contribute to justice and the obligation not to remain silent and the emotional exhaustion of repeatedly recalling traumatic events (UNT and VWS 2016, 90). One witness in *Kupreškić et al*, testified:

> [E]verybody is interested in knowing what happened. Everybody asked me what happened, those are in charge and have a responsibility and others, and so I have to keep repeating this. I experienced a great deal of terrible things. I have traumas, so I don't wish to go into all the whole matter again. (ICTY, *Prosecutor v Kupreškić* et al, Transcript, 22 September 1998, 2581-2583)

Accordingly, the potential impact of repeated testimony should thus be factored into any regulatory framework governing third party involvement in the identification of potential witnesses. This is essential to ensure that victims and witnesses can contribute to international criminal justice processes without undue harm to their psychological well-being or their capacity to meaningfully contribute to the proceedings.

4. Conclusion

In the context of identifying and locating victims and witnesses of international crimes, particularly in the face of investigative challenges such as ongoing armed conflict and the displacement of victims and witnesses, investigative authorities have resorted to engaging third parties to assist in this process. Victims and witnesses, many of whom may be traumatised as a result of the crimes, are thus likely to interact with other parties prior to contact with formally appointed criminal investigators. These third parties are categorized either as organisations with varying mandates or as intermediaries directly affiliated with a court or investigative authority.

With respect to the former category, the diversity of mandates and evidentiary standards underlying the identification of victims and witnesses of alleged international crimes, together with the methods employed in conducting interviews, are critical considerations for investigators engaging with such organisations. Recently adopted guidelines emphasise the importance of assessing witness vulnerability and minimizing direct engagement, given the potential for harm to their well-being. Yet, it remains unclear how frequently such assessments are undertaken, by what methods, and how the impact on those concerned is monitored.

As to the latter category, the use of intermediaries has been subject to increasing regulation over time, a development to be welcomed when compared to the less structured regime preceding the adoption of the *Guidelines* and *Code of Conduct*. Nonetheless, significant questions persist regarding the precise procedures for their selection, and the extent to which experience in dealing with traumatised persons is assessed and required. The current selection criteria and *Guidelines* lack sufficient clarity on this point and would benefit from amendment to safeguard the well-being of potential witnesses during contact with intermediaries. In this respect, specific factors denoting the requisite level of expertise in engaging with traumatised persons, along with more explicit rules governing such interactions, should be articulated. Furthermore, the apparent absence of systemic oversight concerning the frequency of contact between intermediaries and potential witnesses raises the risk of testimonial fatigue; a potential consequence inherent in the process of selecting witnesses for statements, and ultimately for in-court testimony.

Empirical research is needed to assess how the respective guidelines governing both CSOs and intermediaries operate in practice, the extent to which the well-being of potential witnesses is substantively considered, and the implications of such engagement for the witnesses' broader trajectory through criminal investigation and prosecution. The content and nature of third-party interactions with victims and witnesses require critical examination, particularly regarding their potential direct or indirect effect on accountability processes. The ICC Trial Chamber has underscored that taking "testimonies that are as close as possible to the date of the events is of critical

importance" (ICC, *The Prosecutor v Katanga*, Trial Chamber Judgment, 7 March 2014, para 61). While this objective may often necessitate reliance on third parties present at the scene before criminal investigators arrive, such reliance should not come at the expense of the victims and witnesses themselves. Without their accounts and testimony, international investigations and prosecutions could rarely proceed. Accordingly, at all stages the risk of secondary victimization or retraumatisation should be minimized, and, wherever possible, prevented. More precisely formulated procedures can contribute to this necessity, also during the preliminary stages of an investigation.

References

Adeniran, A., 2018. Preparing for an Investigative Mission to Interview a Witness or Suspect. *In:* A. Babington-Ashaye, A. Comrie and A. Adeniran, eds., *International Criminal Investigations: Law and Practice*. The Hague: Eleven International, 67-79.

Aksenova, M., and Bergsmo M., 2015. Defining the Purposes, Mandates and Outcomes of Fact-Finding Commissions Beyond International Criminal Justice. *FICHL Policy Brief Series*, 38, 1-4.

Ayazi, T., *et al*., 2014. Association between exposure to traumatic events and anxiety disorders in a post-conflict setting: a cross-sectional community study in South Sudan. *BMC Psychiatry* [online], 14(6). Available at: https://doi.org/10.1186/1471-244x-14-6

Baylis, E.A., 2009. Outsourcing Investigations. *UCLA Journal of International Law and Foreign Affairs,* 14, 121-147.

Buisman, C., 2013. Delegating Investigations: Lessons to be Learned from the Lubanga Judgment. *Northwestern Journal of International Human Rights,* 11(3), 30-82.

Ciorciari, J.D., and Heindel, A., 2016. Victim Testimony in International and Hybrid Criminal Courts: Narrative Opportunities, Challenges, and Fair Trial Demands. *Virginia Journal of International Law* [online], 56(2), 265-338. Available at: https://doi.org/10.2139/ssrn.2588577

de Jong, J.T., *et al*., 2001. Lifetime events and posttraumatic stress disorder in 4 postconflict settings. *The Journal of the American Medical Association* [online], 286(5), 555-562. Available at: https://doi.org/10.1001/jama.286.5.555

De Vos, C.M., 2011. Case Note Prosecutor vs. Lubanga. Someone who comes between one person and another: Lubanga, Local Cooperation and the Right to a Fair Trial. *Melbourne Journal of International Law,* 12(1), 217-232.

Findlay, M., and Ngane, S., 2012. Sham of the Moral Court? Testimony Sold as the Spoils of War. *Global Journal of Comparative Law* [online], 1, 73-101. Available at: https://doi.org/10.1163/2211906X-00101003

Fink, G., 2016. Stress, Definitions, Mechanisms, and Effects Outlined: Lessons from Anxiety. *In:* G. Fink, ed., *Stress: Concepts, Cognition, Emotion, and Behavior* [online]. San Diego: Elsevier Inc, 3-11. Available at: https://doi.org/10.1016/B978-0-12-800951-2.00001-7

Fujiwara, H., and Parmentier, S., 2012. Investigations. *In:* L. Reydams, J. Wouters and C. Ryngaert, eds., *International Prosecutors* [online]. New York: Oxford University Press, 572-603. Available at: https://doi.org/10.1093/acprof:oso/9780199554294.003.0010

Goldstone, R., 2004. A View from the Prosecution. *Journal of International Criminal Justice* [online], 2(2), 380-384. Available at: https://doi.org/10.1093/jicj2.2.380

Good, B.J., and Hinton, D.E., 2016. Introduction: Culture, Trauma, and PTSD. *In:* D.E. Hinton and B.J. Good, eds., *Culture and PTSD: Trauma in Global and Historical Perspective* [online]. Philadelphia: University of Pennsylvania Press, 3-49. Available at: https://doi.org/10.9783/9780812291469-001

Grace, R., and Coster Van Voorhout, J., 2014. *From Isolation to Interoperability: The Interaction of Monitoring, Reporting, and Fact-finding Missions and International Criminal Courts and Tribunals. Working Paper 4.* The Hague Institute for Global Justice, 1-27.

Hinton, D.E., and Good, B.J., 2016. The Culturally Sensitive Assessment of Trauma: Eleven Analytic Perspectives, a Typology of Errors, and the Multiplex Models of Distress Generation. *In:* D.E. Hinton and B.J. Good, eds., *Culture and PTSD: Trauma in Global and Historical Perspective* [online]. Philadelphia: University of Pennsylvania Press, 50-112. Available at: https://doi.org/10.9783/9780812291469-002

Jarvis, M., and Nabti, N., 2016. Policies and Institutional Strategies for Successful Sexual Violence Prosecutions. *In*: S. Brammertz and M. Jarvis, eds., *Prosecuting Conflict-Related Sexual Violence at the ICTY* [online]. Oxford University Press, 73-110. Available at: https://doi.org/10.1093/law/9780198768562.003.0004

Jarvis, M., and Vigneswaran, K., 2016. Challenges to Successful Outcomes in Sexual Violence Cases. *In*: S. Brammertz and M. Jarvis, eds., *Prosecuting Conflict-Related Sexual Violence at the ICTY* [online]. Oxford University Press, 33-72. Available at: https://doi.org/10.1093/law/9780198768562.003.0003

Kahana, E., *et al.*, 1988. Coping with Extreme Trauma. *In:* J.P. Wilson, A. Harel and B. Kahana, eds., *Human Adaptation to Extreme Stress: From the Holocaust to Vietnam* [online]. New York: Plenum Press, 55-79. Available at: https://doi.org/10.1007/978-1-4899-0786-8_3

King, K., and Meernik, J., 2019. The Burden of Bearing Witness: The Impact of Testifying at War Crimes Tribunals. *Journal of Conflict Resolution* [online], 63(2), 348-372. Available at: https://doi.org/10.1177/0022002717736567

McNally, R.J., 2003. Progress and controversy in the study of posttraumatic stress disorder. *Annual Review of Psychology* [online], 54, 229-252. Available at: https://doi.org/10.1146/annurev.psych.54.101601.145112

Montada, L., 1994. Injustice in harm and loss. *Social Justice Research* [online], 7, 5-28. Available at: https://doi.org/10.1007/BF02333820

Nuzban, Y., 2018. Investigative Practices of Specialized War Crimes Units'. *In:* A. Babington-Ashaye, A. Comrie and A. Adeniran, eds., *International Criminal Investigations: Law and Practice*. The Hague: Eleven International, 271-296.

Orth, U., 2002. Secondary Victimization of Crime Victims by Criminal Proceedings. *Social Justice Research* [online], 15(4), 313-325. Available at: https://doi.org/10.1023/A:1021210323461

Putt, A., 2018. Legal Constraints on the Use of Intermediaries in International Criminal Investigations. *In:* A. Babington-Ashaye, A. Comrie and A. Adeniran, eds., *International Criminal Investigations: Law and Practice*. The Hague: Eleven International, 171-191.

Reicherter, D., and Aylward, A., 2011. The Impact of War and Genocide on Psychiatry and Social Psychology. *In:* B. van Schaack, D. Reicherter and Y. Chhang, eds., *Cambodia's Hidden Scars: Trauma Psychology in the Wake of the Khmer Rouge: An Edited Volume on Cambodia's Mental Health*. Phnom Penh: Documentation Center of Cambodia, 14-32.

Robertson, G., 2010. Human Rights Fact-Finding: Some Legal and Ethical Dilemmas. *UCL Human Rights Review,* 3, 15-43.

Sandick, P.A., 2012. Speechlessness and Trauma: Why the International Criminal Court Needs a Public Interviewing Guide. *Northwestern University Journal of International Human Rights,* 11(1), 105-125.

Schock, K., and Knaevelsrud, C., 2013. Retraumatization: The Vicious Circle of Intrusive Memory. *In:* M. Linden and K. Rutkowski, eds., *Hurting Memories and Beneficial Forgetting: Posttraumatic Stress Disorders, Biographical Developments and Social Conflicts* [online]. San Diego: Elsevier Inc., 59-70. Available at: https://doi.org/10.1016/B978-0-12-398393-0.00005-5

Schot, S., 2024. *Traumatised Witnesses in International Criminal Trials: Testimony, Fair Proceedings, and Accurate Fact-Finding* [online]. London: Routledge. Available at: https://doi.org/10.4324/9781003370963

Stover, E., 2005. *The Witnesses: War Crimes and the Promise of Justice in The Hague* [online]. Philadelphia: University of Pennsylvania Press. Available at: https://doi.org/10.9783/9780812203783

Sunga, L.S., 2011. How can UN human rights special procedures sharpen ICC fact-finding?. *The International Journal of Human Rights* [online], 15(2), 187-205. Available at: https://doi.org/10.1080/13642987.2011.537466

Wald, P.M., 2002. Dealing with Witnesses in War Crime Trials: Lessons from the Yugoslav Tribunal. *Yale Human Rights & Development Law Journal* [online], 5, 217-239. Available at: http://hdl.handle.net/20.500.13051/5827

Whiting, A., 2013. Dynamic Investigative Practice at the International Criminal Court. *Law and Contemporary Problems,* 76, 163-189.

Case law

ICTY, *Prosecutor v Kunarac* et al., Trial Chamber Judgment, IT-96-23&23/1, 22 February 2001.

ICC, *The Prosecutor v Lubanga*, Redacted Decision on Intermediaries, ICC-01/04-01/06, Trial Chamber I, 31 May 2010.

ICC, *The Prosecutor v Lubanga*, Redacted Decision on the Defence Application Seeking a Permanent Stay of Proceedings, ICC-01/04-01/06-2011, Trial Chamber I, 7 March 2011.

ICC, *The Prosecutor v Lubanga*, Trial Chamber Judgment, ICC-01/04-01/06, 14 March 2012.

ICC, *The Prosecutor v Ngudjolo Chui*, Trial Chamber Judgment, ICC-01/04-02/12, 18 December 2012.

ICC, *The Prosecutor v Ruto and Sang*, Decision on Disclosure of Information related to Prosecution Intermediaries, Case No. ICC-01/09-01/11, Trial Chamber V, 4 September 2013.

ICC, *The Prosecutor v Katanga*, Trial Chamber Judgment, ICC-01/04-01/07, 7 March 2014.

ICC, *The Prosecutor v Ntaganda*, Trial Chamber Judgment, ICC-01/04-02/06, 8 July 2019.

Legislation

UK's Youth Justice and Criminal Evidence Act 1999, Section 16.

Transcripts of Proceedings

ICTY, *Prosecutor v Kupreškić* et al., IT-95-16, Transcript, 22 September 1998.

ICTY, *Prosecutor v Kunarac* et al., IT-96-23 & 23/1, Transcript, 26 April 2000.

ICC, *The Prosecutor v Katanga and Ngudjolo Chui*, ICC-01/04-01/07, Transcript, T-81, 25 November 2009.

ICC, *The Prosecutor v Lubanga*, ICC-01/04-01/06, Transcript, 16 November 2010.

ICC, *The Prosecutor v Lubanga*, ICC-01/04-01/06, Transcript, 17 November 2010.

Other

American Psychiatric Association, 2013. *The Diagnostic and Statistical Manual of Mental Disorders (DSM-5),* 5th ed.

Eurojust, 'Genocide Network', and the Office of the Prosecutor of the International Criminal Court, 2022. *Documenting International Crimes and Human Rights Violations for Criminal Accountability Purposes: Guidelines for Civil Society Organisations* [online]. Available at: https://www.eurojust.europa.eu/publication/documenting-international-crimes-and-human-rights-violations

Human Rights Watch and Justice at Risk, 2004. *War Crimes Trials in Croatia, Bosnia and Herzegovina, and Serbia and Montenegro.* 13 October.

ICC, 2014a. *Code of Conduct for Intermediaries*, March.

ICC, 2014b. *Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel working with Intermediaries*, March, p. 5.

ICC, 2014c. *Model Contract for Intermediaries*, March.

ICC, 2015. *The Prosecutor v Ntaganda, ICC-01/04-02/06, Annex 1 to the Victims and Witnesses Unit's submission of the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order n ICC 01/04-02/06-416, ICC-01/04-02/06-445-Anx1*, 5 February.

United Kingdom, Ministry of Justice, 2019. *Guidance: Ministry of Justice Witness Intermediary Scheme* [online]. Available at: https://www.gov.uk/guidance/ministry-of-justice-witness-intermediary-scheme#:~:text=A%20Registered%20Intermediary%20is%20an,or%20physical%20disability%20or%20disorder

University of North Texas (UNT) and Victims and Witness Section (VWS) of the International Criminal Tribunal for the former Yugoslavia, 2016. *Echoes of Testimonies, A pilot study into the long-term impact of bearing witness before the ICTY*.