



## International Society for Traumatic Stress Studies<sup>1</sup>

Statement to the

### **Ninth Session of the Assembly of States Parties of the International Criminal Court**

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The International Society for Traumatic Stress Studies (ISTSS) is an interdisciplinary professional organization that promotes advancement and exchange of knowledge about traumatic stress and its victims, and their optimal care.

The ISTSS firmly holds that all disciplines that interface with victims should do their utmost to be healing rather than retraumatizing to victims in their interactions with them. This is all the more true for victims of massive trauma and crimes such as the ones under the jurisdiction of the ICC. Justice professionals are primary in this regard through their commitment to ensuring that, in their interactions with the Court and other mechanisms of justice, victims will experience justice as *reparative* rather than harmful to them. In truth, if implemented optimally, the Statute and Rules of Procedures and Evidence of the ICC contain many of the elements for reparative justice to occur. But the ongoing commitment to their implementation remains the major challenge.

*Reparative justice*<sup>2</sup> insists that every step throughout the justice experience -- from the first moment of encounter of the Court with a potential witness through the follow-up of witnesses after their return home to the aftermath of the completion of the case<sup>3</sup> -- presents an opportunity for redress and healing, a risk of missing or neglecting the opportunity for healing victims and reintegrating them into their communities and societies, or, worse, causing (re)victimization and (re)traumatization. Thus, while restitution, rehabilitation or compensation may only come after the process has concluded, there are still opportunities along the way.

The ICC should maintain *reparative justice* as an overall principle for both its policies and for their implementing activities. This applies both to the Court's relationship with and obligations

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<sup>1</sup> See [www.istss.org](http://www.istss.org). For further information contact Dr. Yael Danieli, [yaeld@aol.com](mailto:yaeld@aol.com).

<sup>2</sup> Danieli, Y. (2009). Massive trauma and the healing role of reparative justice. In C. Ferstman, M. Goetz, & A. Stephens (Eds.) *Reparations for Victims of Genocide, Crimes Against Humanity and war crimes: Systems in place and systems in the making*. (pp. 41-78). The Hague: Martinus Nijhoff.

<sup>3</sup> As acknowledged by Supreme Court Justice Albie Sachs of South Africa, "*Justice is also in the process, not only in the outcome.*" See, Justice Albie Sachs, the Raul Wallenberg Memorial Lecture at the International Human Rights Symposium to educate leaders of tomorrow. Osgoode Hall Law School, York University, Toronto, Canada (17 January 2005).

toward victims/witnesses, to all who interface with them, including their families and [affected] communities as a whole -- in their unique cultural context, to all Member States, to the Court's own community of all judicial workers, and to NGOs and others who mediate between, or represent, victims (communities) and/to the Court.

Among others, globally this implies that the principle of complementarity – in word and in practice -- should be extended to *all* victim/witnesses-related provisions of the Rome Statue and be implemented through national legislation<sup>4</sup>

It also implies full multidisciplinary (for example, psychology and mental health, socio-cultural anthropology) involvement in the justice process (i.e., maintain at least one full-time psychologist position at the ICC).

It must be also emphasized that the Court should take into account the cultural traditions and sensitivities and the physical and social needs of victims and witnesses particularly when they are required to be in The Hague or outside their country of origin to take part in Court proceedings.<sup>5</sup>

Last but not least, the commitment to reparative justice has to include the assurance of the physical and psychological welfare of all actors involved, including the Court's own community of all judicial workers, to be ongoing and budgeted as such.

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<sup>4</sup> Resolution on the Impact of the Rome Statutes on Victims and Affected Communities, para 1. ("*encourages* states to consider implementing those provisions of the Rome Statue relevant to victim/witnesses, where applicable, through national legislation or appropriate measures")

<sup>5</sup> See Rule 18 (Responsibilities of the [Victims and Witnesses] Unit) (d) "Ensure training of its staff with respect to victims' and witnesses' security, integrity and dignity, including matters related to gender and cultural sensitivity." Rule 19 Expertise in the Unite (e) Gender and cultural diversity.