



Victims before the Court



Photo: Ron Haviv/VII

As part of the International Criminal Court system, victims can send information to the Prosecutor asking him to initiate an investigation. There are also two important innovations with regard to victims. For the first time in the history of international criminal justice, victims have the right to participate in proceedings and request reparations. This means that they may not only testify as witnesses, but may also present their views and concerns at all stages of the proceedings. It is most likely that they would do so through legal representatives. Victims who appear as witnesses before the Court will also receive support and protection.

The role of victims in ICC proceedings complements the efforts undertaken by the Court to hold accountable individuals who are responsible for the most serious crimes of concern to the international community. The principle behind this is that true justice is achieved when voices of victims are heard and their suffering is addressed.

Victims are individuals who have suffered harm as a result of a crime falling within the jurisdiction of the Court. In the event that property dedicated to religion, education, art, science or charity is damaged, organisations or institutions may also be considered victims. It will be up to the judges of the ICC to determine the types of harm that will be covered. However, they are expected to include physical harm to a person's body; psychological harm, by which a person's mind has been affected by what he or she has experienced or witnessed; or material harm, by which goods or property have been damaged or lost.

To assist victims the Court has established the Victims Participation and Reparation Section (VPRS) and the Victims and Witnesses Unit (VWU), both within the

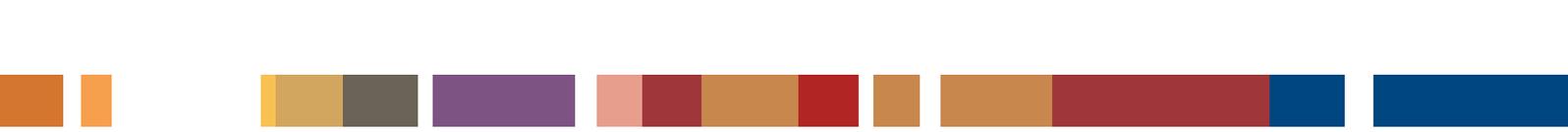
Registry. The VPRS assists victims in relation to their applications for participation in the proceedings or for reparations, or both. It also assists victims in obtaining legal advice and organising their legal representation. To identify and reach victims, the VPRS is actively developing relationships with victims' groups, Non-Governmental Organisations and other national and international organisations, particularly in countries where the Court is active.

The VWU provides protection and psychological support to witnesses, victims who appear before the Court and others who are at risk on account of the testimony they have given. The VWU provides advice, training and assistance to other parts of the Court on how to ensure the safety and well-being of victims and witnesses. Special attention is given to the particular needs of children, the elderly, persons with disabilities and victims of sexual violence or gender based crimes. The Unit is also responsible for witness protection programmes.

Participation

Victims can play a part in the following manner:

- By sending information to the Prosecutor regarding crimes they believe to have been committed;
- By testifying before the Court if called as witnesses;
- Where the victims' personal interests are affected, by presenting their views and concerns before the Court at all stages of proceedings, in a manner which is not prejudicial to or inconsistent with the rights of the defence and a fair and impartial trial. Victims may do this from the earliest stages of the proceedings (for example, at a hearing where the Prosecutor asks for authorisation from the judges to begin an investigation, or when he asks the Court to confirm charges against a suspect through to the trial and appeal stages;
- By requesting reparations.



Victims may apply to participate at any stage of the proceedings by filling in the standard application form for participation. All applications are considered by the relevant chamber of judges. The judges decide whether the person has suffered harm as a result of the commission of a crime under the jurisdiction of the Court. The judges also decide at what stages the victims may present their views and concerns and in what manner they may do so.

Legal representation

Participation of victims in the proceedings will take place in most cases through a legal representative. Generally, victims will not have to travel to the Court if they do not wish to do so. Their legal representatives will present their views and concerns to the Court. Victims are free to choose their legal representative, who must be a person with extensive experience as a criminal lawyer, judge or prosecutor, and fluent in one of the Court's working languages (English or French).

The ICC will help victims to find a legal representative by providing a list of counsel. Although the Court's resources for legal aid are limited, the Court may be able to provide some financial assistance. In addition, the Office of Public Counsel for Victims will be available to provide legal assistance to victims without charge.

Where there are many victims, the judges may ask victims to choose a single common legal representative or team of representatives, in order to make the proceedings more efficient. If for any reason the victims are unable to appoint common legal representation, the judges may ask the ICC Registrar to do so. If the victims are not happy with the Registrar's choice, they may ask the judges to review it.

Notification

When a Chamber decides on the application of a victim and establishes the manner in which that victim will participate in proceedings in a particular situation or case, he or she will be kept informed of developments at each stage of the proceedings, including the dates of hearings, the decisions of the Court and any appeals.

Reparation

Victims can request reparations for harm they have suffered as the result of a crime within the Court's jurisdiction. The Court may also decide to deal with reparations on its own initiative, even where victims have not submitted applications. Victims can present their applications and the Court will decide whether or not to make an award of reparation and what form it should take. The Court may order various types of reparation, including the following:

- **Compensation**, which generally means monetary compensation for moral, material and physical harm. This could include compensation for physical and mental harm, loss of earnings, pain, suffering and emotional distress and lost opportunities.

- **Restitution**, which aims to re-establish, as far as possible, the situation that existed for the victims prior to the harm they suffered. This may include restoration of property.
- **Rehabilitation**, which is intended to allow the victims to continue their lives as normally as possible. Rehabilitation may cover costs of medical, psychological or psychiatric care, as well as social, legal and other services needed to restore victims' well-being and dignity.

At the end of a trial, the Trial Chamber may decide to order a person convicted by the Court to make reparations to victims of the crimes for which he or she has been found guilty. The Court may award reparations either on an individual or a collective basis; whichever is most appropriate for the victims in the particular case. An advantage of collective reparation is that it can help to provide relief to a community as a whole and to place its members in a position to reconstruct their lives. Centres that provide services to victims, for example, could be constructed or symbolic measures could be taken. Furthermore, ICC States Parties have established the Trust Fund for Victims of crimes within the jurisdiction of the Court and their families to provide some form of reparation even when the convicted person does not have sufficient assets.

Protection and support

The ICC is obliged to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. When victims testify as witnesses before the Court, the Victims and Witnesses Unit provides administrative and logistical support to enable them to appear before the Court, and works to promote a setting in which respect for the witness is guaranteed and in which the experience of testifying does not result in further harm, suffering or trauma. Psychosocial care and other appropriate assistance are also given to individuals accompanying the witnesses.

Disclosure of information

The Court will manage its contact with victims participating in the proceedings or claiming reparations in such a way as to limit any risk to victims or to others, and will handle information received from victims in strict confidentiality.

According to the procedures of the Court, applications for participation or reparations must be disclosed to the Prosecutor and the defence. However, applicants can request that the information they give to the Court is not disclosed, if they are concerned about the implications for their safety or the safety of others. They may also request that such information is not included in the public record of the proceedings. The judges will decide what steps to take and may order measures to protect information provided by a victim or a legal representative.