
Article

A Trauma-Informed Approach to the Protection and Support of Witnesses in International Tribunals: Ten Guiding Principles

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Abstract

Drawing on the scholarly and clinical work of trauma experts, this article presents a conceptual framework to inform the provision of services for witnesses in international tribunals. In particular, the authors present the following ten principles to guide protection and support practices with witnesses: establish a caring relationship; maintain a safe environment; stabilize physiological and mental functioning; maximize predictability; maximize choices; affirm dignity and value; affirm the power of speech; promote human connection; instil hope; and foster reconnection with ordinary life. The authors discuss these principles according to three clusters, based on their relative salience at different phases of a witness's participation: pre-testimony, during testimony, and post-testimony. For each principle, the authors provide a rationale as well as some examples from the witness unit at the Special Court for Sierra Leone. They also discuss some of the challenges encountered in the effort to adhere to each principle. With modifications to ensure relevance to specific contexts and cultures, the adoption of these principles will enhance the likelihood of positive experiences, and reduce the risk of harm, among individuals who testify in international war crimes trials.

Keywords: Special Court for Sierra Leone; testifying; trauma survivors; victims; war crimes trials; witness protection

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Introduction

In recent years, the act of bearing witness to mass atrocities in international criminal trials has received growing theoretical attention (Dembour and Haslam 2004; O'Connell 2005). Empirical research with witnesses has also increased, comprising studies on witnesses' motivations for and experiences of testifying in international trials (Clark and Palmer 2012; Human Rights Center 2014; King et al. 2016; Stepakoff, Reynolds, Charters, and Henry 2014, 2015;¹ Stover 2005; Stover et al. 2011). On the whole, the theoretical and empirical literature suggest that while some aspects of testifying are empowering, other aspects may be disempowering (Staggs-Kelsall and Stepakoff 2007).

Within this growing body of literature, there is recognition that international criminal trials may contribute positively to therapeutic goals, such as societal reconciliation and victim vindication. There is, however, much scepticism surrounding the therapeutic assumptions underlying truth-seeking institutions. As Eric Stover (2005) notes, the pursuit of justice should not be viewed as a panacea for righting wrongs nor as a substitute for providing reparations and healing to survivors of mass atrocities. Vanessa Pupavac (2004) argues that the therapeutic paradigm of international criminal justice contributes to the obfuscation of victims' material needs and the pathologization of post-conflict communities. Rosalind Shaw maintains that the ameliorative possibilities of testifying about traumatic experiences are embedded in a Western memory discourse that is rooted in psychoanalysis and psychiatry as 'powerful forms of knowledge'. She contends that truth-telling institutions may over-shadow local justice initiatives and create 'new forms of power and inequality' (Shaw 2007: 186–93).

Although it is important to be sceptical of the claims and assumptions that valorize the redemptive power of testimony in international criminal trials, victims and witnesses nonetheless repeatedly express a desire to tell their story and be heard (Stover 2005). Bearing witness thus constitutes an important form of justice, and carries the potential for reclaiming voice, agency, and dignity. Yet testimony is never acontextual or universally therapeutic, but is ultimately contingent on the modes, context, processes, and outcomes of institutions designed to facilitate justice and truth-telling.

In this article, we explore the ways in which international war crimes courts can enhance the therapeutic potential of testimony by presenting a set of 'Guiding Principles' that can inform the provision of protection and support for witnesses. Although each of these principles deserves consideration at every stage of a witness's participation, we have grouped the ten principles according to three clusters, based on their relative salience at different phases of the process: pre-testimony, during testimony, and post-testimony. Our aim is to propose ways for international courts to better serve witnesses before, while, and after they testify.

1 Shanee Stepakoff and Simon Charters, the first and third authors of the 2014 and 2015 studies on witnesses at the Special Court for Sierra Leone (SCSL), were both affiliated with the Special Court's Witness and Victims Section (WVS) during the period in which that research was conducted. Shawn Reynolds, the second author in those studies, was a research and statistical consultant to the WVS. Nicola Henry, fourth author of those studies, was not affiliated with the SCSL.

Background and context

At the Special Court for Sierra Leone (SCSL), the Witness and Victims Section (WVS) was under the aegis of the Registry, which was responsible for the overall administration and management of the Court. As such, WVS staff were responsible for supporting all witnesses, regardless of whether they were testifying for the prosecution or the defence. The Section had two teams, one responsible for protection and security issues, and the other for psychosocial issues. Importantly, the SCSL's Statute and its Rules of Procedure and Evidence included a strong mandate for witness support. In particular, Rule 34 (amended 29 May 2004) included provisions that

(A) all witnesses . . . , as well as others who are at risk on account of testimony given by witnesses, be provided with long- and short-term plans for their protection and support, and (B) WVS Personnel include experts in trauma, including trauma related to crimes of sexual violence and violence against children.

Ultimately, a 12-person support team was established within the WVS, under the supervision of a psychologist.² This model had initially been conceived by Saleem Vahidy, the Chief of the WVS, who had come to the SCSL after working as chief of witness protection for the International Criminal Tribunal for Rwanda. The team consisted of two nurses (one male, one female) to offer medical care for witnesses before, during, and after their testimony; six support officers, to provide general support services, especially while witnesses were in residence in Freetown (e.g. language interpretation during meetings with attorneys, 24-hour coverage of the dormitory in which they were lodged); a witness support coordinator, to monitor and respond to each witness's needs; and two psychosocial counsellors.

Though extensive services were offered, initially there was no underlying conceptual framework to inform the service provision. The principles delineated below constitute such a framework. With appropriate modifications to ensure relevance to specific contexts and cultures, these principles can be applied in diverse transitional justice settings, such as truth commissions as well as international, national and community-level courts.

Guiding principles

Drawing on the pioneering work of trauma scholar/clinician Judith Herman (1992), Shanee Stepakoff (first author) conceived these principles in June 2005 after her first few weeks as the psychologist for the WVS at the Special Court, during the prosecution phase of the three trials held in Freetown. Her duties included the training and supervision of witness support officers. She continued as the SCSL's psychologist through August 2007.³ These principles are aspects of widely accepted theory and practice with regard to the treatment and care of victims of violence (Briere and Scott 2006; Herman 1992). Below, we cluster the principles according to the different phases of testimony and give a brief rationale for each principle. We then offer examples of our efforts to implement these principles at the SCSL. In some instances, we also discuss challenges we encountered in seeking to adhere to the principles.

2 This description pertains to the three SCSL trials held in Freetown. When most members of the SCSL support team moved to The Hague to work with the SCSL's trial of former Liberian president Charles Taylor, supervision was no longer provided by a psychologist.

3 Except where indicated via citations to theoretical and empirical literature, the examples and observations discussed here are based primarily on the experiences of the first, third, and fourth authors, each of whom spent over two years as employees of the WVS.

The pre-testimony phase

Four key principles can enhance witnesses' experiences before they testify in a public forum such as an international war crimes court or a truth commission: establishing a caring relationship; maintaining a safe environment; stabilizing physiological and mental functioning; and maximizing predictability. We discuss each of these principles in turn specifically in relation to the pre-trial phase, although we recognize that these principles are also important during and after testimony.

Regarding the first principle, *the establishment of a caring relationship*, Judith Herman (1992) argued that isolation is a core component of psychological trauma. As such, recovery is enhanced by the establishment of relationships characterized by qualities such as empathy, consistency, genuineness, and warmth. Other important qualities that indicate to a witness that a support worker is trustworthy include knowledge about war-related events, an ability to listen, and sensitivity to diversity.

Establishing warm, empathic relationships between witnesses and support workers was a key priority for the WVS. In the pre-testimony phase, WVS staff at the Special Court underwent training in empathic communication skills and attempted to establish a reliable, trusting relationship with each witness. For example, after SCSL investigators identified particular individuals as possible witnesses, a WVS counsellor began to work with these individuals to ensure that they had adequate psychosocial support. The counsellor travelled to the provinces to meet with the prospective witness, and conducted a detailed assessment of the person's needs, strengths, and vulnerabilities. This assessment generally lasted an hour or more, during which the counsellor inquired about a variety of psychosocial issues that could be relevant to giving evidence. The assessment included questions about the witness's health concerns, family composition, substance use, wartime experiences, and possible post-traumatic symptoms (e.g. insomnia, nightmares). Based on this assessment, the counsellor could anticipate what services would need to be in place to support the witness upon arrival in Freetown. Support workers also provided witnesses with their contact telephone number so that in the months prior to testifying they could ask questions or discuss their concerns.

There were many further examples of ways that support workers attempted to show concern for witnesses in the pre-testimony phase. Amputees were encouraged to bring a spouse or adult son or daughter to assist them with their daily needs. Nursing mothers were allowed to bring their babies with them. Psychosocial staff provided child care while the mothers were 'prepping' with attorneys. On occasions when a witness experienced a loss while waiting to testify, support workers sometimes attended the funeral with them.

The WVS psychosocial team sincerely endeavoured to prioritize the best interest of the witness over the needs of the tribunal. Nevertheless, it is debatable whether a truly trustworthy relationship can be established when the support workers are Court employees. Thus, some scholars and practitioners maintain that the ability to be genuinely caring toward witnesses can only occur if the support team is part of a free-standing unit dedicated solely to witnesses' interests.

The second key principle during the pre-testimony phase is *safety*. Herman (1992: 155–74) argued that the establishment of safety is the central task of the first stage of trauma recovery. Although we recognize that this principle is important at each phase of a witness's involvement with the Court, here we focus on establishing the conditions for safety from the outset.

At the Special Court, the WVS went to considerable efforts to provide protective measures for witnesses. For example, the above-described pre-trial assessments by a psychosocial counsellor occurred in concert with pre- and post-trial security assessments by WVS protection officers. The protection officers (a designated team within the WVS, separate from the support team) were experienced Sierra Leonean police officers that police departments in various locations had 'loaned' to the SCSL to provide protection for witnesses. If it appeared that a witness might be at risk from having testified, security officers informed them about protective measures and made recommendations for how best to ensure their physical safety. These included options such as close protection (namely, the constant presence of a protection officer), provision of mobile phones, identifying community-based points of contact through which the witness could be in touch with WVS staff, coordination with local authorities, vehicles with tinted windows, and relocation within the country. Also, support workers examined the Court transcripts and redacted any parts that might cause a protected witness's identity to be revealed.⁴

Some weeks before they were scheduled to testify, witnesses were brought to Freetown and lodged in a safe house or dormitory administered by the WVS. Most of the witness safe houses were in secret locations, and some had round-the-clock security. For most of the Court's tenure, there were separate lodging houses for victims, children, and insiders,⁵ in order to prevent retraumatization that could result from a victim unexpectedly encountering a perpetrator. Access to the lodging houses was restricted, and extensive security was provided.

It is important to note that in discussions of trauma-informed approaches, 'safety' does not refer exclusively to protection from physical harm. It also means psychological safety, which requires efforts to reduce the risk of exacerbating the painful sequelae of war. Thus, establishing a psychologically safe environment included the provision of training for investigators, attorneys, security officers, courtroom interpreters, and judges regarding the vulnerabilities and needs of trauma survivors, particularly children and victims of sexual violence.

Maintaining an environment of psychological safety also meant making sure that language interpretation services were available for each witness throughout their stay in Freetown.⁶ These services were provided by specially trained individuals who, while functioning primarily as WVS interpreters, were also support officers who had received training in empathic communication and were sensitive to the emotional reactions that could occur while preparing to testify.⁷ In the dormitory where victim-witnesses were lodged, a support officer was on-site 24 hours a day, seven days a week.

4 A 'protected witness' is a witness whose identifying information is not disclosed because of a credible risk of adverse consequences. A variety of measures are used to make it possible for such witnesses to testify without being publicly identified (e.g. use of screens, voice distortion, having attorneys refrain from using the name in court, etc.).

5 'Insider' witnesses were former members of the armed factions whose senior leaders were on trial.

6 Testimony was given in over ten languages.

7 This was the standard practice at the three Freetown-based trials. However, after most members of the psychosocial team moved to The Hague in November 2007 to work with the Taylor trial, the new policy was to have interpretation during 'prepping' provided by interpreters from the Language Unit rather than from the WVS support team. Team members reported that they observed

The third fundamental principle in the pre-trial phase is to *stabilize physiological and mental functioning*. This is obviously important for ensuring not only that witnesses are able to provide a coherent narrative, but also that witnesses are not further harmed as a result of participating in the trial process. For instance, many practitioners in post-conflict settings encourage victims of violence to disclose the details of their wartime experiences prematurely. By contrast, a trauma-informed approach recognizes the importance of achieving an acceptable measure of psychological stability and physical well-being prior to attempting to uncover painful memories in detail (van der Kolk 2014). This is important so that victims do not become overwhelmed and so that potential post-traumatic symptoms are not exacerbated.

A large portion of witnesses came to the SCSL with health issues resulting from their wartime victimization and/or from their difficult living conditions. For instance, several of the survivors of sexual violence had vesicovaginal or rectovaginal fistulas, which caused a constant leak of urine or faeces, thereby leading to ostracism and stigma. A number of witnesses arrived in Freetown with untreated sexually transmitted infections. We also had large numbers who arrived with untreated malaria, hernia, and typhoid. Others had chronic pain resulting from the torture and deprivation they had suffered during the war. Until these conditions could be treated, it was difficult for the witness to concentrate on preparing to give evidence in court. Moreover, we had a responsibility to treat any contagious diseases before the witness could be housed in the dormitory.

A fairly broad, flexible interpretation of the Court Rules regarding witness support allowed a rationale for obtaining needed medical care prior to testifying. In addition to our own nurses, we built relationships with several local doctors and hospitals, where we could bring witnesses for needed medical care. When we did so, we always provided a support person for language interpretation and advocacy. After obtaining treatment for acute conditions, we also taught witnesses basic preventive health care. It was particularly important to assist women who suffered from fistulas, to reduce the risk of shame and humiliation while waiting to testify and, later, in the courtroom.

At times, in order for a witness to be able to focus on preparing to testify, it was also necessary to address medical issues of his or her children. For example, one witness had an infant with a severe tumour that was rapidly growing, which would have become disfiguring without immediate treatment. After the infant was successfully treated, the witness turned her attention to preparing for trial.

While some might argue that arranging to have medical conditions treated as part of the court's activities is an inappropriate inducement to testify, a trauma-informed approach recognizes that a witness cannot be expected to prioritize sharing his or her story of wartime suffering when there is an immediate threat to life or health. After control over bodily functioning has been established, the individual then has greater energy and cognitive/emotional resources available to delve into a potentially harrowing narrative.

In addition to medical care, many witnesses were taught basic skills for coping with anxiety and fear before they were due to testify. These skills included mindful breathing, visual

substantial decreases in witnesses' level of comfort during prepping when the interpreters were no longer WVS staff specially trained to provide not only interpretation but also emotional support, and that the experience of prepping, which could have contributed to the healing process by providing an opportunity to express their feelings, instead appeared to add to feelings of emotional distress for many witnesses.

and postural grounding techniques to help bring their attention to the present moment, and self-talk (e.g. 'the events [from the war] are not happening right now'; 'they [the accused] are in detention and are under guard'). We also taught some witnesses a basic imagery technique (to concentrate on a soothing visual image if feeling overwhelmed). We advised them that if they began to feel like the events they were testifying about were happening in the present (flashbacks), they could look at the judges and at the attorney who was leading them in the courtroom, and/or the WVS support person.

When relevant, psychosocial staff also provided psychoeducation to witnesses about the effects of trauma, for instance, hypervigilance that might manifest as 'jumpiness' or as an exaggerated acoustic startle response, or phenomena associated with re-experiencing the traumatic events (e.g. nightmares, intrusive images). Although the anxiety management skills and the psychoeducation about trauma were both derived from Western clinical approaches, many of the major sequelae of trauma have a physiological basis and, thus, have been found to occur across a wide variety of settings (van der Kolk 2014).

The fourth guiding principle in the pre-trial phase is to *maximize predictability*. Serving as a witness in a war crimes trial can be overwhelming, especially in the Sierra Leonean context, where most witnesses came to Freetown from rural provinces and had never seen a courtroom before, and did not know about the workings of any court of law, let alone a UN-backed tribunal. More generally, because many survivors of violence and war live in a state of heightened vigilance even years after the events, strong reactions of discomfort and fear can be 'triggered' by unexpected stimuli.

WVS support workers helped witnesses anticipate various aspects of their experience well in advance of their arrival in Freetown, before they departed their homes upcountry, sometimes even from the period of their initial contact with the Court. Witnesses were told approximately how long they would be away from home (usually between one and three weeks), the living conditions at the safe houses, the services that the WVS could and could not provide, the amount of the witness allowance, and so forth.

A few days before they were due to testify, support staff brought the witness into the courtroom during a time when it was not in use, and spent about an hour with them there, familiarizing them with everything about the courtroom and how it worked, including the language interpretation mechanism. Witnesses were informed about what to say and do to signal a need to take a break while testifying, and were reassured that they were permitted to ask for a break. In addition, prior to giving evidence, it was customary for the witness to participate in several 'prepping' sessions with the attorney who would lead him or her in court, so that s/he would become familiar with the process and would know what to expect.

In addition, a WVS support worker would explain to the witness the nature and process of cross-examination, so that the witness would understand that cross-examination was to test the truthfulness of the testimony and was not intended as a personal attack. When appropriate, support workers would answer witnesses' questions about the trial as a whole, for example how long it was expected to take, the rights of the accused, and the fact that the accused were in a locked detention facility.

Psychosocial counsellors also sought to maximize predictability by providing witnesses with basic information about common reactions to trauma. As Herman noted, 'If the ... [person] is prepared for the symptoms of hyperarousal, intrusion, and numbing, she will be far less frightened when they occur' (Herman 1992: 157). Accordingly, witnesses were

informed of the possibility of flashbacks and other dissociative phenomena (such as intrusive images of the wartime events), with jargon-free descriptions that they could readily grasp.

Unfortunately, there were times when misunderstandings arose. For example, several witnesses who arrived in Freetown eager to testify about their sexual victimization were prohibited from doing so. Some of these women still testified, but about other matters, and some were not permitted to testify at all. In a few instances, witnesses expected to be given additional financial compensation or school fees for their children after testifying, and were disappointed when this did not occur. This is not unique to the SCSL. For instance, Rosalind Shaw, in her ethnographic research on the Sierra Leone Truth and Reconciliation Commission, noted that some participants expected to receive material benefits for providing statements to the Commission, even though they were told the Commission could not pay them (Shaw 2007: 201).

During testimony

As discussed above, international courts can do much to prepare witnesses for the experience of testifying. Although expectations might not always translate into reality, staff can adhere to a number of principles to increase the likelihood that the courtroom experience will be relatively positive. In this section, we discuss the following three principles: maximize choice; affirm dignity and value; and affirm the power of speech.

The fifth guiding principle we identify is to *maximize choices*, namely endeavouring, insofar as possible, to restore power and control. According to Herman, disempowerment is a core feature of trauma, and, thus, recovery depends on empowerment: ‘The survivor should . . . be consulted about her wishes and offered as much choice as is compatible with the preservation of safety’ (Herman 1992: 134).

It is widely recognized, of course, that war crimes tribunals are not venues in which survivors can experience a large degree of power and control (Mertus 2004; Stover 2005). This is because the primary function of the trials is to render retributive justice through the prosecution of perpetrators (Arendt 1994). ‘Healing’ or ‘catharsis’ (when it occurs at all) is at best a secondary goal.

Moreover, in the courtroom setting, it is not possible for witnesses to be given total freedom to share their story in whatever manner they wish, nor at the pace they may prefer. Trials focus primarily on presenting evidence of the accused’s guilt or innocence in order to secure a conviction or acquittal, not on eliciting a richly elaborated trauma narrative. Nevertheless, while remaining cognisant of the real limitations of witnesses’ power and control in the context of international tribunals, it remains possible to maximize the frequency and range of choices that witnesses can make.

The most fundamental choice, of course, is to testify at all, given that no one at the Special Court was compelled to testify. Wherever possible, an effort should be made to give witnesses as much control over the process as is feasible given the exigencies of legal and juridical procedures. Also, although the witness may have little control over the presentation of evidence, there are ways to reduce feelings of helplessness and powerlessness apart from the courtroom. For example, most witnesses felt empowered by the above-described teaching of coping skills and provision of psychoeducation. As Herman noted, ‘if the . . . [person]

is offered advice on coping strategies and warned against common mistakes, her sense of competence and efficacy will be immediately enhanced' (Herman 1992: 157).⁸

At times, within realistic limits, witnesses were also given choices over what they wished to say or do in the courtroom. For example, witnesses had choices about what language they wished to testify in owing to the availability of courtroom interpreters. When given the choice of whether to testify as a protected witness, with the concealment measures, or in open court, many witnesses opted to testify in open court where they could be seen and heard by the public, because they valued the opportunity to share their story publicly. Other witnesses chose instead to testify from behind a wooden shield, where the public could not see them. For these witnesses, the videotapes of the proceedings were not allowed to include the witness's image, a voice distortion mechanism was used, the witness was not addressed by name, and was not expected to openly disclose information that would reveal his or her identity.

In another example, one witness indicated that she had been directly harmed by one of the accused, and she wanted to point at him in court. She asked permission, and the judge allowed her to do so. In a follow-up interview, she reported that pointing at the perpetrator had been her favourite part of her involvement with the Court. Similarly, several witnesses voiced a desire to show the judges their scars and/or, for amputees, their stumps. In many instances, they were given permission, yet they were not forced to do so.

Despite our best efforts, witnesses in some instances felt disempowered. For example, as mentioned above, when a judicial ban prevented the admissibility of any testimony about sexual and gender-based violence in the Civil Defence Forces (CDF) trial, several female witnesses who reported having been raped by CDF commanders but had not disclosed gender-based violence in their initial statements to investigators, were prohibited from testifying about their sexual victimization despite their desire to do so (Kendall and Staggs 2005).

Similarly, there were times when a witness expressed a preference *not* to talk about a particular event, but if testimony about that event was needed to buttress the case, the attorney would encourage him or her to do so. It is worth noting, however, that in many instances, witnesses who were initially reluctant to testify about a particular event but eventually did so, later stated that they were glad that they had, and even described feeling unburdened and emboldened as a result (Stepakoff, Reynolds, and Charters 2015).

In addition to the courtroom setting, the testimony phase also allows for opportunities to restore a sense of power and control while in the dormitory where witnesses are lodged. For example, in one instance an older adolescent witness did not want to come to Freetown alone to testify, and his father was permitted to stay in the dormitory with him until the witness had finished giving evidence. Similarly, there were several instances in which female witnesses feared that their relatives might disapprove of their decision to testify; WVS support workers honoured these women's preference to limit their relatives' knowledge of their reasons for being in Freetown.

There were times when the principle of maximizing choices appeared to conflict with the principle of maintaining safety. For example, an insider witness who was believed to be

8 This can also apply to the tasks of daily living in the dormitory or safe house. For example, many witnesses preferred to cook their own food rather than having meals prepared for them by others and brought in. Providing witnesses with these options can contribute to a sense of agency and self-determination.

at high risk of reprisals insisted on testifying in open court, with his identity disclosed, despite the WVS's recommendation that he testify with his identity concealed. He portrayed this request as a desire to speak publicly about his inside knowledge, though it appeared plausible that he may have also been hoping for post-trial relocation outside the country, as witnesses deemed to be at very high risk were occasionally relocated externally.

The above situation was not common, given that most insiders preferred to have their identities concealed. A more typical example of the conflict between the principles of empowerment and safety was in regard to the fact that most child witnesses assumed that they had to testify by video link, as that was what the WVS and the Office of the Prosecutor (OTP) recommended for the younger witnesses. Later, in follow-up psychosocial assessments conducted by WVS staff, as well as in an interview study of child witnesses (Sanin and Stirnemann 2006), many of these individuals said that they would have preferred to testify in the open courtroom, in the presence of the accused. The initial assumption had been that testifying by video link would provide greater psychological safety, but in those instances where a witness's wish to testify in the open courtroom was granted, it often proved helpful and empowering, perhaps because the witness had the opportunity to see that the accused were no longer omnipotent.

The sixth guiding principle, which is important at all phases but particularly so during testimony, is to *affirm dignity and value*. Again, to draw from Herman (1992: 179), trauma recovery is facilitated when providers 'affirm the dignity and value of the survivor'. Most trauma survivors struggle with feelings of reduced self-worth. Many have also been devalued by the larger society as a result of rape, amputation, and other acts of violence.

At the SCSL, we attempted to abide by this principle in a number of ways. Simply assigning a support worker to be in the courtroom during testimony implicitly conveyed an attitude of appreciation and respect. On the day(s) that the witness testified, during the morning, lunch, and afternoon recess, the counsellor met with the witness in the waiting room and offered psychological support. If testimony continued for several days, a psychosocial counsellor checked in with the witness each evening and was available to discuss any issues or concerns.

Although all support staff were aware that they could not discuss evidence while testimony was under way, the counsellor was available to listen if the witness wished to share some thoughts or feelings about testifying. If witnesses appeared to be struggling, the counsellor might invite them to recall their central motivations for testifying. During breaks and in particular when the testimony had been completed, the support workers gave honest affirmations of the witness's strength in having coped with the courtroom situation, courage in having testified, and ability to talk about difficult experiences. Support workers reminded witnesses that their testimony was important and would be carefully considered when the time came for the judges to render a verdict.

These practices are consistent with widely accepted trauma-informed approaches. Acknowledgement is a basic aspect of affirming dignity and value—not only for having testified but more generally, acknowledging what the person has been through and the losses he or she has sustained. Many survivors of war lose the sense that their lives have meaning and purpose. For some, testifying can serve as a way to help them regain the sense that their lives, their suffering, and their stories are important.

In post-trial assessments, several witnesses said it had been very important to them that the lawyer and/or judges had thanked them after they testified. Many witnesses also expressed pride and a sense of accomplishment in having testified, and indicated that they felt

that it had been one of the most meaningful things they had ever done. One witness asked the prosecution attorney to provide her with a certificate verifying that she had testified in the Special Court and had done so reliably and courageously. The attorney consulted with the WVS, and the witness was provided with a certificate as she had requested, but only after she first met with a support worker to make sure she understood the potential risks and to advise her on ways that she could keep the certificate hidden.

With regard to prosecution witnesses, another way that dignity was maintained while at trial concerned practices whereby the accused were accompanied to and from the courtroom by uniformed security guards and were not permitted to speak to witnesses. Further, with few exceptions, the accused were only permitted to speak in open court through the defence attorneys or while testifying in their own defence.

We also sought to affirm witnesses' dignity and value by showing a commitment to their overall well-being. In the previous section, we described some of the medical interventions provided. Dignity and value were further enhanced when witnesses confided in each other with regard to their struggles to cope with medical conditions such as fistulas, thereby feeling less stigmatized by these conditions.

For witnesses who were in safe houses and other locations in Freetown, a support officer visited on a regular basis to check in regarding medical or psychosocial needs. The WVS provided transportation between the Court and other locations, as well as meals, a daily living allowance, and child care. During their residence in Freetown, witnesses were able to maintain telephone contact with their loved ones in the provinces. Further, the WVS ensured that the witness's dependants upcountry would have their basic needs met throughout his or her stay in Freetown.

Also, WVS support workers engaged in advocacy within and outside of the Court if it seemed that a witness had legitimate concerns that were not being adequately addressed. For example, when a child witness who was not attending school expressed a wish to do so, the WVS counsellor met with the principal of a local school and made arrangements to have him enrolled. Similarly, as a result of vigorous advocacy by support workers, two witnesses whose medical issues could not be addressed within the country were accompanied outside of the country for treatment.

To advocate for a witness implicitly conveys the idea that the witness's needs are important and that he or she is a person deserving of consideration and respect. WVS staff also sought to convey this through simple, everyday actions. For example, support officers accompanied the witness to purchase clothing that was appropriate for appearing in court (most witnesses did not possess such clothing when they arrived). Similarly, witnesses were able to receive prayer mats or go to a local church or mosque if they wished.

A more subtle way of affirming dignity and value was to refrain from making assumptions about witnesses' vulnerabilities. Although some staff in international tribunals and related settings have suggested that many witnesses are at risk of retraumatization from sharing their stories in court, on the whole it appeared that most witnesses were very capable of coping with the rigours of testifying. This observation underscores the idea that recognition of witnesses' resilience is just as important as an awareness of their potential vulnerabilities.

Dignity and value were reinforced in informal groups of witnesses who were in Freetown to testify during the same time period. For example, when one person was ready to go to court, her peers would wake up at the same time and offer verbal encouragement as well as practical support such as helping her get dressed, do her hair, choose a pair of earrings, and so forth. When witnesses came back to the dormitory immediately after

testifying, though they were not permitted to talk about the evidence, the peers usually spoke to one another in a supportive manner. On many occasions, groups of witnesses in the dormitory engaged in spontaneous singing, dancing, and prayer.

Sensitivity to dimensions such as gender and culture are additional aspects of affirming dignity and value. Some witnesses seemed to feel a spiritual connection with their loved one who was killed in the war, as if they believed that the person's soul was present with them in the courtroom. Similarly, many witnesses engaged in prayer before or after testifying and/or in the dormitory where they were lodged. Staff were trained to respect these cultural and religious beliefs.

Honouring the principle of dignity and value also entails recognition of the role of truth and justice in psychological healing. Official efforts to deny or erase experiences of tremendous personal and political magnitude imply that the lives taken were not of much worth, and that the suffering of the survivors is not important. Institutionalized methods of making the truth known and promoting accountability for human rights abuses can thus increase feelings of dignity and self-worth among survivors.

While the witness testified, a psychosocial counsellor remained in the courtroom as a source of emotional support. Although for the most part the witness was focused on giving testimony and did not interact with the counsellor, witnesses seemed to appreciate having a trusted person in the courtroom. The mere physical presence of a familiar face tended to have a calming effect. Further, non-verbal interaction could be a powerful form of emotional support. For example, while s/he was on the witness stand, the counsellor might offer a warm smile or a friendly gesture. This was particularly important in light of the fact that in each of the Freetown trials there were three accused, and most of the time all three were in the courtroom. Further, each of the accused had one lawyer (the defence attorneys often had an assistant as well). Thus, whereas on the prosecution side of the courtroom there might be just one attorney and one assistant, on the defence side there were sometimes more than six different people whom the witness experienced as unfriendly at best.⁹

Immediately after testifying, psychosocial staff provided debriefings to witnesses. For example, a counsellor would ask the witness how s/he felt. If the witness reported post-traumatic stress symptoms, the counsellor would remind him or her that such reactions were common and would probably diminish in the days ahead.

It is noteworthy that few if any witnesses appeared to suffer serious long-term psychological harm as a result of having testified. For example, none became suicidal, homicidal, psychotic, clinically depressed, or severely dissociative in the immediate or longer-term aftermath of testifying. On the contrary, detailed follow-up assessments indicated that the vast majority of witnesses actually described important psychological benefits from having testified, including feelings of relief and reductions in symptoms of depression and post-traumatic stress (Stepakoff, Reynolds, and Charters 2015). Similar benefits of testifying have been noted by other empirical researchers in this field (Human Rights Center 2014; King et al. 2016; Stover 2005; Stover et al. 2011).

To *affirm the power of speech* is the seventh fundamental principle during the testimony phase of war crimes trials. Numerous trauma theorists and post-trauma clinicians have emphasized the importance of finding words for experiences that initially seem unspeakable

9 This, of course, applied specifically to prosecution witnesses. In the case of defence witnesses, the issue of imbalance in regard to supportive versus unsupportive persons in the courtroom was less salient.

(Phelps 2004; Simpson 2007). Eric Lister described forced silence as one of the most insidious aspects of psychological trauma: ‘This prohibition of communication, enforced by some implicit or explicit threat, constitutes a secondary trauma of enormous import’ (Lister 1982: 872–6). In Herman’s view (1992), in order for recovery to occur, the survivor must tell the story of the trauma, oriented in time and historical context, along with a description of his or her emotional states. Before this occurs, the trauma persists in a ‘pre-narrative’ form, mainly as bodily sensations, intrusive images, and behavioural reactions.

Although some transitional justice scholars have argued against the idea that testifying is psychologically beneficial (Shaw 2007), for many survivors of mass atrocity the need to tell the story of what happened and to publicly denounce those perceived as responsible is extremely compelling (Stepakoff, Reynolds, Charters, and Henry 2014; Stover 2005). For some, the act of doing so can help alleviate the after-effects of trauma (Stepakoff, Reynolds, and Charters 2015).

It was common, however, for prospective witnesses to initially feel some reticence about sharing their stories. Many preferred to ‘forget about’ the wartime events and not to speak about them, even with the counsellor, let alone the investigator or in the courtroom. Indeed, Shaw (2007) has argued that many survivors of human rights atrocities may benefit more from silence and ‘forgetting’ than from verbalization and remembrance.

In this regard, it is important to bear in mind that no SCSL witness was ever forced to testify, or to provide a statement to investigators or attorneys. Sceptics might argue that there are enormous power differences between prospective witnesses and court staff, which creates a risk that vulnerable individuals may be unfairly pressured to testify. The reality, however, is that if the individual’s preference to remain silent was strong, then the most common outcome was that he or she would not be called as a witness, or would not be asked to testify about events that he or she was unwilling to discuss.

Of those witnesses who went on to testify, many seemed transformed by their ability to speak about their experiences and to be heard by the community and, indeed, the world. Individuals who had been terrified of their perpetrators appeared to gain a sense of strength after naming their perpetrators in court. Women who had never felt able to mention the horrors of being captured and sexually enslaved spoke about these experiences in detail, with resoluteness and courage. People who had been silenced gained a chance to be heard, people who had been marginalized were listened to, people who had been ashamed of being a ‘rape victim’ or an ‘amputee’ showed pride in their capacity to bear witness. In sum, although the long-term impact of testifying at international courts remains largely unknown (Gready 2011), these various examples underscore the power of telling one’s story.

Thus far, we have discussed the critical importance of adhering to specific principles during the pre-testimony and testimony phases. The post-testimony phase likewise merits attention. We now turn to this task.

Post-testimony phase

In total, more than 300 witnesses testified in the Freetown trials, and over a hundred more testified in the SCSL’s trial of former Liberian president Charles Taylor in The Hague. None were physically harmed or killed while or soon after testifying.¹⁰ This is a significant

10 The last SCSL trial ended in 2012. According to the protection officer in charge of longer-term witness protection for the Residual Special Court for Sierra Leone (the entity created after the SCSL officially closed in 2013, to oversee the SCSL’s continuing legal obligations and to provide witness

accomplishment given how violent the conflict was, and considering that three of the four trials took place in the country where the war occurred. A small number of witnesses were threatened, harassed, or intimidated after having testified, but in every instance the security officers were able to implement protective measures that proved effective.

As the Special Court completed its mandate and took steps to close down, the need for longer-term follow-up of witnesses was recognized. The Registry determined that care and protection of witnesses would be among the very last services to cease. Indeed, even after the Court closed, witness protection was still provided by national staff. From among other international war crimes tribunals (including the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court), the Special Court was the first to provide long-term follow-up care for witnesses (e.g. follow-up visits conducted several months post-testimony for the majority of witnesses, and provisions for witness protection that still remain in place, more than five years after the last testimony was heard). For instance, support staff conducted detailed post-testimony assessments to address any potentially adverse physical or psychosocial consequences of testifying.

Nevertheless, in a country where reliable infrastructure is lacking and where many aspects of the political, physical, and social context are unpredictable, we may not be able to guarantee long-term physical and emotional safety for all witnesses. Still, we can aim to reduce the risks. The ability to do so effectively will be enhanced through the fulfilment of three fundamental principles: promote human connection; instil hope; and foster reconnection with ordinary life.

The eighth guiding principle, which is important at all stages of involvement with the Court but takes on a particular importance in the post-trial phase, is to *promote human connection*. Judith Herman (1992) argued that the creation of new connections is a cornerstone of trauma recovery. In our work, we sought to build positive connections between witnesses and staff in all sectors of the court. However, bearing in mind that most witnesses were only under our care for a relatively short period of time, we also encouraged them to build broader networks of social support, in particular stronger connections with relatives or peers. Occasionally, however, this principle conflicted with the earlier-discussed principle of maximizing choices, namely, when witnesses preferred to refrain from informing their loved ones about their involvement with the Court.

During the post-testimony phase, we encouraged each witness to identify at least one person in his or her home community to whom she or he could turn for emotional support. Also, psychosocial staff networked with NGOs and community-based organizations to make sure that the witness's needs would continue to be met when she or he returned home, making referrals as needed. For example, one child ex-combatant wanted to learn carpentry, and was linked with carpentry training. Another had been unable to locate his family, with whom he had had no contact since being captured at a young age during the war. WVS workers initially connected him with UNICEF and a local NGO but they were not successful in tracing his family. A WVS support officer managed, however, not only to trace his family but actually met with the family to prepare them to accept their son's return. He then brought the witness to the family's home and facilitated a successful reunion.

protection if needed), as of April 2017 there have been no reports of witnesses being physically assaulted or killed in reprisal for testifying.

The ninth guiding principle is to *instil hope*. This is an essential aspect of trauma-informed practice in diverse settings (Briere and Scott 2006: 70). In the Sierra Leonean context, this principle was difficult to fulfil, given that after giving testimony most witnesses would continue to face the ongoing hardships of life in a low-resource setting. Thus, the challenge was to maintain a hopeful stance while not becoming Pollyannaish or trivializing the enormity of the tasks ahead.

In order to foster hope, after witnesses finished testifying, the psychosocial counsellor would attempt to engage them in a conversation about their future plans. Although the subsistence allowance provided to witnesses was meant to compensate them for the practical inconveniences and hardships of being away from home during their stay in Freetown, some witnesses were able to set aside a portion of the allowance and, often for the first time in their lives, to have some savings to invest in a manner that could make a difference in their lives. Some witnesses used this small savings to pay school fees for their children; others enrolled in vocational training.

The fact that many witnesses, by the time they left Freetown to return to their homes, had had long-standing health conditions successfully treated also contributed to their capacity for hope. Further, many witnesses reported that as a result of their involvement with the Court, they had learned how to cope with visiting Freetown, and they felt that that ability might prove useful in the future, for example to engage in small-scale trading (such as buying products in Freetown that they could then bring upcountry to sell).

Overall, many witnesses left the Court with a greater sense of hope than they had arrived with, and indicated that they had undergone positive changes as a result of testifying. Many reported that they had become 'bolder' and had gained an ability to speak in public. Others said that they felt unburdened and had developed a greater ability to cope with the demands of life: 'Before, when I thought about my husband [who was killed in the war], I was tormented and was unable to do what I'm supposed to do. But now [since testifying], it's much better, and I'm able to work in the market' (Stepakoff, Reynolds, and Charters 2015: 169).

In attempting to instil hope, support workers cannot rely on the outcome of the trials: first, the outcome of the trials is neither known nor guaranteed, and second, the WVS also provided support for defence witnesses, and the outcome they most wished for was for exoneration of the accused. Thus, rather than being based on particular expected outcomes, for witnesses in war crimes trials feelings of hope must be grounded in the larger ideas that it is possible to work toward justice and truth, that some good will come from the experience of testifying regardless of the verdict, that the existence of mechanisms of accountability may reduce the risk of future war crimes and enhance the possibility of peace, and that life still has meaning and purpose in spite of the enormity of the wartime losses.

Finally, the tenth guiding principle is to *foster reconnection with ordinary life*. This stage entails, among other tasks, the effort to envision and take steps toward a better future. According to Herman (1992: 196), 'though resolution is never complete, it is often sufficient for the survivor to turn her attention from the tasks of recovery to the tasks of ordinary life'. Herman viewed this shift as indicative of the final stage of trauma recovery. Trauma survivors who reach this stage become more interested in the present and future than in the past.

It was the WVS's responsibility, morally and professionally, to help witnesses resume their normal lives after they completed their testimonies. Thus, following the testimony,

support workers met with witnesses to help ensure that the experience of having testified would not result in unreasonable disruptions to their lives. For example, for witnesses who were enrolled in school and had missed several days or weeks due to testifying, support staff helped them develop a plan for how to make up the missed schoolwork. If witnesses had been away from home for some weeks, counsellors helped them think about how to handle rejoining their families. If witnesses had missed out on wages because of coming to testify, or on income-earning activities such as planting their farms, they were provided with appropriate compensation to ensure that they did not suffer financial losses as a result of having testified.

In the relatively few instances where a witness did appear to suffer from adverse consequences of testifying, steps were taken to rectify the situation. For example, one woman who had testified without having informed her husband returned back home to find that he had discovered that she had given evidence in the SCSL, and he was no longer willing to accept her back into the home. The WVS assisted the woman to relocate to a different village, and provided her with the funds needed to establish a new household for herself and her children.

Child ex-combatant witnesses were provided with a means of enrolling in school or vocational training, increasing the possibility that they could sustain themselves in the future after having been under the WVS's care. Psychosocial workers attempted to link witnesses with resources in their home communities, for example with appropriate NGOs. Protection officers provided witnesses with information on what to do and who to contact if they faced future security risks as a result of having testified.

WVS staff tried to help witnesses plan for resuming ordinary life after testifying by helping them set realistic goals and explore possible pathways by which these goals might be achieved. An unusual and perhaps even unique aspect of witness support at the SCSL was the provision of follow-up services for at least six months after testifying, and in many instances, for several years. Additionally, security and psychosocial staff attempted to visit witnesses within the first six months post-testimony, to ensure that they were not suffering from threats or adverse effects. The WVS psychologist (first author) created a detailed follow-up psychosocial assessment measure to learn about witnesses' post-testimony perspectives and needs.

When the time arrived for the Special Court to cease its existence, a Residual Special Court was established to ensure that there would be at least a basic capacity to respond to any future difficulties related to people having served as witnesses. Thus, although it was not possible to solve every problem encountered by witnesses or to address all of the challenges they faced in adjusting to life in the post-conflict and post-trial milieu, substantial efforts were made to support them in reconnecting with ordinary life and to enhance their ability to face the future.

Conclusion

Overall, we believe that the ten principles described here were implemented at the Special Court for Sierra Leone with some measure of success. Of course, some might argue that our views are biased, because the first, third, and fourth authors were employees of the SCSL and thus may have wittingly or unwittingly overlooked instances in which our efforts to provide high-quality care for witnesses were ineffective. However, informal observations, witness remarks, and empirical research findings, when taken in combination, suggest that

there is at least some basis for asserting that the framework described here was useful in the provision of services for witnesses.

Nevertheless, a number of issues merit further reflection to enhance the effectiveness of witness protection in future settings. As we have noted, it may be preferable for a witness support section not to be under the aegis of a tribunal's Registry but instead to be a free-standing unit focused solely on witnesses' rights and needs. Such an approach would have the advantage of reducing the potential for conflicts of interest, in which psychosocial support workers simultaneously seek to meet the needs of witnesses while also being accountable to the tribunal as a whole.

If it is not feasible to create a freestanding witness unit, it may be preferable to at least establish separate witness units for the prosecution and defence. At the SCSL, we made strenuous efforts to ensure that witnesses for the defence received the same quality and quantity of services as prosecution witnesses. Still, some might question whether support officers who are providing services to prosecution witnesses can simultaneously maintain a truly impartial and egalitarian stance vis-à-vis defence witnesses.

Further, no matter how sincere the desires to mitigate harm and how strenuous the efforts to attenuate the traumatic impact of war crimes, international courts cannot by themselves achieve the complex goals of retributive, restorative, and social justice in the aftermath of mass atrocities (Mertus 2004; Shaw 2007; Stover 2005). In forums such as truth commissions and war crimes trials, individuals who have first-hand knowledge of war-related events can narrate their experiences and feel heard by the judges and commissioners, others who were also impacted by war, and by the wider world. Yet if these forums do not provide reparations to help people rebuild their lives in the aftermath of conflict, testifying may not fulfil its promise as a vehicle for empowerment and trauma recovery.

It is important to note that the ten principles described here are to a large extent based on a paradigm of Western psychotherapy, and may not adequately reflect culturally specific ways of dealing with human rights abuses. Nevertheless, the principles described here can be adapted to local contexts and cultures. Further, many of the core reactions to life-threatening events are rooted in physiological mechanisms common to all human beings (van der Kolk 2014). Thus, we believe that these principles have the potential for applicability across varying contexts in which individuals who have knowledge of, or experience with, war atrocities may be invited to testify in public settings.

Admittedly, the framework presented here is aspirational. Given the realities of international tribunals, there will inevitably be occasions that these principles can only be partly realized. We maintain, nonetheless, that these ten principles can be useful for informing witness protection and support practices as well as routine interactions with witnesses before, while, and after they testify. With appropriate consideration for the diversity of transitional justice mechanisms and post-conflict settings, genuine efforts to abide by trauma-informed approaches will enhance the likelihood of positive experiences, and will reduce the risk of harm, among individuals who testify in war crimes trials.

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