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Supporting Paper
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The ICC as a Restorative Space: Exploring Narrative Ownership

The purpose of this paper is to explore how ownership pressures are placed on the narratives of victim participants before the International Criminal Court (ICC). Specifically, it will examine how the procedure under Article 68(3) of the Rome Statute can be conceived as a 'space' where Aarten, Mulder and Pemberton's (2018) social-psychological mechanisms for narrative pressure can be applied. How are victims' narratives conceived within this procedure? What kind of language exerts doubt in their experiences? Through a qualitative discourse analysis, hearing transcripts from The Prosecutor v. Bosco Ntaganda case can serve as preliminary insights to how victims retain narrative ownership in practice at the Court.

This paper was inspired by the work of Nils Christie (1977), as endorsed by restorative justice (RJ) proponents, which calls on the need to recognize the appropriation of victims' experiences by external actors, especially in the criminal justice context. It aims to offer as an introduction for further inquiry of how we can begin to use RJ theory as a framework within the international criminal justice context and promote more meaningful victim engagement.

First, this paper will explain its methodology including the collection of data, the sample used, and the relevant limitations. Second, it will illustrate how mechanisms of narrative pressure were formed into sets of deductive codes for the main qualitative analysis. This will be followed by an example of their application. Last, several findings of the analysis will be provided and separated under each mechanism; *the moralization gap*, *the justice motive*, and *framing and stereotyping*. This paper is meant to serve as a supporting document for the presentation titled 'The ICC as a Restorative Space: Exploring Narrative Ownership' as part of the European Forum for Restorative Justice (EUFRJ) 2022 Conference in Sassari, Italy. Thus, the complete information and findings of this study are to be presented there.

I. Methodology

The dataset of this study comprises of five hearing transcripts of the ICC victim participation procedure set out in Article 68(3) of the Rome Statute. The hearings involve five victims who were permitted to have their views and concerns presented before the court in the case of The Prosecutor v. Bosco Ntaganda. As a discourse analysis, this study is interested in the ways which the court personnel administering the procedure interact and place pressures on victims' narratives.

Research Question: How do ICC court personnel, in administering the procedure under Article 68(3) of Rome Statute, place pressures on the narratives of victim participants?

The Data and Sample: The five hearings of this study form part of The Prosecutor v. Bosco Ntaganda case and were initiated based on the Trial Chamber VI's 'Decision on the Request by the Legal Representative of the Victims of the Attacks for Leave to Present Evidence and Victims' Views and Concerns' (10 February 2017, ICC-01/04-02/06-1780-Conf). The first three hearings were conducted on 1 March 2017 and the last two hearings on 2 March 2017. Each hearing involves the presentation of one victim respectively. Each victim was allocated one hour to present.

The transcripts were derived on 10 December 2021 from conducting a simple-random and snowball sampling method. Due to time and resource constraints, the researcher's aim was to analyze five to ten hearing transcripts. The researcher was only interested in transcripts involving hearings of accredited victim-witnesses before the court. The case(s) and stages of the proceedings of which the hearings formed part was not of relevance or controlled by researcher. The method used by the researcher in collecting the transcripts is as follows:

First, the researcher approached the 'Court Records and Transcripts' section of the ICC official website. The researcher then searched the terms 'victim trial hearing' within the search bar and filtered the results by choosing for only 'Transcript' and 'English' documents. This led to 4241 results over 299 pages. Each page listed 20 results. Second, a number was randomly chosen by an online generator from 1 to 299; the number 93 was chosen. The researcher then went to page 93. From here, a number was randomly chosen by the same online generator from 1 to 20; the number 3 was chosen. The researcher opened result number 3 which was the first transcript of this study; a hearing from The Prosecutor v. Bosco Ntaganda case conducted on Wednesday 1 March 2017. Third, the researcher began to skim read the transcript and discovered that the court personnel were providing some enriching discussion on the victim participation procedure, their views on its purpose, and how the forthcoming hearings should be altered to encompass their views. Out of curiosity, the researcher decided to 'snowball' to the subsequent transcripts of these hearings and skim read them as well. The researcher decided that it would be interesting and valuable to understand how the court personnel adapted the subsequent proceedings. These transcripts would serve as contrasting examples to how the personnel treat different victims within the same case overtime. Hence, the subsequent four transcripts were chosen as the official data set of this study.

The presentation of views and concerns by the victims within these hearings was conducted via video-link as authorized by the 2017 Decision. The Chamber provides that this decision was based on a request by the Legal Representatives of Victims but has explicitly redacted the reasons behind it. Based on the 2017 Decision and the transcripts themselves, it is unclear whether the presentations were provided with video cameras on or off.

In this approach to data collection, the researcher was limited to only the information provided in 'Public Session.' The information provided in 'Private Session' was explicitly redacted by the Chamber within the transcripts. Moreover, the researcher was unable

to ask for clarification or for the individuals to expand upon their views and remarks. Nonetheless, the transcripts each indicate that they are the "lesser redacted version" filed as part of the case. The researcher is aware and respects the purpose of the Chamber for going into private session to protect the identities of the victims.

Information concerning the demographic of the victims within these hearings are stated within the 2017 Decision here: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2017_00813.PDF.

For more information on the background of The Prosecutor v. Bosco Ntaganda case, readers may refer to the dedicated webpage on the ICC website here: https://www.icc-cpi.int/drc/ntaganda

II. Building the Codebook

This study is about narrative pressures: how are victims' narratives confronted with pressures by the ICC court personnel during proceedings? As a discourse analysis, this study is interested in how the language used by the ICC court personnel towards victims presenting their views and concerns reflects the narrative pressures identified by Aarten, Mudler and Pemberton in their 2018 article 'Stories as Property: *Narrative Ownership* as a Key Concept in Victims' Experiences with Criminal Justice.' According to the authors, there are three forms of social-psychological and sociological mechanisms that can lead to pressure on the narrative a victim may attempt to construct in the aftermath of victimization (Aarten, Mudler and Pemberton, 2018). Hence, this study utilizes these mechanisms as sets of *a priori* (or deductive) codes. Specifically, these mechanisms have been construed within the context of domestic criminal proceedings, not international. However, the authors of the article imply that these mechanisms are not imposed by an exhaustive list of court personnel, but rather applicable in a general criminal justice procedural context (Aarten, Mudler and Pemberton, 2018). Hence, this study is also an opportunity to test these mechanisms within the international criminal judicial context. The deductive codes used for this discourse analysis are as follows:

a. *The Moralization Gap*

The *moralization gap* refers to differences in perspectives by victim(s) and perpetrator(s) of the same victimizing account. Whilst the authors purport that the victims' perspective "reflects the experience of actual victims," justice processes which victims may become involved perpetuate the "perpetrators' perspective" (Aarten, Mudler and Pemberton, 2018). The mandates, functions and common practice of courts inherently gives preference the perpetrator's perspective. For example, domestic courts are concerned with "reporting the facts" compared to viewing more emotional narratives, as well as deliberating on how the perpetrators actions can be justified based on these facts and maintaining rules of fair trial (Bandes, 1966). These elements are already evident in the way Article 68(3) of the Rome Statute places limitations of victims participation rights. Victims can only present when it has been decided that their "personal interests are affected (…) and in a manner which is not prejudicial to or inconsistent with right of the accused and a fair and impartial trial." The following elements of the moralization gap which are used as deductive codes in this study are as follows:

- Preference to 'reporting the facts'
- Suspicion of and/or downplaying of emotionality
- Justification of the crime
- Efficiency and effectiveness

b. *The Justice Motive*

The justice motive refers to the notion that individuals have a common need to believe that the world is just. Along these lines, there is a need to believe that only "good things happen to good people, and bad things happen to bad people" (see Begue and Hafer, 2005; Lerner, 1980). Hence, an event that conflicts with this need can lead to negative behavioral responses by third parties, especially judicial actors when confronted with these events. Victim blaming is a common example. Inter alia, the victim is deemed as someone "at least sufficiently reckless to warrant moral censure" and thus their victimizing experience was (to an extent) a result of their own fault or simply "all for the best" (Aarten, Mudler and Pemberton, 2018). Even positive reactions of sympathy can place pressure on victims' narratives. Positive reactions are deemed to primarily alleviate the *observer's* need to cope with the victim's distress (see Pemberton, 2014; Wispé, 1986). Here, the victim is re-casted as a supporting role in the observer's tale of events (also known as 'secondary victim blaming') (Aarten, Mudler and Pemberton, 2018; Van Dijk, 2009). In addition, the need to believe in a just world causes third parties to view the victim's situation as something that can be fully resolved. For example, a court's final verdict or decision on reparations is deemed to lead to some form of closure (Furedi, 2004). In reality, even when restoration is possible, victims' narratives can stretch on far beyond any formal resolution provided as part of a criminal justice process (Aarten, Mudler and Pemberton, 2018). The following negative consequences of the justice motive used as deductive codes in this study are as follows:

- Victim blaming
- Sympathy/positive reactions
- Resolution and closure

c. *Framing and Stereotyping*

Frames and stereotypes used to portray victims and their victimization can place pressures on the narratives of victims. In the context of both victims of domestic and international crimes, Nils Christie's (1986)'s notion of the *ideal victim* can be identified and applied. Schwöbel-Patel (2018) has detected three features of an 'ideal' victim of an international crime: weakness and vulnerability, dependency, and grotesqueness. For example, *weakness and vulnerability* has been linked to the way in which the ICC maintains a gendered and racialized notion of victimhood. Women, children, and those of African ethnicity are "a stereotyped iconographical unit" often correlated with themes of starvation, rape, and helplessness (Schwöbel-Patel, 2018; Kapur, 2002). Subsequently, victims are viewed by the ICC as *dependent*; their inherent "suffering" suggests that victims are waiting to become beneficiaries of international justice, but this can only be done so with the involvement of a representative to act/speak on their behalf (Miers, 1978; Clarke, 2009; Haslam and Edmunds, 2013). Schwöbel-Patel (2018) highlights Christie's (1986) observation that victims "must be able to command

just enough power to establish their identity as an 'ideal' victim but be weak enough not to become a threat to other important interests." The ICC victim representation scheme exemplifies this viewpoint. The purpose of the victim representation scheme is, inter alia, to protect the defendant who can only cross-examine witnesses (Rome Statute Article 67(1)(e); *Prosecutor v Lubanga* Order ICC-01/04-01/06-2023-Anx, 9 July 2009, paras 25-26; Moffet, 2014). Finally, the 'ideal' victim of an international crime as being *grotesque* has been construed by Schwöbel-Patel (2018) by the way the ICC consistently displays certain aesthetical features of victims, creating a "collective imagination of victims of international crime." Images and video-clips of victims include predominately black women and children displaying visual scars of violence such as mutilations, deep cuts, amputations, and burn marks. Moreover, the author has identified ways in which the ICC provide statements of victims in the courtroom which explicitly describe these visual features and thus perpetuate this form of grotesqueness. The following frames and stereotypes put forth by criminal judicial bodies which are used as deductive codes in this study are as follows:

- Weakness and vulnerability
- Dependency
- Grotesqueness

Example of Coding: Below is an example of how codes were applied to the five transcripts. Notice how entire paragraphs involving more than one personnel were coded. This is to provide context and allow for analysis of interactions/discourse between personnel and the victims. Also notice that several codes were applied to the same text segment to capture all relevant (and overlapping) forms of narrative pressure.

	Text	Code(s)
Transcript (2) Victim no. a/30169/15	Defense Counsel: "Again, my colleague is going way beyond what can be described as views and concern. He's actually leading the witness into specific answers. This is also way beyond guiding the witness as he was instructed to do by the Chamber at the beginning of this court session. (…) **the Chamber is getting a one-sided view without any challenge as to the veracity of this information**. **Even though it is not evidence against the accused, it is still highly prejudicial to hear this kind of evidence without any cross-examination**. We should stick to views and concerns and not go into these kinds of factual questions." Legal Rep: "I am not adducing evidence. The witness' statements will not be part of the evidence considered by the Bench at the end of this trial. And **I'm quite sure that each victim who claims to be a victim of the war is entitled to tell us what happened to him and should not be restricted in his/her way of expressing one's views and concerns**. **The victims should be allowed to express themselves**. And the Defence counsel really is out of order."	Justification of the crime Preference to 'reporting the facts' Suspicion of and/or downplaying of emotionality

In this segment, the code *justification of the crime* was applied because the Defense Counsel argues that the Legal Representative is steering the victim into providing information that could be prejudicial to the trial. In essence, this view supports the notion that the perpetrator's perspectives/fair trial standards are more important and thus the victim's narrative should be limited to preserve them. The code *preference to 'reporting the facts'* follows on the same lines. The Defense Counsel is adamant that the victim should not go into "factual situations" while the Legal Representative argues that the victim's narrative will not form part of evidence and thus, the victim should not be restricted in this regard. Lastly, the code *suspicion of and/or downplaying of emotionality* was applied since the segment highlights diverging viewpoints on how the victim's expression of emotions within their presentation should be conceived. Emotionality here is reflected in the use of the terms "*expressing* one's views and concerns" and "*express* themselves." The Defense is implicitly suspicious that the emotional approach of the victim will lead to the presentation of new evidence, whilst the Legal Representative is not concerned and rather supports this approach.

III. Findings

The Moralization Gap

1. What is the role of victims' narratives?

Among all personnel, questions concerning the purpose of the proceedings and the role of the victims' narratives became of particular importance. The personnel engaged in discussions on *how* victims should present their views and concerns and what topics they should focus. It was the Defense Counsel in the first transcript that brought up the discussion to the Judge stating that: "(…) the nature of the information which was provided (…) is an account of what the witness went through and detailed information and facts (…) and this can only be both **misleading and prejudicial in the context of these proceedings**. (…) **Even though it is not under oath, it is highly prejudicial** (…)."

The use of the terms "misleading" and "prejudicial" are examples of how the perpetrator's perspective and general rules of fair trial are prioritized over the victim's perspective. The phrase "in the context of these proceedings" reinforces the limitations placed on victims' narratives under Article 68(3) of the Rome Statute (i.e., "in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial"). In response to the Defense Counsel, the Legal Representative of Victims argues that "(…) the objection of my learned friend is not founded because the victim (…) to tell us the impact of what happened to her, necessarily needs to tell us the basis of that prejudice. So, concerning the nature of the presentation, I asked the fewest number of questions possible, and **it was the victim herself who decided to present it in that way because she felt that it was the experience that led to the impact and the prejudice**, because I believe that is **what the witness herself decided to do**. And **I don't see what is wrong with that**." Here, the Legal Representative asserts the view that victims' narratives should be largely undisturbed since he/she "asked the fewest number of questions possible." More importantly, the Legal Representative prioritizes the victims' perspective by arguing that, inherently, it is only the victim him/herself who can discern how their experience impacted them. Thus, they should be able to present

their narratives by involving the necessary facts and details. Note how the Legal Representative defends the victims' emotionality by supporting the link between her experience and its impact as being something "she felt." To finalize this debate, the Judge proclaims that "(…) **the main purpose is to really allow victims to present their position, how they were allegedly affected by the crimes allegedly committed by the accused**. So, if the mentioning of facts is unavoidable, it should be the basis for presenting views and concerns (…) but in a different amount. Because here, the last victim presented in, I would say 90 percent of her time facts and only 10 percent of her time views and concerns. And the number should be, in fact, the opposite."

A preliminary observation of this statement, as well as throughout all five transcripts, is the Judge's use of the term "allegedly." The term inherently signifies a form of *justification of the crime* since the perpetrator's harmful conduct is still to be determined against the substantive rules. Used in the context of the victims' narratives, the term similarly places victims' experiences and harms as those which cannot be said as fully determined or true in this moment. And yet, all the personnel including the Judge explicitly agree that victims' narratives in this procedure will not form part of official evidence. The Judge's decision that victims' presentations should be significantly limited to "views and concerns" continues to treat victims' narratives involving facts as potentially prejudicial evidence and because of this, must be limited.

The Justice Motive

1. Were you actually in danger? Are you even a victim?

A topic of interest raised by the personnel concerned victims' environment and safety before and during their victimizing experience(s). In particular, the Defense Counsel was adamant in understanding how victims' actions corresponded to sudden events in their environment, especially gunfire and the presence of soldiers. For example, the victim from the second transcript hearing described that: "During the war we would hear intense gunfire and the entire population fled (…). We left all our belongings behind in the village." In response, the Defense Counsel demanded for **clarification** as to whether "**whenever some firing around his village that the population would immediately flee the village**." The Defense Counsel was also interested as to **whether "she and her family left Kilo before the soldiers arrived. And that is also important to understand what the victim went through."**

In the context of victim blaming, the Defense Counsel here is implying that there is a need to discern whether victims' actions, because of their environment and these events, are justified for them warrant victim status. There is an implied suspicion as to why people would flee from the village simply from hearing "some firing around" or the arrival of soldiers. Hence, the Defense Counsel implicitly contemplates how victims can be deemed "at least sufficiently reckless to warrant moral censure" (Aarten, Mudler and Pemberton, 2018). This is also evident in the Legal Representative's assertion that "we need to know whether it was even soldiers of the UPC (…) because it could be the possibility that it could be Ugandan soldiers (…) so at least **we will have to know whether allegedly these victims are victims of the crimes with which your client is prosecuted**." The need to discern the presenting victim as a "victim" of the specific crimes in the proceedings inherently

degrades victims' narratives as valid only in certain situations. Coming from the Legal Representative, this means that only those valid aspects of the victim's narrative will be represented and protected by him/herself; the other aspects fall to areas which could be seen as a result of the victims own fault or "all for the best" (Aarten, Mudler and Pemberton, 2018).

Furthermore, the Judge would ask each victim a general question along the lines of "**According to your opinion, what was the reason or source of the animosity between Lendu and Hema?**" On its face, this question does not explicitly suggest a form of victim blaming or suspicion of victims' narratives from the personnel. The fact that the Judge asked for "your opinion" means that victims answers are meant to be subjective. However, the reactions of certain victims suggest they felt a sense of doubt from the personnel regarding their victimhood, and thus attempted to justify it by responding, for example, "**Please, I am not in a position to know why that ethnic war occurred** (…). **This war began at a higher level. We are the people of Kilo. We can't know why.** We heard about the Lendy and the Hema people who were fighting amongst themselves for concessions of land or for the Hema cattle (…). **And we said to ourselves "This is going to come our way, it is going to affect us."** Most victims however replied to this question without any explicit reservations. Nonetheless, it may be concluded that similar questions which require knowledge of such broad, complex, and internationally conceptualised conflict situations may not relate well to the actual experiences of victims, ultimately leading them to question their victimhood.

2. "Witness" to describe victims

A notable observation throughout all transcripts was the personnel's use of the term "witness" to describe the presenting victim(s). Overall, the term "witness" was used 50 times compared to term "victim" used 84 times. Although this study is not about the quantitative significance in the use of the term, there is something to be said about how the personnel use the terms interchangeably for all victims. Indeed, the procedure under Article 68(3) explicitly describes that it is "victims" who present their views and concerns before the Court. Moreover, the transcripts themselves state "THE VICTIM" to indicate who is speaking.

In the context of the justice motive, the use of the term "witness" over "victim" conceptualizes the individual as someone who lacks tangible experience and harm. The way they are used interchangeably implies that there are some aspects of victims' narratives that warrant victim status over others. For example, the Defense Counsel even uses both terms in the same sentence, stating: "The first issue I'd like to clarify, obtain **clarification from the witness**, is **in her victim participation form** she mentions that the events took place in February of 2003, whereas the account that she gave this morning seems to happen in November 2002."

In line with the previous observations, the Defense Counsel here is implicitly treating the victim and her narrative as something which needs to be verified, thus, for now the victim can only be considered as a witness. The researcher of this paper does not believe that the term "witness" was used intentionally by the personnel or used in any way to degrade victims' harm and experiences. Nonetheless, even from a legal-procedural perspective, the extensive use of the term should be rethought.

3. Reparations, convictions and closure

In each transcript, the Judge concludes the procedure by asking the victim a question along the lines of: "As a victim of the war in Ituri in 2002 to 2003 **what do you expect from the ICC at the end of this trial against Mr. Bosco Ntaganda**, that is **from the point of view of justice**?" or "If Bosco Ntaganda were to be declared guilty and convicted, **would you yourself wish to have compensation for the harm suffered**?"

The Judge's questions here do not entirely infer the view that the ICC will (fully) resolve or bring closure to a victim's narrative. By limiting the question only to situations "if" the accused is found guilty suggests that the Judge is aware that these proceedings will not necessarily lead to reparations for victims. However, what needs to be discussed then is the notion that reparations i.e., such as "compensation", are a form of resolution and closure. Here, the Judge does not explicitly make this claim. It is more the fact that reparations for victims form one of the Court's post-conviction procedures that ultimately implies a notion of resolution/closure. Moreover, even though the Judge asks the victims what they "expect from the ICC", this statement purports the ICC is at least *capable* of providing some form of resolution/closure for victims. To paraphrase, the statement suggests the ICC as a place where resolution/closure is *possible*. Lastly, the concept of a conviction as a measure of resolution/closure in victims' narratives evidently goes against the fact that victimising narratives are not exclusively tied to a singular perpetrator, and can stretch far beyond a criminal justice process.

Other notable quotes from the Judge concern the state of peace and reconciliation in victims' home environments. For example, the Judge asks victims "Currently, today, at the area you are living, do you still feel some ethnic tension between some tribes, or **you mean that everything is fine now**?" and "**At the moment, do you still see some tension between Lendu and Hema**, or according to your view, **reconciliation have been completed?**" The Judge here is attempting to understand victims' experiences after the time period which the case focuses. The Judge demonstrates awareness that victims' narratives will extend beyond these proceedings. There is recognition that their narratives will be (most likely) heavily influenced by any underlying or continuing conflict and social tensions which the Court does not have control over.

Framing and Stereotyping

1. A gendered and racialized notion of victimhood?

As a preliminary observation, no stereotypical remarks were made to the racial identities of the victims. The Judge only posed the question of "What is your ethnicity" at the beginning of each hearing to each respective victim. Regarding gender, three out of the five transcripts involved female victims. In all those transcripts, the Court personnel at some point remarked on their psychological, physical, and emotional conditions after experiences of rape. Specifically, the Legal Representative of Victims posed the victims questions along the lines of "After all those events, and it is already 13 years since they happened, **do you still have psychological problems** when

you remember those events?"; "Can you tell the Court **how you felt after you were raped?** Were you able to have children?"; "Can you tell the Court whether your daughter, who was the victim of sexual experiences, still has psychological and **emotional problems?**"

It cannot be entirely concluded that the Legal Representative here is perpetuating a gendered notion of victimhood. The Legal Representative only asked these questions to the victim in reference to the facts provided in the victim's presentation. Since the narratives of male victims did not involve instances of rape, this paper is unable to assert that the Court concentrates questions on rape towards female victims exclusively. Nonetheless, there is a significant difference as to how the Legal Representative views female victims based on the way they are consistently asked about their psychological/physical/emotional conditions in comparison to males. For male victims, the Legal Representative only imposed questions concerning clarification to certain facts, such as "who attacked the village?"; "who killed the members of your family?"; "do you remember the timeframe which these events took place?" etc. The only questions concerning the male victims' harm include those on the lines of: "Did any event affect you more than others?"; "What was your life like after the war?"; "your children, did they suffer any harm?" Nonetheless, these similar questions were also asked to the female victims. Thus, this finding highlights a potential gendered notion of victimhood by the Legal Representative. The questions asked exclusively to female victims perpetuate a stereotype of female victims as *weaker and more vulnerable* compared to males. For the Legal Representative, the 'ideal' male victim does not experience, or at least is not affected, in the same psychological/physical/emotional way by those victimizing events.

Another observation from the transcripts was that only male victims were asked about the physical state or appearance of *other* individuals, often who were brutally injured or killed. The questions included those along the lines of "Sir, can you describe the state of the body of your uncle, if you remember?"; "You stated that your brother was killed with a machete and that you saw his body. Can you describe the state of his body, if you do remember?" From here, the victims would explicitly describe the visual features of these bodies, expressing phrases and words such as "His body was chopped up"; "Hacked"; "Injuries"; "Stiches" etc. These questions inherently illuminate and reinforce a stereotypical sense of *grotesqueness* of victims of international crimes.

2. The need for legal representatives

Each hearing analysed in this study involved one Legal Representative. Article 68(3) of the Rome Statute does not explicitly require for victims to have a legal representative, rather their views and concerns "*may*" be presented by a legal representative "where the Court considers it appropriate." As noted by Zegveld (2019) however, Rules 90 and 91 of the ICC Rules of Procedure and Evidence (RPE) provide that those "victims who have a legal representative will have more opportunities to participate during the proceedings than victims who choose not to be represented." From a procedural perspective, these rules inherently create a system of *dependency* for victims since they are not guaranteed the opportunity to present their views and concerns if they do not choose to have a representative.

When it comes to narrative pressures however, the involvement of Legal Representatives within the proceedings does not entirely perpetuate a form of dependency. The hearing transcripts presented mixed descriptions and roles of the Legal Representative. For example, in each hearing, the Judge would inform the Chamber of the procedure by announcing that "**The legal representative** (…) **will be responsible for *guiding* the victims through the presentation of their views and concerns**" as well as "***assist*** you [the victim] with that." As a preliminary observation, victims in all hearings were able to present their narrative in a largely uninterrupted manner. This is consistent with the Judge's following announcement that "The Chamber nevertheless **encourages the legal representative to have the victims give a narrative as much as possible**." Moreover, never did the Legal Representative *speak on behalf* of the victim or attempt to interpret their narrative. Hence, the terms "guiding" and "assist" in the former statements should not, at least in this practice, mean that victims narratives will be presented by anyone but the victim him/herself. Similarly, when it came to clarifications, the Judge declared that it will "decide whether (…) it will **ask the victim to elaborate on his or her presentation**, or **ask the legal representative to clarify the matter with the victim**." Thus, victims were able maintain ownership over their narrative in this regard.

A more abstract concern is how the questions posed by the Legal Representative towards the victims should be conceived in terms of assessing dependency. Most questions referred to either clarification of the facts or information on the harm suffered, as illustrated above. As the Judge declared at the beginning of each hearing, "The intervention of the legal representative shall be **limited to questions that *facilitate and streamline* the presentation of views and concerns by the victims**." Although the questions posed concerning the clarification of facts can be debated as being necessary for "views and concerns," the transcripts did not indicate any major pre-emptive or assuming questions. Sometimes however, victims would react whilst presenting their narratives by asking the Legal Representatives questions along the lines of: "I'm sorry counsel, I've gone too long. Should I…can I go on with my account?" This kind of reaction suggests that victims do feel a certain sense of dependency from the Legal Representatives. Perhaps, they sense their opportunity to present before the Chamber is dependent on having a Legal Representative to, as discovered, "guide" "assist" "facilitate" and "streamline" their views and concerns. Without a Legal Representative, they would not be able to fully express their narrative in such a setting.

IV. Concluding Remarks

This study demonstrated how mechanisms of narrative pressure, applied to the hearing procedure authorized under Article 68(3) of the Rome Statute, provides an appropriate framework for how RJ ideals and values can be assessed in international criminal procedure. A more concrete and enriching analysis would require significantly more hearing transcripts conducted over a wider period of time. From here, we can begin to distinguish the 'spaces' where RJ can be conceptualized for victims of international crimes. If victims' narratives provided in this procedure do not form part of evidence, there is immense potential for more meaningful engagement with victim participants that does not jeopardize the ICC's mandate and functions.

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Biography

Catherine Gregoire is an LLM student of the Public International Law programme (human rights track) at Utrecht University, Netherlands. Her research specializes in restorative justice, international criminal procedure, and human rights. She has studied in Brussels, Belgium where she earned her BA in International and European Law from Vesalius College. During her studies, she has conducted research in justice and human rights-related issues for L'Osservatorio – Research Centre for Civilian Victims of Conflicts and Minority Rights Group International, as well as having interned for UN Women in Canberra, Australia. Her upbringing and experiences shape her research which is characterised to finding meaningful responses to mass victimisation resulting from international crimes and gross human rights violations.