



QUESTIONS & ANSWERS: VICTIMS' PARTICIPATION AT THE ICC

How does the ICC recognize victims and permit them to take part in ICC proceedings?

The ICC is the first international court to give victims a full and independent participatory role in cases of genocide, war crimes and crimes against humanity. Victims are eligible to participate if they have suffered harm as a result of crimes under investigation by the ICC or allegedly committed by an ICC suspect or defendant. If the Chamber finds them eligible, victims typically participate as part of a group, with the assistance of a legal representative. Victims recognized by the ICC can also apply to receive reparations following a conviction, paid by the Trust Fund for Victims or from a convicted person's personal assets.

How does victims' participation in ICC proceedings benefit the person, groups and organizations concerned?

- It can help the ICC establish the truth.
- It allows victims to have a say about what happened to them, their families, and their communities, and in seeking to hold those who victimized them responsible.
- It allows victims to "experience justice."
- It can lay the foundation for reconciliation in affected communities.
- It can promote victims' healing and rehabilitation.

How do the judges decide which victims may participate in ICC proceedings?

Victims must apply to participate, by submitting a standardized form to the ICC (available on the ICC's website). The judges allow the Prosecution and Defense to review the applications and make comments (withholding an applicant's identity from the Defense when necessary for his or her safety). Based on the application and any comments received, the judges decide whether the person qualifies as a victim who can participate in the proceedings.

At what stages of the proceedings may victims participate?

Victims can participate in courtroom proceedings when the Prosecution is investigating a conflict or incident, before any accused persons have been named. They can also participate in pre-trial proceedings, trial proceedings, sentencing, reparations proceedings, and appeals.

What can victims do in proceedings?

The Rome Statute establishes victims' right to present their "views and concerns" where their "personal interests ... are affected", "at stages of the proceedings determined to be appropriate by the Court" and "in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial." In practice:

- Victims can participate in court hearings about investigations, but not in the investigations themselves.
- Victims can participate in most pre-trial proceedings.

- Victims can participate at trial with remarks, present written submissions, and assess and present evidence.
- Victims have been allowed to make oral and written submissions concerning sentencing.
- Victims can participate when the Prosecution and Defense submit appeals to the Appeals Chamber. Victims can only themselves appeal orders awarding reparations to victims.

Do victims appear in person at the ICC?

Victims almost always participate in ICC proceedings through legal representatives. Legal representatives are typically independent counsel hired to represent a specific set of victims in a particular case. The ICC can pay for representation if victims cannot afford it, but the coverage may be limited.

How does common legal representation work?

Where there are a lot of victims in a particular case, judges can request that they choose a common legal representative (CLR). The ICC can appoint a CLR for victims if they cannot choose one. In some cases, the ICC has appointed one CLR to represent all of the victims, while in other cases the ICC has appointed several CLRs who represent groups of victims (e.g. grouped by type of victimization, geographical location).

Is victims' participation equivalent to a "second prosecutor" that disadvantages the defendant? How do the judges minimize this effect?

More often than not, victims are likely to support the Prosecution's case. However, victims' participation is not equivalent to a "second prosecutor" because:

- Victims' participation is significantly limited compared to the Prosecution and Defense.
- Victims must ask permission from the Chamber when they want to intervene in proceedings where the Prosecution and Defense automatically have the right to do so.
- Victim participation that would impinge on the rights of the Defense is not permitted.
- Chambers typically make victims' participation shorter than that of the Prosecution and Defense.

Does victims' participation slow down ICC cases?

Victims' participation will inevitably lengthen ICC proceedings but not so much as to affect their credibility and fairness.

A more comprehensive companion document is available:
Victims' Participation at the ICC: Purpose, Early Developments and Lessons
http://www.amicc.org/docs/Victims_Participation.pdf

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