

Rossella Pulvirenti: The Dilemma of Intimidated Witnesses

In order to convict war criminals responsible for atrocious and heinous crimes in violation of international humanitarian law, judges at the International Criminal Court (ICC) mainly rely on witnesses' testimony. As the testimony might determine the conviction of the accused persons, some witnesses disappeared and others have been killed by reason of their participation to the ICC proceedings. Every year too many witnesses testifying at the ICC are killed. This situation linked to the fact that other witnesses refused to testify has led to the collapse of the entire prosecutorial and judicial system.

This case study on witness protective measures has a three-fold aim: first of all, it aims to describe and analyse the functioning of witness protective measures at the ICC. Secondly, it is intended to evaluate witness protection programme in light of a human rights law perspective. The rights of both witnesses and defendants are affected by these measures. Specifically, as far as witnesses are concerned, this thesis will focus on the right to life, to integrity and to private life. On the other hand, this case study will evaluate the impact of witness protection on the right to a fair trial for the defendants.

Finally, on the basis of the findings the human rights analysis, this research aims to develop a pattern of appropriate protective measures to safeguard and balance witnesses' and defendant's rights while improving the efficiency of the ICC.