

University of Groningen

## Testimonial Evidence of Traumatized Witnesses in Trials of International Crimes

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DOI:  
[10.33612/diss.200115450](https://doi.org/10.33612/diss.200115450)

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*Document Version*  
Publisher's PDF, also known as Version of record

*Publication date:*  
2022

[Link to publication in University of Groningen/UMCG research database](#)

*Citation for published version (APA):*  
Schot, S. (2022). *Testimonial Evidence of Traumatized Witnesses in Trials of International Crimes: Striking a Balance in the Interest of Fair Proceedings and Accurate Fact-Finding*. University of Groningen. <https://doi.org/10.33612/diss.200115450>

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### PhD Propositions

1. Traumatized witnesses will generally remember the central details of the crime, whereas peripheral details will be remembered less accurately.
2. To ensure the fairness of proceedings and the accuracy of fact-finding, the needs of traumatized witnesses during proceedings need to be balanced with the rights of the accused and the objective of the court to establish the individual criminal responsibility of the accused.
3. The selection process for witnesses should be amended to ensure that the necessity to use their evidence during trial does not take precedence over ensuring the well-being of traumatized witnesses.
4. Rather than the currently applied case-specific approach, a witness-specific approach towards preparation, which takes into account the various possible needs of traumatized witnesses, should be implemented by the ICC.
5. The current lack of guidelines accompanying the special measures for traumatized witnesses found in the ICC's Vulnerability Protocol and the Dutch Witness Protocol lead to inconsistent and subjective approaches, which affect the witnesses and the right of the accused to a fair trial.
6. Criminal courts and tribunals and all parties to the proceedings have a duty to protect the well-being of (traumatized) witnesses during their testimony.
7. Although traumatized witnesses are often unable to mention the time, duration and sequence of the events, this does not necessarily lead to unreliable testimonial evidence.
8. Judicial assessments of the reliability of witness evidence should explain in more detail *how* and *why* trauma may have impacted testimonies, and specify the sources on which this determination is based.
9. 'Most of all, we have a duty to victims and witnesses to make the process of testifying in war crimes trials as respectful and dignified an experience as possible'. – Eric Stover
10. 'For in the end, it is all about memory, its sources and its magnitude, and, of course, its consequences'. – Elie Wiesel