
PROTECTION OF WITNESSES IN INTERNATIONAL CRIMINAL PROCEDURES

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Although the Nuremberg and Tokyo Trials had a great influence on the development of substantive international criminal law, they did not pay attention to the protection of witnesses. Provisions concerning witnesses were limited to the procedural aspects of the respective Military Tribunals (to summon witnesses; to require their attendance and testimony; and to administer oaths to witnesses) and of the Prosecution and Defence (to interrogate and cross-examine witnesses). As a matter of fact, these multinational Tribunals saw more value in the "document books" accompanied by explanatory briefs presented to the court, than in witness testimonies which had to be avoided whenever possible. It had resulted in a rather small number of witnesses called by the Nuremberg Tribunal: in trials against all twenty-four first-tier defendants only thirty-three witnesses were called for the Prosecution and sixty-one for the defendants. In the post-Second World War period, during the work of various international fora on the issue of institutionalization of individual criminal responsibility the protection of witnesses proved to be one of the major problems. The complexity of the issue and the variety of problems involved made it difficult to deal with. Therefore it can be freely said that the progress achieved in that respect by the creation of the two UN ad hoc Tribunals, on the former Yugoslavia (ICTY) and Rwanda (ICTR)), and especially by the creation of the permanent International Criminal Court (ICe), can be considered revolutionary. Being in existence for longer than a decade, the ICTY and ICTR have developed until now an extensive practice with regard to witnesses and witness protection.

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