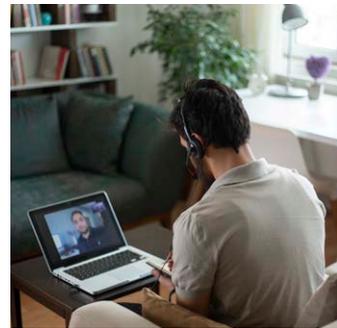


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RESTRICTED ACCESS INTERVIEWS:

a guide to interviewing
witnesses in remote
human rights
investigations



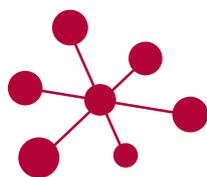
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Report overview

PART I: Witness interview strategy

Understanding the witness pool

- Witnesses accessible remotely
- Witnesses accessible outside the area under investigation
- Security limitations on access to witnesses
- Support limitations on access to witnesses
- Technology considerations when accessing witnesses
- Legal and political considerations when accessing witnesses



A targeted approach to using witness interviews

- Corroboration and comparison
- The "opportunity cost" of interviews
- Diversity and representativeness
- Gathering additional leads
- Using additional sources



Use other sources to research throughout the interview process

Working with intermediaries and interpreters

- Increased reliance on, and responsibilities of, intermediaries
- Avoiding and mitigating overreliance
- Selecting and vetting intermediaries
- Selecting, briefing and vetting interpreters



PART II: The witness interview

Setting up the interview

- Preparing and supporting the investigator
- How and when to obtain preliminary information
- Evaluating and mitigating: security risks and support needs
- Choosing a remote interview platform
- Choosing secure locations
- Making a time for the interview
- Reimbursements



Conducting the interview

- Engage and explain phase of a remote interview
- Account phase of a remote interview
- Out-of-country witness motivations, expectations and beliefs
- Closing the interview
- Follow-up



Ensure individual security, support and technological solutions are consistent with the investigation's policies

Foreword

The Honourable Michael Kirby AC CMG

Between 2013-2014, I served as Chair of the Commission of Inquiry (COI) on Human Rights in the Democratic People's Republic of North Korea (DPRK). Immediately after the COI was established, the DPRK publicly declared that it would "totally reject and disregard" the investigation. The government of the DPRK remained hostile and uncooperative throughout the mandate period, refusing to allow members of the COI to enter its territory.

Unfortunately, this situation is not unique to the DPRK. *Restricted access interviews: a guide to interviewing witnesses in remote human rights investigations* draws on the experience of practitioners investigating some of the gravest, most intractable conflicts, crises and violations of human rights and international humanitarian law of the 21st century. All of these investigators had limited or no access to the relevant context, which meant that they were unable to conduct in-person interviews with in-country witnesses. Some were denied entry for political reasons, while others were unable to travel due to security risks, COVID restrictions and limited resources.

As I found when investigating human rights in North Korea, this restricted access to witnesses does not prevent an investigation from gathering valuable information. Obstacles to fact-finding, including the intransigence of parties under investigation, should not impede international action.¹ With a robust, transparent methodology, investigators can obtain high-quality testimony from witnesses located outside an inaccessible country. The COI on the DPRK interviewed over 240 witnesses, most of whom were North Korean refugees. Other investigations have been able to take advantage of increasingly advanced video and audio technologies, which allow them to speak with witnesses inside the country under investigation.

These methods of witness interviewing may expose investigations to criticism and doubt, whether justified or not, about the reliability of their findings. In prior reflections on my experience with the COI, I have emphasised that international inquiries will inevitably encounter witnesses who tell an incomplete or imperfect truth. This increases the importance of developing and publishing sound methodologies and investigative protocols. If the process for interviewing witnesses is rigorous and transparent, the method of interviewing and criticism of individual witnesses will have little bearing on the value of the investigation's overall findings.

For example, to counter criticism of its necessary reliance on witnesses living outside the DPRK, the COI published an explanation of its use of witness testimony; criteria for assessing the reliability of testimony; and the rigorous standard of proof that it applied, following the example of earlier UN investigations. More than 80 witnesses were interviewed in public hearings, which enhanced the transparency of the process. The security and wellbeing of witnesses, and of any relatives who remained inside North Korea, were at the centre of every decision made by investigators.²

UN Inquiries and NGOs operating under similar constraints have developed their own good practices, which are detailed throughout this guide. *Restricted access interviews* will ensure that future investigations do not have to reinvent the wheel each time they are denied entry to a conflict zone, authoritarian country or an area hit hard by the COVID pandemic. By providing insights into the obstacles that investigations may face, and ways to mitigate or overcome them, it will ensure that vital testimony is collected safely, effectively and in a timely manner.

As in any investigation, witness interviews must be published and justified in a report that is written in an accessible and readable style; makes good reference throughout to recorded testimony of human rights violations in the powerful and direct language of the victims; and leads seamlessly to practical findings, conclusions and recommendations for action that uphold the great UN Charter objective of 'Justice.'

Sydney, Australia
August 2021


The Honourable Michael Kirby
AC CMG

1 For more on this, see my 2017 interview with Dr Rebecca LaForgia in "Fact-Finding and Report Writing by UN Human Rights Mandate Holders", *Adelaide Law Review* 38, no. 1 (2017).

2 For more on the witness interviewing approach of the COI on the DPRK, see "Where Does Truth Lie? The Challenges and Imperatives of Fact-Finding in Trial, Appellate, Civil and Criminal Courts and International Commissions of Inquiry", *UNSW Law Journal* 41, no. 2 (2018).

Executive summary

This guide will assist investigators who are conducting witness interviews in contexts where they have restricted access to the country or area under investigation (restricted access contexts — RACs). Interviews in RACs include:

1. **Remote** interviews with **in-country** witnesses.
2. **Remote** interviews with **out-of-country** witnesses.
3. **In-person** interviews with **out-of-country** witnesses.

Witness accounts are a critical source of information for human rights investigations and fact-finding missions. However, obtaining witness accounts is increasingly complicated by political, security, logistical and COVID-related constraints on access to the country or area under investigation. Faced with these constraints, investigators often rely on remote interviews, whether with witnesses inside or outside the country. They can also conduct in-person interviews with witnesses outside the country, such as refugees and asylum seekers.

These methods of interviewing entail unique challenges, which have not yet been addressed by comprehensive guidance. *Restricted access interviews: a guide to interviewing witnesses in remote human rights investigations* has been written to fill this gap. It provides insight into the practices of investigators working in a variety of RACs, extracting lessons learned and issues to consider. Most significantly, it provides cautions and advice that will be useful to investigators in diverse contexts. The guidance reflects the experiences of over 30 investigators, as well as former and current Commission of Inquiry (COI) and Fact-Finding Mission (FFM) commissioners; staff at the Office of the High Commissioner for Human Rights; and other experts who reviewed the content. Their input enabled us to draw on examples from past investigations and ensure that the guide reflects best practice.

Consulting this guide will assist investigators to obtain high-quality witness information in difficult circumstances, prioritising witness wellbeing and safety, and maximising the usefulness of the investigation's findings. It will walk investigators through key decisions on, for example, remotely finding a safe interview location and facilitating support services for asylum seeker witnesses. It also shares thoughtful approaches to methodology that can mitigate the impact of limited access to information in RACs. As the guide specifically covers witness interviews in RACs, it should be used as a complement to existing guidance on human rights investigations, fact-finding and witness interviews. The guidance provided should inform the overall policies, plans and procedures of an investigation, and vice versa.

Restricted access interviews is split into two parts made up of five sections. Part I looks at the landscape of witnesses who might be available in RACs. It details contextual factors to consider when mapping the available witness pool and evaluating when, whether and how to approach witness communities. Part II looks specifically at how investigators in RACs should engage with the individual witness, evaluate their needs and personal circumstances, arrange and conduct the interview, and provide follow up.

We are grateful to the dozens of investigators who spent time sharing their experience with us, as well as our expert reviewers. We would also like to thank the Institute for International Criminal Investigations for working with us to create their *Guidelines on Remote Interviewing*, a companion piece to this extended guide.

Acronyms

COI: Commission of Inquiry

CSO: Civil Society Organisation

FFM: Fact-Finding Mission

ICT: Information and Communication Technology

INGO: International Non-Governmental Organisation

NGO: Non-Governmental Organisation

OHCHR: Office of the High Commissioner for Human Rights

RACs: Restricted Access Contexts

SGBV: Sexual and Gender-Based Violence

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

Key terms

The key terms below are defined according to their use in this guide. The definitions provided do not necessarily reflect the use of these terms in other contexts. In some cases, their ordinary definition has been intentionally limited.

Abroad: used when witnesses are permanently or temporarily located outside the country or area under investigation, for example as refugees or migrants. 'Abroad' is used interchangeably with 'out-of-country'.

Account: information that witnesses provide to investigators during an interview. This is not limited to formal statements.

Country under investigation and area under investigation: the country or area where the conflict, crisis, human rights violations and/or international humanitarian law (IHL) violations that are being investigated occurred. At times, only 'country' or 'area' will be referred to for ease of use, or because a specific country/area is being discussed.

Country X: an anonymised version of the country or area being discussed.

Host country: the country where witnesses abroad reside at the time of the investigation.

In-country: used to describe anyone inside the country or area under investigation.

Insecure contexts: locations inside or outside the country or area under investigation where the situation is unsafe (eg a conflict zone) or impermanent (eg a refugee camp).

Insider witness: someone who has a direct connection with, or access to inside information on, the individuals or party under investigation.

Intermediary: any person, organisation or party that an investigation cooperates with during the process of planning, preparing for and conducting a witness interview.

Interview: the process of taking a formal or informal statement from a witness (see definition of 'witness' below) or a relevant expert.

Interviewer: used interchangeably with 'investigator'.

Investigation: any temporary or permanent entity, team, organisation, mechanism or mission that engages in human rights investigation and fact-finding, whether for the United Nations (UN), a non-governmental organisation (NGO), another civil society organisation (CSO), or a government.

Investigator: human rights, criminal and other investigators who are planning, preparing for or conducting a witness interview, whether for the UN, an NGO, a CSO or a government.

Out-of-country: used to describe witnesses who have left the country/area under investigation (whether voluntarily or because they were displaced) and are now located abroad. 'Out-of-country witnesses' may include refugees, asylum seekers and migrants from the country or area under investigation. They may also include members of the diaspora who are indirect victims, eg family members of survivors (see definition of 'witness' below).

Restricted access contexts: any context discussed in this guide where investigators are unable to physically access the country or area under investigation for security, political, logistical or other reasons (eg COVID-related restrictions).

Third party: intermediaries, interpreters and any other person, organisation or party (not including the witness or the interviewer) that an investigation cooperates with during the process of planning, preparing for and conducting a witness interview.

UN Inquiry: any Commission of Inquiry, Fact-Finding Mission, Group of Experts or other investigatory mechanism supported by the Office of the High Commissioner for Human Rights (OHCHR); and any teams at OHCHR that conduct investigations.

Witness: only used to describe fact witnesses. These may include: survivor witnesses, indirect victims (eg family members of victims), and other witnesses who perceive human rights-related events.

Introduction

Witness³ accounts are a critical source of information for human rights investigations and fact-finding missions. However, obtaining witness accounts is increasingly complicated by political, security and logistical constraints on access to the country or area under investigation. In recent years, over two-thirds of human rights investigations supported by the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) have been denied access to the relevant country, or have faced significant access restrictions.⁴ Like UN investigations, international non-governmental organisations (INGOs) are frequently refused access to active conflict contexts, while non-governmental organisations (NGOs) operating within the relevant country or region are often forced to work covertly. The COVID pandemic has exacerbated this problem, significantly curtailing the movement of both witnesses and investigators.

In these situations of restricted access to the relevant context, investigations often try to interview in-country witnesses remotely, using various technologies. They also rely on the accounts of witnesses outside the country or area under investigation⁵ ('out-of-country witnesses' or 'witnesses abroad'⁶), including refugees, asylum seekers, and migrants. Depending on the context, witnesses abroad may be interviewed in-person or remotely.

These options for interviewing witnesses in restricted access contexts (RACs)⁷ pose a range of security, psychosocial, methodological and logistical challenges. *Restricted access interviews: a guide to interviewing witnesses in remote human rights investigations* explores these challenges and provides insight into how investigators in RACs can adapt in order to conduct safe, effective and methodologically sound interviews.

Focus

When investigators are unable to conduct in-person interviews with in-country witnesses, there are three possible ways to obtain witness accounts:

1. **Remote** interviews with **in-country** witnesses.
2. **Remote** interviews with **out-of-country** witnesses.
3. **In-person** interviews with **out-of-country** witnesses.⁸

This guide covers all three methods, referred to collectively as '**interviewing in RACs**'. As all raise similar concerns and are associated with comparable guidance, they are dealt with together throughout the publication. Sections that refer to all three methods are identified by a RACs icon (see below). Certain sections of the guide focus *only* on considerations that are specific to either remote or out-of-country interviewing. These are also identified by an icon (see below).



any interview in RACs



the **method of remote interviewing**,
whether with in-country or
out-of-country witnesses



reliance on **out-of-country witnesses**,
whether interviewed in-person
or remotely

3 For a definition of witness as used in this guide, see Key Terms, 9.

4 Based on a desk review of reports published by the COIs, FFMs and other inquiries listed in: Office of the High Commissioner for Human Rights (OHCHR), *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*, HR/PUB/14/7 (2015): Annex III.

5 For a definition of country and/or area under investigation as used in this guide, see Key Terms, 9.

6 For a definition of out-of-country witness as used in this guide, see Key Terms, 9.

7 For definition of restricted access contexts as used in this guide, see Key Terms, 9.

8 Less commonly, an in-country witness will travel to provide testimony in a safe location outside the area under investigation. This process is addressed in the guide where relevant.

Parameters

Type of information

This guide focuses on testimonial information, with no detailed discussion of physical, documentary or demonstrative information sources. Testimonial information was prioritised because the accounts of witnesses are often considered to be “*the most valuable information available to the investigation.*”⁹

The use of physical, documentary and demonstrative information in RACs is only addressed (see Section 2) when discussing the difficulties involved in obtaining witness accounts abroad and/or remotely.

The process of collecting other types of information is addressed in detail by other guides, which can be used as a companion to this one (see Section below on ‘Existing guidelines and protocols’).

Type of investigation

The focus is on human rights investigations and fact-finding, which may or may not contribute to legal proceedings. While some of the investigators consulted spoke specifically about the criminal investigation process, including standards of proof and admissibility of evidence, the collection of evidence for the immediate purpose of providing testimony in court was not discussed in detail. However, the mandates of UN inquiries increasingly mention accountability,¹⁰ and many NGOs prioritise human rights documentation for the purposes of criminal accountability.¹¹ In acknowledgment of this trend, the potential use of witness accounts in criminal proceedings and the implications of this are referred to at various points.

This guide also emphasises that witness interviews should be conducted to the highest applicable standards regardless of their intended purpose. For example, interviews with survivors and witnesses of traumatic violations should always be trauma-informed and trauma-sensitive.

Relevance to overall investigation process

The analysis below focuses on parts of the investigation process that play out differently or assume a greater significance when taking witness accounts remotely and/or outside the country under investigation. It does not cover all aspects of the investigation process and should be used in conjunction with more general guidance on human rights investigations and fact-finding (see Section below on ‘Existing guidelines and protocols’). Investigations will necessarily develop their own investigation strategy and protocols, including (but not limited to): a threat assessment and risk mitigation strategy; information and communication technology (ICT) protocol; evidence collection protocol; and witness protection protocol. This guide should be used to inform the development of these protocols, and vice versa.

Relevance to different contexts

While this guide is based on the recent experiences of investigators in varied contexts, as well as desk research covering a range of relevant subjects, not all insights and guidance provided will be applicable to every context. The material should always be considered in light of specific contextual factors.

Purpose

Contributing to the safety and wellbeing of witnesses

Interviewing witnesses in RACs involves unique security concerns, particularly in situations where the authorities or parties under investigation are hostile to the process. It can also be harder to arrange psychosocial support and other services for witnesses when investigators are working remotely or in out-of-country settings such as refugee camps. These witness protection and wellbeing challenges are discussed in detail throughout the guide, particularly in Sections 1.5, 4.4, 5.2.2, and 5.5. By focusing on this, *Restricted access interviews* aims to ensure every decision by investigations in RACs is survivor-centric and guided by the principle of ‘do no harm’.

9 OHCHR, *Guidance and Practice*, 12-13.

10 Criminal accountability includes, but is not limited to, criminal prosecution; OHCHR, *Guidance and Practice*, 12-13.

11 Federica D’Alessandra, Ambassador Stephen J Rapp, and Kirsty Sutherland, “Anchoring Accountability for Mass Atrocities: Perspectives from Civil Society,” *Opinio Juris*, September 18, 2020, <http://opiniojuris.org/2020/09/18/anchoring-accountability-for-mass-atrocities-providing-the-permanent-support-necessary-to-fulfil-international-investigative-mandates-part-ii/>.

Supporting investigators to collect high-quality information

This guide supports investigations to develop considered methodologies and processes that are tailored to the unique challenges of witness interviews in RACs. The investigators consulted have identified numerous issues with obtaining high-quality, credible witness accounts in RACs, including:

- the often-limited availability and variety of witnesses; for example, when only certain witness communities have fled the area under investigation or have access to the technology necessary for remote interviews (see Sections 1.2 and 1.1);
- the extensive reliance on intermediaries necessary when investigators have no access to the country or area under investigation, and the implications of overreliance on intermediaries for the type and quality of witnesses who are made available to investigators (see Section 3);
- the difficulty of building rapport, obtaining consent, understanding the account and other features of conducting an interview via video- or audio-link, or in insecure settings such as refugee camps (see Section 5); and
- the security and psychosocial impact of interviewing witnesses remotely and in some contexts outside the country or area under investigation. This will often require additional preparation and follow-up, and may (but will not necessarily) impact the quality of the witness account itself (see Sections 1.5, 5.2.2 and 5.5).

Understanding and mitigating these challenges will ensure that investigators uphold core fact-finding principles such as objectivity, impartiality and independence, despite the difficult circumstances in which they are interviewing witnesses.

Selecting and assessing sources in RACs

Interviewing witnesses remotely and/or outside the area under investigation is often costly, both from a financial and an emotional perspective. In light of this, the guide sets out a highly targeted approach to obtaining witness accounts, which involves prioritising quality over quantity and developing an in-depth understanding of how witness interviews will be useful to the investigation. Physical, documentary and expert sources that can be used to complement, corroborate and in some cases minimise the need for survivor or witness accounts are outlined in Section 2.5, with commentary specific to their role in RACs.

In cases where witness interviews in RACs might pose security and wellbeing risks to the witness, intermediary, investigator and other involved parties, guidance on mitigating or avoiding these risks is provided.

Maximising the usefulness of fact-finding

This guide aims to maximise the usefulness of human rights fact-finding and analysis for end users, including transitional justice mechanisms, international and domestic courts, governments, UN bodies, NGOs and other key stakeholders. UN and NGO fact-finding reports often inform, for example, the investigation strategies of truth-telling processes, determination of asylum applications, or action by the UN Security Council. Any errors, oversights or a lack of transparency in the methodology of an investigation risks undermining the usefulness of fact-finding in these contexts.¹²

These risks are particularly relevant to investigations in RACs, which not only face limitations on their access to information (including testimonial information), but are also frequently subject to attacks on their credibility by hostile parties under investigation. This guide shares thoughtful approaches to methodology that can mitigate the impact of such criticisms on the usefulness of the investigation's findings. It encourages investigations to be transparent about both the limitations common to RACs, and the ways investigators have worked around these limitations. Where appropriate, investigations may also want to explore ways of obtaining accounts from witnesses that can enhance transparency, such as public hearings.¹³

Existing guidelines and protocols

There are a number of guidelines and protocols on human rights investigation and fact-finding, ranging from general to highly specialised.

In 2015, OHCHR published *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* ('*Guidance and Practice*'). This publication outlines general methodological considerations that apply to Commissions of Inquiry (COIs) and Fact-Finding Missions (FFMs) operating in a variety of contexts. The principles and good practices it outlines are also useful to civil society fact-finders. OHCHR has elaborated on some of the specific challenges

12 See, for example: Christian Henderson, *Commissions of Inquiry: Problems and Prospects*, (Oxford: Hart Publishing, 2017); Cecilie Hellestveit, "International Fact-finding Mechanisms: Lighting Candles or Cursing Darkness?," in *Promoting Peace through International Law*, ed. Cecilia Marcela Bailliet and Kjetil Mujezinovic Larsen (Oxford University Press, 2015): 368-394; Larissa van den Herik and Mirjam van Reisen, "International Commissions of Inquiry in a Networked World: Unveiling the Roles of Diasporas through an Eritrean Case Study," *International Journal of Transitional Justice* 13, no. 3 (November 2019): <https://doi.org/10.1093/ijtj/ijz020>.

13 For further discussion of how Commissions of Inquiry can use public hearings and the impact of this on transparency, see: Michael Kirby, "UN Commission of Inquiry on Human Rights Violations in the Democratic People's Republic of Korea: Ten Lessons," *Melbourne Journal of International Law*, 15, no 2 (2014): <http://classic.austlii.edu.au/au/journals/MelbJIL/2014/10.html>.

described in *Guidance and Practice* in its 2018 manual titled *Who's Responsible? Attributing Individual Responsibility for Violations of International Human Rights and Humanitarian Law in United Nations Commissions of Inquiry, Fact-Finding Missions and other Investigations*.

Recent publications intended specifically for use by NGOs include the Lund-London guidelines, revised in 2015, which support NGOs to improve 'the accuracy, objectivity, transparency and credibility' of their fact-finding work.¹⁴ These guidelines provide a useful overview of good practices when conducting fact-finding visits and drafting subsequent reports. A leading initiative that focuses on documentation for the purpose of criminal accountability is the Public International Law & Policy Group (PILPG) *Handbook on Civil Society Documentation of Serious Human Rights Violations*. This publication aims to 'provide guidelines and best practices for the collection and management of information on serious human rights situations for those that are not professionally trained in such documentation practices'.¹⁵

Codes of conduct, guidelines and protocols that focus on specific crimes or human rights violations include: the *Global Code of Conduct for Documenting Conflict-Related Sexual Violence* (the Murad Code);¹⁶ the *Istanbul Protocol on the investigation and documentation of torture and other cruel, inhuman or degrading treatment*;¹⁷ and the *Minnesota Protocol on the investigation of potentially unlawful death*.¹⁸ There are also guides and protocols that focus on particular methods of investigation, such as the recently produced *Berkeley Protocol on Digital Open Source Investigations*.¹⁹

This guide should serve as a companion to the guides and instruments outlined above, building on their general and specialised guidance with considerations that are specific to taking witness accounts in RACs.

Methodology

The project team has undertaken a comprehensive desk review of the literature relating to remote investigations, witness interviews, and diaspora engagement in truth and accountability processes.

Over 30 interviews were conducted with investigators from a range of OHCHR-supported COIs and FFMs; NGOs that engage in human rights investigation and fact-finding; and international courts and tribunals. The UN-affiliated investigators worked on the following contexts, all of which were/are characterised by restricted in-person access to in-country witnesses: Syria, Myanmar, North Korea, Yemen, South Sudan, Gaza, Venezuela, Eritrea, Burundi, Libya and Sri Lanka. The NGOs consulted had experience in Sri Lanka, Myanmar, North Korea, Eritrea, Nigeria, Syria and Liberia.

Information from these interviews and the authors' own experience was compiled with desk research to form this guide.

All quotes and references to comments made by investigators have been verified with them for accuracy and to obtain their consent for use in this publication. The investigators' names and the context they have worked in have been anonymised throughout the report.

Authors and reviewers

The authors of this guide are Daniela Gavshon (Program Director) and Emily Rice (Project Officer) of the Truth and Accountability Program at the Public Interest Advocacy Centre.

The guide has been reviewed by an expert reference group and other nominated experts in the field of witness interviews for the purposes of human rights fact-finding and criminal accountability. Not all reviewers and interviewees necessarily agree with the entire content of this guide.

The authors would like to thank the following members of our Expert Reference Group as well as other subject matter experts who reviewed this guide: The Hon Michael Kirby AC CMG, Hon Melissa Parke MP, Mike Smith, John Ralston, Chris Sidoti, Erin Gallagher and Alexa Koenig. We particularly thank Vic Ullom and Sonia Mueller-Rappard, members of the OHCHR Methodology, Education and Training Section, who generously shared their expertise, providing very useful advice on earlier drafts.

14 Raoul Wallenberg Institute and International Bar Association, *Guidelines on International Human Rights Fact-Finding Visits and Reports by Non-Governmental Organisations* (United Kingdom: International Bar Association, 2015).

15 Public International Law & Policy Group, *Handbook on Civil Society Documentation of Serious Human Rights Violations: Principles and Best Practices* (2016): 11-13.

16 Institute for International Criminal Investigations, Nadia's Initiative and Foreign, Commonwealth and Development Office, *Background Paper & Draft Global Code of Conduct for Documenting & Investigating Conflict-related Sexual Violence* (June 2020): www.muradcode.com.

17 OHCHR, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Professional Training Series No. 8/Rev.1 (New York and Geneva: United Nations, 2004).

18 OHCHR, *The Minnesota Protocol on the Investigation of Potentially Unlawful Death: the revised United Nations manual on the effective prevention and investigation of extra-legal, arbitrary and summary executions*, HR/PUB/17/4, (New York and Geneva: United Nations, 2017).

19 Human Rights Centre at the UC Berkeley School of Law and OHCHR, *Berkeley Protocol on Digital Open Source Investigations*, HR/PUB/20/2 (New York and Geneva: United Nations, 2020).

We would also like to thank Gabriel Oosthuizen and the Institute for International Criminal Investigations (IICI) for extensive discussions and collaboration on this guide, as well as the IICI companion piece, *IICI Guidelines on Remote Interviewing*.

We are grateful for the feedback of PIAC colleagues Jonathon Hunyor (CEO) and Mary Flanagan.

This guide was made possible by the willingness of investigators to provide us with detailed insights into their practice and experience. We acknowledge their time and thoughtful contributions to this publication, and their valuable work in human rights investigations.

Nature and structure

Nature

The guidance throughout this publication provides insights into the varied practices of the investigators consulted. It is acknowledged that these practices are not necessarily appropriate in every situation. The examples used are a starting point and a reference to consult when designing, planning and conducting a specific investigation, rather than an exhaustive list of directives.

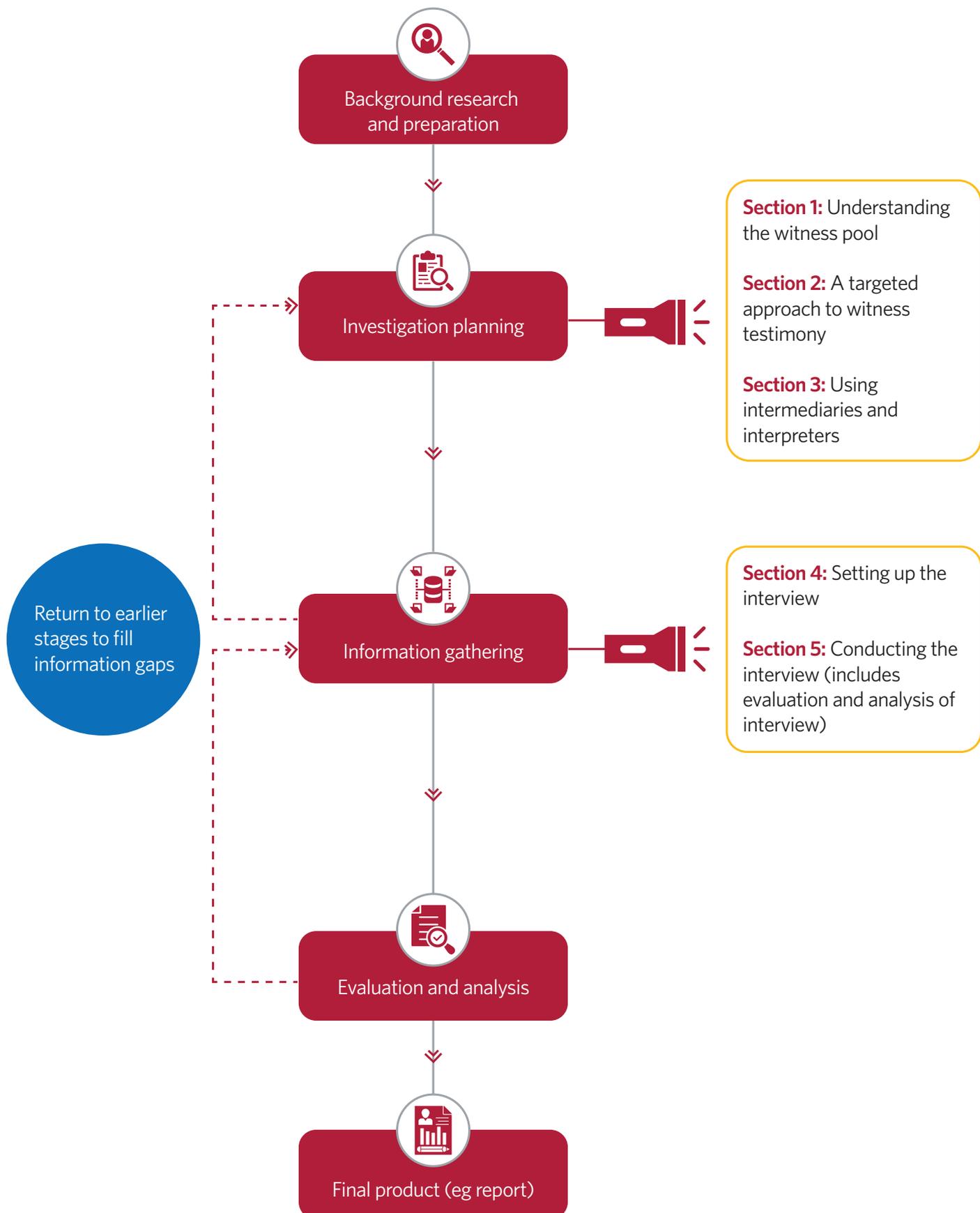
Firm direction is provided when it reflects widely accepted principles in any investigation, such as the imperative to 'do no harm'. All guidance and cautions are consolidated in the Annex.

Structure

The structure mirrors the general order of a witness interview process, which fits within an investigation plan: background research into the witness pool; identifying intermediaries and individual witnesses; interview preparation and conducting the interview; and follow-up with a specific witness. It is acknowledged that this process is often non-linear; it may be necessary, for example, to modify the investigation plan or contact additional intermediaries and witnesses following a round of witness interviews. The interrelation of different sections and sub-sections throughout the guide is indicated by the frequent advice to '(see Section X)', which will be hyperlinked to the relevant part of the online guide.

Following this Introduction, the substantive section of the guide is split into two parts. Part I discusses the background preparation and research that inform development of a witness interview strategy, including research into available witness pools and intermediaries. Part II covers considerations related to the interview itself, including interview planning, taking a witness's account and following up. Security and psychosocial considerations specific to RACs are integrated throughout both parts.

Witness interviews in the investigation process



Part I:

Witness interview strategy

Key issues:

- There may be significant **limitations** on the **type and variety of witnesses** who are available in RACs, depending on: who was **able or forced to flee** the area under investigation; who has **access to the technology necessary** for remote interviews; and who **can be safely interviewed** remotely and/or outside the area under investigation. Limitations on the diversity of witnesses available **may impact** the investigation's **priorities** and how its mandate can be implemented. However, violations against inaccessible and marginalised witnesses may still be investigated using other sources, detailed in Sections 1 and 2.
- Depending on the subjects being discussed, **witness interviews** often entail **significant time, resource and emotional costs** to the witness, investigator and other involved parties. The **security and wellbeing risks** that are specific to interviews in RACs may increase these costs. The need for each witness interview should be considered carefully, **weighing up** any **risks** involved, its **importance** to the investigation mandate and the **availability of other sources** (eg satellite imagery) that may provide comparable information.
- Investigators working remotely and/or in multiple host countries will often spend less or no time in witness communities. This means they are less able to identify witnesses without the **involvement of intermediaries**, and are more limited in their capacity to personally carry out pre- and post-interview responsibilities. There may also be fewer intermediaries available outside the area under investigation or in contexts where it is necessary to conduct remote interviews. Because of this, investigations in RACs may **rely heavily on a small pool of intermediaries for a variety of tasks**. This heightens the importance of thorough intermediary selection, vetting and briefing processes.

Section 1:

Understanding the witness pool



What witnesses are available remotely and/or outside the country?



- Who can access technology for remote interviews?
- Who was able or forced to flee the area under investigation?
- Where did they go?
- What type of communities formed abroad?



Is it safe to access them?



Are the authorities or parties under investigation hostile to, or uncooperative with, the process? Can they:

- Monitor or threaten in-country witnesses?
- Monitor or threaten witnesses abroad?
- Retaliate against witnesses and their families in-country and abroad?

What threats exist in the host country? Eg against witnesses with insecure migration status?



Is there support available?



- Do in-country services have capacity?
- Can they operate securely and professionally?
- What services are available abroad, eg in refugee camps?
- How do migration status and stigma affect access to services abroad?
- Can services be selected and vetted remotely?



What are the legal and political constraints on access?



- Are there legal limitations on gathering information remotely or in different host countries?
- What host countries will cooperate with the investigation? On what terms?

Understanding the witness pool



Background research into the witness pools available to an investigation is the starting point for incorporating the collection of witness accounts into an investigation plan. This research may also help to develop and refine the investigation plan as a whole.



Identifying relevant witness populations remotely may be challenging, as investigators cannot physically visit key locations and communities. Investigators will need to map factors that affect remote access to witnesses, such as the availability and accessibility of ICT in different areas.

Identifying witnesses abroad can also be more challenging than looking for witnesses in-country, as witnesses from different places, periods and backgrounds may be dispersed across multiple host countries. Each host country has specific political interests, security environments and attitudes to the conflict under investigation, which may affect access to witnesses.

In some cases, investigations will have to adapt their focus and priorities if they are unable to access witnesses who have the information they require. For example, an investigator working for one UN inquiry reported that, after COVID restrictions limited the witnesses they could access, they *“really had to narrow down the subject of the investigation, the incidents we were trying to investigate to the very core ones.”*²⁰ Another UN Inquiry was unable to pursue investigation of certain incidents in remote areas because witnesses had no internet or access to secure applications. *“We could have done some good investigation in a normal [in-person] setting, but remotely there were tiny dots that we couldn’t link, so we couldn’t reach a conclusion.”*²¹ This section identifies various ways for investigators to compensate for this limited information where possible.

1.1. Witnesses accessible remotely



The availability of witnesses who can participate in remote interviews will be limited by the accessibility and appropriateness of this interviewing format for different communities.



“ Remote interviews are always with people who have the means to engage in electronic communication in a safe manner. Younger males are the easiest to access and talk to, both as intermediaries and survivors.”²²

This section provides examples of groups that may be difficult to access remotely, but is not a comprehensive outline of all diversity markers that investigations should consider. The considerations raised throughout this section should be factored into the investigation’s assessment of the technology available for remote interviews (see Section 1.4).

Investigators should also note that some witnesses may be easier to access remotely, when safe and appropriate. For example, persons detained in facilities that investigators would be unable to visit in-person may have access to the technology necessary for remote interviews.²³

1.1.1. Diversity of witnesses available remotely



When conducting remote interviews with witnesses who are located outside the country or area under investigation, the limitations on diversity discussed in Section 1.2.2 may also apply.



Age: older witnesses may have more difficulty mastering the technology necessary for remote interviews. This is a particular issue when investigating incidents that occurred some time ago, where the majority of witnesses are now elderly. Investigators will need to liaise with intermediaries about ways to access older witnesses, where safe and

20 Investigator 8 for a UN Inquiry.

21 Ibid.

22 Legal Advisor 3 for an NGO.

23 Senior UN Investigator.

logistically feasible. For example, investigations may be able to arrange for a technical support person to accompany the witness, and choose platforms with which the witness is more familiar.

Interviewing children remotely also poses significant risks.

 In accordance with guidance from the Institute for International Criminal Investigations, this guide discourages conducting remote interviews with minors. For further discussion of this topic, investigations should consult the relevant experts in this highly specialised area.

While investigators working inside the area under investigation can talk to the child's family, guardians and teachers to determine whether the child is mature enough to participate in an interview, it is more difficult to contact relevant adults in remote investigations. This is particularly true when the violations under discussion related to the sensitive issue of child soldier recruitment.²⁴ In these situations, the safety and security of the child's guardians is a concern, especially when they are living in an area controlled by the recruiting party.²⁵ It can also be challenging to locate biological or foster guardians when dealing with child recruitment cases.²⁶

Instead of interviewing minors, investigators can prioritise finding young adult witnesses who can speak to their experiences as children.²⁷ It will also be useful to speak with people who have a good understanding of what children experienced, such as teachers and healthcare professionals.

Gender: gender dynamics in many contexts mean there may be limitations on who investigators can access when conducting remote interviews. For example, women in many communities have poor access to technology and data, or less freedom to use technology in the private settings necessary for providing accounts remotely.²⁸ Women may also be prohibited from speaking to strangers or foreigners over the phone. To overcome these restrictions, investigators can, for example, work with women's support organisations, including those that offer health and other services. These may put investigators in touch with female witnesses, or provide a safe, innocuous location where interviews can take place.²⁹

Ability: in some cases, remote interviews will actually be more accessible to witnesses with disabilities, for example where physical disabilities make it difficult to meet an investigator in-person. However, certain types of disability, particularly cognitive and sensory impairments, make remote interviewing more challenging.³⁰ Investigators can look into interview formats that may be more appropriate for individuals with disabilities. For example, where safe and appropriate for the witness, audio calls may be more accessible than video calls. It will also be helpful if support persons on-the-ground can facilitate the interview process (see Section 3). Where it is not feasible to speak with persons with disabilities, investigators should consult CSOs, healthcare professionals and other stakeholders with relevant knowledge.

Socio-economic background: in disadvantaged and/or more remote areas, witnesses are less likely to have a secure internet connection, adequate devices and a private space in which to conduct an interview. One investigator noted that COVID exacerbated this situation, as many witnesses were confined to their neighbourhoods or even homes, unable to attend the office of intermediaries who would otherwise have provided a safe space and secure internet connection. While, in a few cases, NGOs were able to bring witnesses to their offices for a remote interview, this resulted in 'very selective interviews' and entailed logistical challenges, as well as costs that were covered by the NGO.³¹

Violations under discussion: certain violations, including (but not limited to) sexual and gender-based violence (SGBV) and torture, may not be safe or appropriate to cover during a remote interview. This is due to the potential for re-traumatisation when discussing these violations; the difficulty of responding to a witness's emotional distress remotely (see Section 5.2.2); and challenges to providing follow-up support remotely (see Sections 1.5 and 5.5).³² For example, one NGO was required to change the focus of their investigation, which initially involved interviewing SGBV survivors located in a refugee camp, as COVID travel restrictions would require conducting interviews with these

24 Investigator 8 for a UN Inquiry.

25 Ibid.

26 Ibid.

27 Senior Researcher for an INGO.

28 Investigator 5 for a UN Inquiry.

29 Investigator 6 for a UN Inquiry.

30 Senior Researcher for an INGO.

31 Investigator 7 for a UN Inquiry.

32 See also Becky Milne, Coral Dando, and Kevin Smith, "Three leading investigative interviewing experts debate the complexities of remote interviewing in the current pandemic," *The Investigator*, June 1, 2020, <https://intersolglobal.wpengine.com/wp-content/uploads/2020/06/Remote-Interviewing-Investigator-Article-2020-1.pdf>.

vulnerable witnesses remotely. It was decided that this posed too many wellbeing and security risks to justify proceeding.³³ Conversely, some investigators found that witnesses were more comfortable discussing sensitive violations over audio-call, where it was safe to do so.³⁴ Investigators should make efforts to find out what violations the witness may cover prior to the interview and determine whether remote conversations are suitable on a case-by-case basis, assessing the witness's preferences, wellbeing and support needs (see Section 4.4).

Insiders: insider accounts can be especially hard to obtain when conducting remote interviews, particularly when the actors controlling the area where the person is located are hostile to the investigation. Considering the immense security risks that insiders face in this situation, arranging an interview will likely require significant security measures and trust-building, which is more difficult virtually (see Section 5.2.1).³⁵ Building the trust required for people to even refer an investigator to insider witnesses without face-to-face interaction will also be challenging.³⁶

Further, when investigators are working in-person inside the country or area under investigation, insider information is often received through informal conversations, which are not possible when working remotely. One investigator found that: *"I have had people visiting me in the night in my hotel in-country from the government or hospitals, people who can't give information to you in a [formal] meeting. They want to give you this information, but they can't approach you like this in a remote investigation."*³⁷ To work around this, investigations can, for example, post a call for submissions, or provide ways for the investigation to be contacted anonymously.³⁸



How can investigations identify and reach diverse witness groups remotely?

- Map gaps in the witness pools available, identifying whether witnesses relevant to the investigation can safely access/use the necessary technology.
- Identify sources of information on vulnerable or marginalised groups who the investigation team may not be able to access remotely. For example, former (now adult) child soldiers, or healthcare workers who have worked with female survivors, or disability support workers.
- When selecting a secure interview platform (see Section 1.4), factor in usability for: older witnesses; witnesses with cognitive and sensory impairments; and witnesses living in areas where only certain types of devices are available.
- Consider ways to make contacting the investigation easier and more confidential, for example by publishing and disseminating a call for submissions and creating anonymous contact options.

Investigations should acknowledge any diversity gaps in the witnesses they were able to access in their final report and recommendations.

1.2. Witnesses accessible outside the area under investigation

1.2.1. Mapping witnesses abroad



As in any investigation, a first step to understanding which witnesses are available abroad is mapping witness populations and migration paths. This is particularly useful for investigations in RACs focusing on witness communities that are dispersed across multiple contexts. This can make it difficult to find, for example, witnesses who can speak to a specific violation or corroborate another's account of a particular incident.



Several investigators working outside the country began the process of locating useful witnesses by tracing migration paths. *"We divided [the country under investigation] into the northern and southern corridor. You get an idea where people from the northern corridor will go - [country A and country B] - and the southern corridors to [country C or country D]... then you look at incidents in the related area. Based on the dates they crossed the border, you get a pretty good idea about what useful information they may have and what incidents they could have been witnesses to."*³⁹ The recency of migration will also be an influential factor to consider when mapping witness populations. Refugees and migrants settled in a certain country

33 Country Program Manager for an NGO.

34 Senior UN Investigator.

35 Investigator 4 for a UN Inquiry.

36 Senior Investigator for an NGO.

37 Investigator 8 for a UN Inquiry.

38 Senior UN Investigator.

39 Investigator 8 for a UN Inquiry.

may have arrived in a specific wave of migration, or may share a background that enabled or required them to leave at particular times.⁴⁰

As investigators will nearly always undertake time-limited missions to different locations, they have little time to spend identifying relevant witnesses on-the-ground. One investigator conducting in-person interviews described the challenge of arriving at a refugee camp without being able to prepare in advance. *"We had no idea who we were looking for, what part of the country we needed witnesses from. It was like looking for a needle in a haystack."*⁴¹ To avoid this scenario, investigators should identify and consult intermediaries and other people with on-the-ground experience (eg expert witnesses) when mapping witness populations. See Section 3 for detailed discussion of identifying and working with intermediaries.



When mapping witness populations abroad, keep in mind that in-country witness communities may have separated and dispersed across multiple cities, countries and regions. To trace relevant witness groups:

- Map different migration/displacement paths and the recency of migration/displacement.
- Consult with people in witness communities who can assist with this mapping.

1.2.2. Diversity of witnesses outside the area under investigation



The information that investigators can access on specific violations, population groups and patterns of violence will be limited by who has fled or left the area under investigation. Because of this, witnesses abroad may disproportionately represent certain perspectives, backgrounds and experiences. For example, one investigator found that many refugees from the country under investigation were victims of economic crimes committed by the state and human rights violations that occurred some time ago, but it was difficult to find survivors with more contemporary knowledge of localised conflict.⁴² In other contexts, investigators reported that refugees were mainly affiliated with opposition groups, which made it challenging to corroborate information on violations perpetrated by these groups.⁴³ Out-of-country witnesses may also come predominantly from regions or populations that experienced high levels of displacement; for example, 70-80 percent of North Korean escapees in South Korea are from two of the north-eastern provinces bordering China.⁴⁴

When working outside the country, it may be especially difficult to find relevant witnesses who are elderly, have disabilities or represent other groups that are typically less able to flee. To collect information on these underrepresented individuals, investigators should ask witnesses if they have knowledge of the experience of people who fall into these categories. For example, *"whether in their families they have anyone with disabilities, or what the situation is of older people...but it's not enough info to get the full picture."*⁴⁵

The permanent or temporary destination of different witness groups may also affect the type of witness that investigators can access. In some contexts, it will be easier to engage with witnesses who are concentrated in refugee camps, and harder to access displaced persons who are dispersed throughout large urban centres. In others, the most available populations abroad will be resettled refugees or migrants who are well-established in host countries. The location of these different witness groups may reflect their experience of different violations, the period in which they fled, their economic means and other aspects of their background and profile.⁴⁶

Interviewing defectors abroad will be challenging in contexts where the authorities or party under investigation maintains a presence abroad (see Section 1.3.1), which may make it unsafe for defectors to cooperate with the investigation. Further, insiders and defectors who approach any investigation often act covertly and bypass formal channels. When investigators are conducting in-person interviews during short missions abroad, there may be fewer opportunities for defectors to informally approach them. To make it easier and safer for defectors to contact the investigation, investigators can publish a call for submissions and establish confidential communication channels.

40 Investigator 3 for a UN Inquiry.

41 Investigator 1 for a UN Inquiry.

42 Lead Investigator 1 for a UN Inquiry.

43 Investigator 2 for a UN Inquiry; Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 21st Session A/HRC/21/50 (16 August 2012): 5.

44 James Shaquille, "Where do the majority of North Korean defectors come from?," *NK News*, October 9, 2017, <https://www.nknews.org/2017/10/where-do-the-majority-of-north-korean-defectors-come-from/>.

45 Senior Investigator for an NGO.

46 Program Director 2 for an NGO.

In addition to these limitations, investigators face the same barriers that exist in-country when seeking access to vulnerable witnesses outside the country. For example, many investigators noted the difficulty of contacting and speaking with female survivors due to stigmatisation of their experience, particularly for SGBV survivors; to the limited public role of women in certain communities; and to a lack of female-led intermediary organisations.

If witnesses outside the country will be interviewed remotely, the barriers to locating and accessing diverse witnesses outlined in Section 1.1 also apply, compounding the challenge.



The information that investigators can access from witnesses on specific violations, communities and patterns of violence will be limited by who has fled or left the area under investigation. This should be factored into development of the investigation plan, focus and priorities.

To find information on underrepresented groups abroad, investigators can:

- Undertake thorough mapping of the witness community, including migration paths, witness locations and identity markers (eg cultural, economic). Continually update this information.
- Ask witnesses and experts if they have knowledge of the experiences of older people, persons with disabilities and others who may have been less able to flee the area under investigation.
- Locate witnesses outside of common, centralised refugee and asylum destinations. For example, visit informal urban settlements as well as established refugee camps.
- Publish and disseminate a call for submissions and/or other ways of easily, confidentially contacting the investigation.

Where interviews with witnesses abroad will be conducted remotely, restrictions on diversity and associated recommendations also apply.

1.2.3. Politics within and between witness communities abroad



When researching the types of witnesses available outside the country or area under investigation, investigators should consider the political and social dynamics that have evolved and emerged in different communities abroad. While understanding the witness's context is an essential part of any investigation, investigators relying predominantly on out-of-country witnesses often have to consider how the dynamics of multiple, diverse "diaspora" communities relate to each other, and to the socio-political context of in-country witnesses.

In some cases, particularly among recently arrived refugees and migrants, socio-political dynamics remain relatively unchanged abroad, as local politics, groupings and divisions are "exported" from the origin country.⁴⁷ In more established diasporas, identities and beliefs may be frozen in time, reflecting past political dynamics with little local relevance.⁴⁸ Alternatively, the perspectives of witnesses abroad may have evolved to reflect the norms that are common in their host countries.⁴⁹ Some diaspora communities are dominated by a specific and influential viewpoint on the conflict under investigation, which motivates political, financial or social involvement in perpetuating or resolving the conflict.⁵⁰

47 Anye Nyamnjoh, "Does local ownership enhance legitimacy and democratic governance in peacebuilding? The case of diasporas," *South African Journal of International Affairs* 25, no. 3 (October 2008): 334, DOI: 10.1080/10220461.2018.1523025; Osman Antwi-Boateng, "After War then Peace: The US-based Liberian Diaspora as Peace-building Norm Entrepreneurs," *Journal of Refugee Studies* 25, no. 1 (March 2011): 102, DOI: 10.1093/jrs/fer023.

48 Nyamnjoh, "Does local ownership enhance legitimacy?" 334; Antwi-Boateng, "After War then Peace", 102; Maria Koinova, "Diaspora mobilisation for conflict and post-conflict reconstruction: contextual and comparative dimensions," *Journal of Ethnic and Migration Studies* 44, no. 8 (2018): 1259, DOI: 10.1080/1369183X.2017.1354152.

49 Huma Haider, "Transnational Transitional Justice and Reconciliation: The Participation of Conflict-generated Diasporas in Addressing the Legacies of Mass Violence," *Journal of Refugee Studies* 27, no. 2 (June 2014): 213-214, <https://doi.org/10.1093/jrs/feu002>.

50 Mytili Bala, "Transitional Justice in Sri Lanka: Rethinking Post- War Diaspora Advocacy for Accountability," *DePaul International Human Rights Law Journal* 1, no. 1 (2015): 18, <https://via.library.depaul.edu/ihrj/vol1/iss1/2>, citing Paul Collier et. al., *Breaking the Conflict Trap: civil war and development policy*, Volume 1, (World Bank and Oxford University Press: Washington DC, May 2003): http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=544849&piPK=64165421&menuPK=64166093&entityID=000094946_0306190405396.

Whatever the political dynamics that develop in witness communities outside the area under investigation, these will colour witness recollections of, and perspectives on, local politics and conflict. While this in no way invalidates their account, and may actually be useful to some aspects of the investigation,⁵¹ it is important to keep in mind throughout the interview process. A significant disconnect between the motivations of a diaspora community and those of the local population may even create issues for the investigation, as local populations may not feel adequately represented by the out-of-country witnesses providing information.⁵²



Investigators should consider the political, social and other dynamics of different witness communities abroad, and how these relate to in-country dynamics. This will help investigators to understand the representativeness and perspectives of witnesses outside the area under investigation.

1.3. Security limitations on access to witnesses

In addition to establishing which witnesses are available in RACs, it is important for an investigation to conduct an initial assessment of the broader security context. This will affect whether it is safe and appropriate to approach potential witness groups. The considerations raised in this section should inform the development of the investigation's more comprehensive threat assessment, risk mitigation and witness protection strategies.⁵³ They should also factor into the individual security assessment for each witness (see Section 4.3).

1.3.1. Threats from parties or authorities under investigation

In the majority of contexts discussed throughout this guide, investigators conducted interviews remotely and/or outside the area under investigation because one or more of the parties under investigation were uncooperative, and often overtly antagonistic.



This naturally endangers anyone cooperating with the investigation from inside the country or area.

“ In most countries we don't have access to, we're investigating state security forces who commit atrocities who are surveilling people, which has to be the first red flag...we put people at very high risk.⁵⁴ ”

This risk needs to be considered in relation to digital security and the technology available to the investigation (see Section 1.4).



Interviewing witnesses who are living outside the country or area under investigation does not necessarily mean that investigators evade this risk. In many of the contexts in question, the authorities under investigation maintain a presence in witness communities abroad. Investigators reported that there were “*government spies sent out of [Country X] to destabilise diaspora communities*”, or members of national intelligence services, armed groups and other parties to conflict present in refugee camps.⁵⁵



This generates significant fear among overseas populations.

“ The camps were quite heavily infiltrated by [Country X] intelligence, so people were scared. There was a lot of fear in the camps, a lot of rumours about being ‘picked up.’⁵⁶ ”

51 Senior Investigator 1 for a UN Inquiry.

52 Espen Stokke and Eric Wiebelhaus-Brahm, “Syrian diaspora mobilization: vertical coordination, patronage relations, and the challenges of fragmentation in the pursuit of transitional justice,” *Ethnic and Racial Studies* 42, no. 11, DOI: 10.1080/01419870.2019.1572909; Nyamjoh, “Does local ownership enhance legitimacy?” 328.

53 For more discussion of threat assessments and risk mitigation in the context of human rights fact-finding, see, for example: OHCHR, Guidance and Practice, 74-82; and OHCHR, “Chapter 14: Protection of victims, witnesses and other cooperating persons” in *Manual on Human Rights Monitoring* (New York and Geneva, 2011).

54 Investigator 5 for a UN Inquiry.

55 Commissioner 1 for a UN Inquiry; Investigator 1 for a UN Inquiry; Country Program Manager for an NGO; Human Rights Council, *Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1*, 33rd Session, A/HRC/33/37 (20 September 2016); Human Rights Council, *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, 25th Session A/HRC/25/63 (7 February 2014): 13-14; Human Rights Lawyer for an NGO.

56 Investigator 1 for a UN Inquiry.



A human rights lawyer working in the diaspora said that his “sense of powerlessness is sometimes devastating. We flee from our country, we’re thousands of kilometres away from the tentacles of the regime, but even here we don’t feel safe.”⁵⁷ In many cases, this fear is based on actual incidents of violence.⁵⁸ The threat posed by agents of the country or parties under investigation is particularly acute in refugee camps, where overcrowding and lack of private space make it difficult to ensure the safety of those who engage with the investigation. “Both sides [of the conflict] were there, so you have to be very careful who you speak to.”⁵⁹ These security risks will limit who is willing to testify, or what they are willing to discuss. For example, an investigator working in one refugee camp found it almost impossible to source information on an armed group that had infiltrated the camp, as refugees were afraid to discuss them.⁶⁰

When working with out-of-country witnesses, it is important to remember that their family, friends and other associates who remain in-country may be vulnerable to reprisals from the authorities under investigation (see Section 4.3).



Special care must be taken to do a full assessment of the security risks when selecting locations to visit and witness groups to approach. Witness interviews should not be considered if the risks cannot be adequately mitigated.

1.3.2. Threats from host countries



Even when a country that hosts witnesses allows investigators to enter, the host authorities may be sympathetic to, or actively collaborate with, the parties under investigation. This is particularly common in neighbouring countries affected by similar instability, or those embroiled in the conflict in question (see Section 1.6.2 for more discussion of host country political interests). Non-state actors within the host country may also be hostile to witnesses due to a connection with parties under investigation, or, for example, on the basis of the witnesses’ nationality or religion. Investigators working in several host countries reported that both witness populations and documenters were the subject of surveillance, intimidation and physical threats.⁶¹ For example, in one country, witness groups were monitored by dedicated police personnel. The offices of CSOs collecting witness testimony on international crimes were raided by police, and some CSOs reported that witnesses cancelled interviews after receiving calls from police.⁶²

Witnesses living abroad as unregistered migrants or on temporary visas may be at particular risk of surveillance from host country authorities, and of arrest and deportation for certain activities, including cooperation with an international investigation. An investigator working with witnesses who fled one conflict-affected country observed that “most people who arrive are smuggled, work with brokers, have no documentation, and face deportation. Make sure that when you speak to them in person, you don’t put them at risk of arrest.”⁶³

Considering this vulnerability, investigations may not want to interview witness populations living in situations of significant insecurity and uncertainty. They should evaluate host country security dynamics before choosing to interview witnesses there.



Conduct both an initial assessment of the broader security context and an individualised risk assessment (see Section 4.3). This will help to determine whether and how it is safe to approach potential witnesses. Review and revise this assessment throughout the investigation process.

If one or more of the parties or authorities under investigation is hostile or uncooperative, consider whether they are likely to:

- Monitor or threaten in-country witnesses who are interviewed remotely.
- Monitor or threaten witness communities abroad.
- Retaliate against witnesses and their families in-country or abroad.

Also assess whether host governments are hostile to witness communities on their territory, particularly unregistered migrants and witnesses on temporary visas.

57 Human Rights Lawyer for an NGO.

58 Example provided by Investigator 6 for a UN Inquiry.

59 Lead Investigator 2 for a UN Inquiry.

60 Senior International Lawyer.

61 Investigator 2 for a UN Inquiry; Lead Investigator 2 for a UN Inquiry; Lead Investigator 1 for a UN Inquiry.

62 Senior Investigator for an NGO.

63 Investigator 5 for a UN Inquiry.

1.4. Technology considerations when accessing witnesses



Whether and how investigators can access the different groups described in Section 1.1 will depend on the technology available in areas where witnesses are located. Investigators should map the availability of secure applications in different countries/regions; the risks involved in using these applications; and the usability of these applications for witnesses, factoring in their gender, age and other identities described in Section 1.1. This mapping will contribute to development of the investigation's ICT protocol, which should be constantly reviewed and updated as technology changes over time.⁶⁴ Investigators should also ascertain an individual's technological capabilities and personal requirements prior to interviewing them (see Section 4.5.2).

In regards to availability, technology may be limited in certain regions, where suitable applications are prohibited, draw unwanted attention to users, or people simply do not own compatible devices.⁶⁵ Even where technology is available, connectivity is generally worse outside of urban hubs. Depending on the availability of technology, many witnesses may be unfamiliar with how to use the required applications, or generally lack technological skills.⁶⁶ Investigators should factor these limitations into their mapping of accessible witness pools.

Any available applications and platforms must be analysed in relation to the broader security context (see Section 1.3) to determine whether witness communities can safely be contacted. Investigators generally base their choice of platform on an understanding of whether, how, which and whose communications are being monitored. For example, investigators conducting remote interviews with in-country witnesses for one inquiry assessed that the group controlling the territory did not have the capacity to monitor all communications, especially those on secure applications. In this scenario, it may be safe to speak with "normal citizens" on one of these applications, although investigators decided against using them to contact people who may be subject to specific surveillance.⁶⁷

Investigators should be aware that the mere presence of some applications on a personal device can be a red flag for authorities, even if messages, call data and contacts have been erased. It is also important to consider what phone records or data might reveal to a hostile party later on, identifying whether digital security hygiene methods are available to remove traces of contact.



When considering the technology available to an investigation and how it affects access to witness communities, investigators should research:

- The secure applications available, their accessibility and any risks involved in using them in the countries or areas where witness groups are located. This research should be regularly reviewed and updated.
- Whether, how, which and whose communications may be monitored in different contexts.
- Risk mitigation methods available in different contexts, (eg whether digital hygiene measures can remove traces of contact on the available applications).

1.5. Support, protection and referral considerations when accessing witnesses



Before engaging with witness groups, investigators should assess whether it will be possible to provide them with or refer them to psychosocial, medical, legal and other services in the relevant host country or area under investigation. As in any investigation, this will involve mapping information on available service providers; contacting them to evaluate their suitability and availability; and identifying any access limitations, which may be specific to the host country, out-of-country community or country/area under investigation.

Vulnerability assessments and arrangements for individual witnesses need to be made on a case-by-case basis (see Section 4.4).



The investigation should avoid engaging with entire witness communities if systemic barriers to support have been identified.

64 Institute for International Criminal Investigations (IICI), *IICI Guidelines on Remote Interviewing* (2021).

65 Legal Advisor 2 for an NGO.

66 Ibid.

67 Lead Investigator 2 for a UN Inquiry.

1.5.1. Support services for witnesses interviewed remotely



Where investigators are required to interview in-country witnesses remotely, security considerations, limited resources and general instability may restrict the availability of support services.⁶⁸ There may be few service providers with adequate capacity, particularly considering the security precautions that are often necessary for witnesses to seek help without attracting unwanted attention from hostile authorities. The volume of people needing psychosocial and medical support in these environments may place extra demand on limited services.

Any available services must be properly vetted before referral to ensure that witnesses who visit them will not be put at risk. However, it is harder to perform this vetting remotely, without being able to meet the service provider in person and verify that they provide the advertised services in a safe and professional manner.⁶⁹ It requires far more time and resources to build solid networks of service providers remotely, with multiple back-ups in case one option falls through.

Investigators emphasised that capacity-building local CSOs so that they can provide relevant services should be a priority in the field, and that referrals are an area where humanitarian and accountability professionals could work more closely. However, they noted this kind of cooperation can pose political problems, as humanitarian providers that interact with accountability mechanisms may risk their status as “neutral” parties, and thus jeopardise their access to the country under investigation.⁷⁰



When mapping support and referral systems for witnesses being interviewed remotely, consider that:

- It may take more time and resources to identify, vet and build a network of service providers from afar.
- There may be few service providers with adequate capacity and security in countries under investigation or host countries.
- It may be unsafe or difficult for witnesses in dangerous contexts (eg a hostile country under investigation) to access services that have been arranged remotely.

1.5.2. Support services for witnesses in different host countries



In some out-of-country contexts, witnesses may be unable to access state-funded psychosocial support and other medical services due to their migration status.⁷¹ Even when witnesses technically have access to services provided by the host government, they may be wary of using these.⁷² For example, witnesses on temporary visas might not want to draw attention to their social and medical situation. Others may fear state-run services due to previous negative experiences in the country or area under investigation. One investigator reported that the majority of refugees she works with only have access to psychosocial support from a government program, as there are few CSOs in the host country with the expertise to assist survivors of grave human rights violations. However, witnesses are reluctant to take advantage of this government support due to fear of state-run institutionalisation of people with mental illness, which was a form of persecution in the country under investigation.⁷³

While the United Nations High Commissioner for Refugees (UNHCR) and NGOs may provide safe alternative services, the availability of these depends on the country context, resourcing and size of the refugee/migrant population.⁷⁴ For example, an investigator working in one refugee camp reported that there were only three psychosocial support workers for more than 100,000 refugees.⁷⁵ Further, in some host countries, CSOs that provide services may face restrictions or be unable to work openly, particularly with asylum seekers and unregistered migrants.⁷⁶ Depending on the background of a refugee/migrant population and the recency of their arrival, there may be language or cultural

68 Investigator 2 for a UN Inquiry.

69 Investigator 9 for a UN Inquiry.

70 Investigator 5 for a UN Inquiry; Investigator 9 for a UN Inquiry. For further discussion of cooperation between human rights fact-finders and humanitarian professionals, see: *Transitional Justice and Displacement*, edited by Roger Duthie, (New York: Social Science Research Council, 2012).

71 Ibid.

72 Ibid.

73 Senior Investigator for an NGO.

74 Investigator 5 for a UN Inquiry.

75 Senior Investigator for a UN Inquiry.

76 Commissioner 1 for a UN Inquiry.

77 International Law Academic.

78 Senior Investigator for a UN Inquiry.

barriers to accessing existing services.⁷⁷ For example, one investigator found that most services in a refugee camp catered to a specific ethnic group.⁷⁸

If there are significant divisions or security risks within the diaspora, particularly due to infiltration by groups from the country or area under investigation, it may be safer to rely on INGOs or other non-diaspora CSOs. In this scenario, it is important to prioritise INGOs with cultural literacy and awareness of the types of trauma experienced by refugee- and migrant-witnesses.

Stigma surrounding mental and often physical illness, whether pre-existing or caused by human rights violations, may be an issue in any investigation, as witnesses may not feel comfortable or safe accessing necessary services. However, stigma may be more or less acute in small diaspora communities, depending on the nature of the diaspora group and the type of witnesses who have fled.⁷⁹ Separately, there may be stigma within the host country, which makes it difficult for CSOs to provide services or for witnesses to access them. One investigator reported that, in a country hosting the vast majority of refugees from the country under investigation, the government and society have never recognised the gravity of the violations experienced by refugees. This failure to acknowledge the effect of trauma on refugees' behaviour, adjustment to society and relationships exacerbates stigma around accessing psychosocial and other medical support.⁸⁰

It is also important to remember that even witnesses who have arrived through formal migration channels may not have received psychosocial and other medical support for the violations under investigation. The witness may not have felt comfortable sharing their experience at the time, or may not have perceived some of their traumatic experiences as relevant to the investigation. *"The witnesses come in crisis contexts or are smuggled out right after the violation. Their trauma is such that they don't think of telling the doctor that they were raped even years after."*⁸¹

These potential limitations on the accessibility of necessary support outside the area under investigation should be considered when deciding whether to engage with witness populations abroad. Investigation priorities will have to be adjusted based on the services available. For example, investigators interviewing witnesses in refugee camps may decide against talking to survivors of particular violations when they cannot access specialised services.⁸²



Assess support services for out-of-country witnesses in each host country, factoring in:

- The range, availability, affordability and quality of services in different host countries.
- Access constraints due to the witness's migration status.
- Language and cultural barriers to accessing support.
- Stigma surrounding mental and physical illness, and its impacts in diaspora and host communities.

1.5.3. Protection in RACs



The best form of protection is a cautious approach to proceeding with interviews, and robust security protocols. More extreme protection measures (eg relocation) are usually expensive for whoever arranges them, stressful for the witness and should therefore be avoided unless absolutely necessary.



The best form of protection is a cautious approach to proceeding with interviews and robust security protocols for the interview process so that witnesses are not placed at risk in the first place.⁸³ While there are a range of measures that can be put in place to protect witnesses, more extreme measures (for example, relocation) are expensive for the responsible party or individual, limited, and therefore only available to a few. The process of providing protection can be extremely stressful for the witness and should only be considered as a last resort.⁸⁴

79 Executive Director of an NGO; Human Rights Lawyer for an NGO.

80 Senior Investigator for an NGO.

81 Investigator 5 for a UN Inquiry.

82 Investigator 1 for a UN Inquiry.

83 Senior Criminal Investigator.

84 Ibid.

85 Human Rights Lawyer for an NGO; Legal Counsels for an NGO.



When witnesses are located abroad, many host states do not have the ability or will to provide them with any meaningful form of protection, even in the face of direct threats received as a result of their cooperation with the investigation.⁸⁵ Further, if witnesses abroad are living in a state of insecurity, sometimes as unregistered migrants or asylum seekers, they may not feel safe approaching host country authorities for protection. While investigations can contact authorities on behalf of witnesses, this also carries risks and will only be safe in select cases.



It is rarely possible to remotely arrange physical protection for witnesses in-country or abroad, especially when they are living in a hostile or insecure context. Some investigators were able to make arrangements with embassies, for example, but most avoided conducting the interview if they believed the witness to be at physical risk. *"It is not responsible to start interviewing people who will be talking about human rights violations committed by a horrific regime and then not be able to protect them if that information comes out or is leaked."*⁸⁶



If investigators assess that physical protection may be necessary, and it is unlikely to be provided effectively, they should not proceed with the interview.

The difficulty in providing protection support remotely and/or outside the country reinforces the importance of investigators developing strong networks with people on the ground to ensure there are individuals or actors who can follow up on protection needs (see Section 3.1.4).

1.6. Legal and political considerations when accessing witnesses

1.6.1. Legal constraints



There may be legal limitations on whether and how investigators are allowed to gather information remotely and in different host countries. Factors to consider include:

- national restrictions on the use of certain applications;
- data security and privacy laws;
- laws surrounding data storage and deletion, including cloud storage;⁸⁷ and
- laws on receiving certain documents, such as classified national security documentation.⁸⁸

These should be considered and addressed in the investigation's information or evidence collection protocol.



Given the number of host countries where out-of-country witnesses may be located, understanding and tailoring the information collection plan to different legal systems may take significant time and resources. It is also important to consider admissibility and other requirements for evidence in jurisdictions, should witness accounts be used later on for other accountability purposes.



When interviewing witnesses abroad, different legal systems will present unique challenges for investigators. Consider:

- The laws of each host country and how to tailor information collection accordingly, ensuring that investigators abide by the law.
- The extra time and resources it may take to consider these factors in multiple host countries.
- Admissibility requirements for evidence in different jurisdictions, if witness accounts may be used in court proceedings.

⁸⁶ Senior International Lawyer.

⁸⁷ IICI, *IICI Guidelines on Remote Interviewing*.

⁸⁸ Head of SGBV Investigations for an INGO. When presented with such documentation, investigators must weigh the value of collecting it (eg the need to preserve evidence) with risks, including security concerns and illegality. This should be covered by the investigation's evidence collection protocol.

1.6.2. Political context of host countries



Once the investigation has identified witnesses abroad, it is necessary to consider the political interests of their host country. While these interests will contribute to the security dynamics discussed in Section 1.3.2, the focus here is on the relationship between host country authorities and the investigation itself. When relying on in-person interviews with witnesses abroad, investigators may have to put more time and resources into building relationships with host countries, which generally provide the only points of in-person access to witnesses. Investigators will need to seek the consent of each host country government to enter and interview witnesses. This will include obtaining visas for the investigation team.

In some cases, the political interests and agendas of host countries prevent investigators from accessing witnesses. For example, depending on the geopolitical dynamics of the conflict under investigation, countries that host witnesses may not extend formal invitations to the investigation.

“ An investigator working for one UN Inquiry found that “most of the countries around are linked to the conflict. They were either extremely hesitant in allowing us to go there, or very blunt and said no. This limited our capacity to investigate.”⁸⁹



In other cases, the host country’s migration policy may affect in-person access to witnesses. One investigator found that countries seeking to curb the arrival of refugees started to question their credibility and reliability as sources for the investigation.⁹⁰

Even when countries extend an invitation, there are often political nuances to accepting it. Investigations should try to maintain a good political balance of countries visited in order to preserve impartiality and manage tense relations between key stakeholders.⁹¹ To avoid geopolitical consequences, investigations may be able to ask host government authorities if investigators can enter without publicising or formalising their visit.

Several investigators grappled with the question of how closely they could or should cooperate with host country authorities during visits. According to one UN investigator, it is often not clear how much information they should share with the host government about their work.⁹² In some cases, host governments will actively seek involvement in the investigative process, for example by pushing to be present during in-person interviews (which should not be permitted).⁹³ It is important to gain an understanding of the host authorities’ motivation for cooperating with the investigation, which will help assess whether it is productive and safe to access witnesses there.



When relying on in-person interviews with witnesses abroad, investigators may have to engage with more foreign governments than they would if they had physical access to witnesses in-country (and were consequently visiting fewer countries). Consider:

- The requirements involved in seeking entry to the country, including the need to obtain visas.
- The motivations of different host countries for cooperating with the investigation.
- The political balance of countries visited.
- The additional time and effort it may take to build these relationships.

89 Lead Investigator 2 for a UN Inquiry.

90 Commissioner 1 for a UN Inquiry.

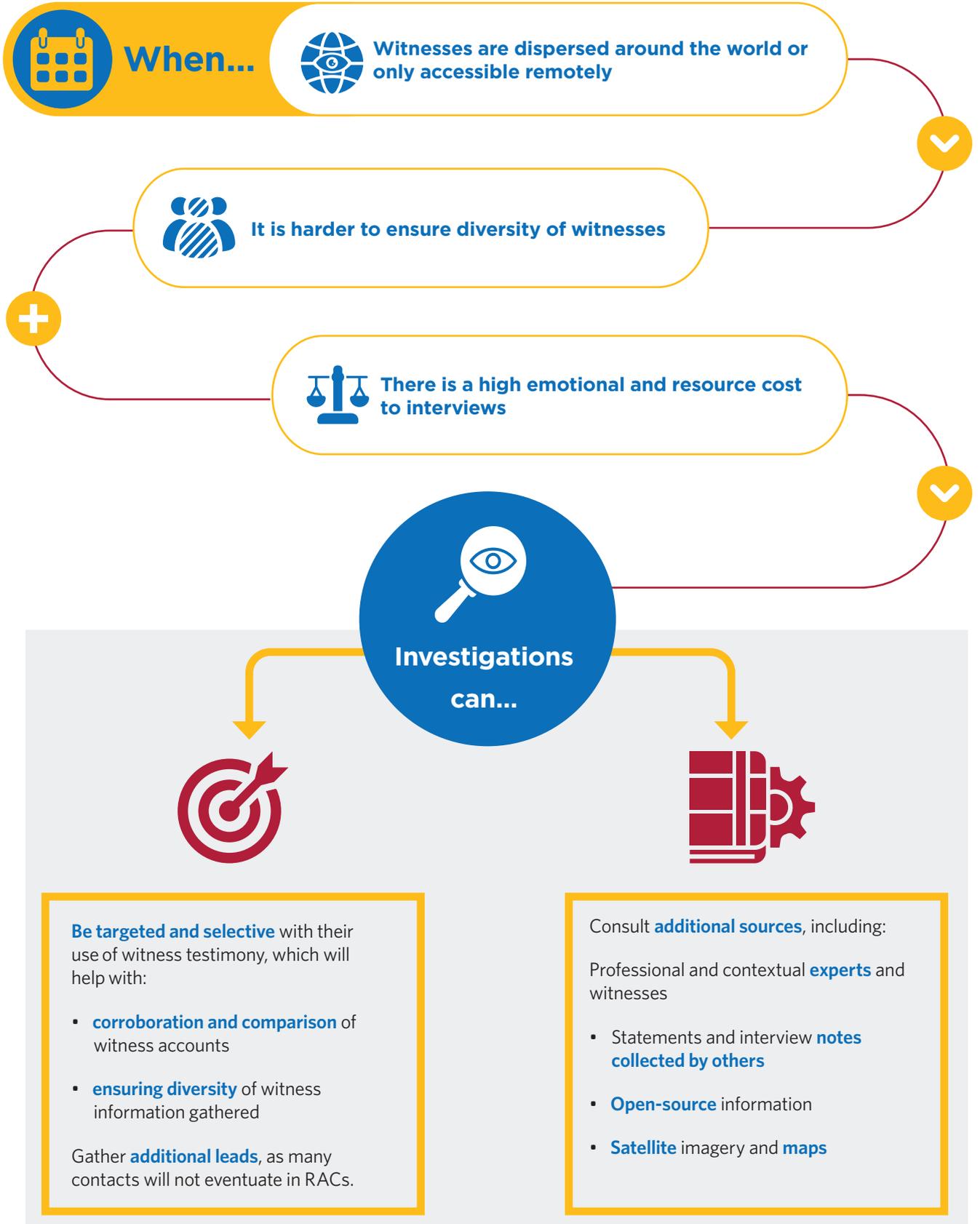
91 Investigator 3 for a UN Inquiry.

92 Lead Investigator 2 for a UN Inquiry.

93 Ibid.

Section 2:

A targeted approach to using witness interviews



A targeted approach to using witness interviews



After gaining an understanding of the witness pools that are accessible in RACs, it will be necessary to develop a strategy for how to include witness accounts in the overall investigation plan. While witness accounts play a key role in any investigation, their role in RACs should be carefully considered in light of the security, wellbeing, logistical and other challenges inherent to these investigations. Other sources should be considered where available.

To compensate for the gaps in witness pools that are accessible remotely or abroad (see Section 1), some investigators discussed the strategy of “casting the net wide” and interviewing as many witnesses as possible. However, given the security, psychosocial and logistical complications involved in conducting interviews in RACs, many investigators try to be particularly targeted about how they gather witness accounts. A targeted approach is also conducive to corroborating/comparing information and to obtaining accounts from diverse witnesses. This may be more productive considering the time and resource constraints that are common to RACs.



In RACs, it can be challenging to find the types of witnesses that are useful to an investigation’s mandate and priorities. In order to identify diverse witnesses, and find witnesses who can corroborate or speak to a specific event, investigators should adopt a targeted approach to gathering testimony.

2.1. Corroboration and comparison outside the country



When working with out-of-country witnesses, a more targeted approach may be necessary to find witnesses who can corroborate other accounts, provide alternative perspectives on a relevant incident/violation, or provide information relevant to the investigation’s mandate. This is because local communities are often separated and dispersed across various countries and regions following displacement.⁹⁴ Refugee camps and urban centres may host multiple people displaced from a specific town, community or group. Alternatively, they may comprise a varied assortment of people who managed to escape a country but have not experienced common incidents.

One investigator working for a UN Inquiry described her team’s approach to targeted selection of witnesses abroad: “Some people had the idea of going to Country X’s border, hanging out and seeing who came. But at the time, this wouldn’t have had much value for the objective of documenting repression of dissidents, or extrajudicial killing by the police. We would be lucky to find one witness, but we wouldn’t have had her neighbour to corroborate her testimony.”⁹⁵

Where corroborating information is required by certain jurisdictions or for particular violations, it may be challenging to find if witnesses in the affected communities are less able to flee and are underrepresented abroad (see Section 1.2.2). Mapping witness paths at the start of the investigation will help to identify gaps and locate witnesses who may be useful for corroboration purposes. Investigators may also rely on pattern corroboration, identifying common elements across multiple, similar incidents.



When communities have been dispersed and displaced because of a conflict, it can be hard to find witnesses who can corroborate or provide different perspectives on another’s account. It may also be difficult to find people who can speak about a specific incident or type of violation. Mapping witness migration paths will assist investigators to find the witnesses they need and identify gaps. Investigators may also rely on pattern corroboration, identifying common elements across multiple, similar incidents.

94 Investigator 7 for a UN Inquiry.

95 Ibid.

2.2. Weighing the “opportunity cost” of interviews



Another reason to engage in targeted selection of witnesses in RACs is the significant time, resource and emotional cost of every interview to investigators, witnesses and third parties, eg intermediaries (see Section 3.1.4) and interpreters (see Section 3.4). This is the case for all investigations, but may be more pronounced when interviewing witnesses in RACs due to, for example, the increased risks involved (see Section 1.3) and emotional strain that can result from remote interviewing (see Section 5.2.2).

The significance of any emotional stress caused by an interview must be evaluated in light of the particular witness’s needs. For example, many witnesses find that telling their story in a safe environment with access to adequate support services is empowering and provides emotional relief. Where this is the case, the risks and barriers to accessing support in many RACs must still be taken into account when deciding whether to proceed.

Investigators should also evaluate the cost of an interview in relation to the importance of the witness and the information they are sharing, which depends on the information required by the investigation. For example, while an insider with crucial political information may justify the cost, the fourth or fifth victim of the same shelling attack may not.⁹⁶ In general, investigators advised prioritising “quantity over quality” of witness accounts.



Because of security, wellbeing and logistical challenges in RACs, interviews may impose significant time, resource and emotional costs on all involved parties.

Investigators should carefully weigh the benefit and cost of each interview, considering:

- the interests of all individuals involved;
- the importance of the interview to the investigation mandate and strategy; and
- alternative sources of information.

It is advisable to prioritise quality over quantity of interviews.

2.3. Ensuring diversity and representativeness



As described in Section 1, it is often challenging for investigators working in RACs to identify witnesses who can safely provide useful accounts, let alone witnesses from a range of backgrounds. Because of this, less attention may be given to diversity and representation. As one investigator observed:

“ Sometimes, because it can be difficult to locate certain types of witnesses or we have limited time, we are so happy to have people to interview we don’t necessarily think carefully about how we find them, how they are selected by others and how representative they are to our case – looking at geographic location, education, socio-economic class, ethnicity, gender and so on. We need to make sure we work hard to get a representative sample.⁹⁷ ”

It is particularly important to embed diversity and representation into investigation plans when working in RACs, considering the limited availability of witnesses in these contexts. Investigations can make additional efforts to engage in outreach with diverse refugee and migrant communities; regularly review the information gathered to identify diversity problems early on; and make diversity the formal responsibility of the entire team, rather than the purview of a single, for example, gender or youth advisor.⁹⁸ Aside from taking more time to diversify witness groups, investigators can seek the help of intermediaries (see Section 3 for analysis of their role).



It can be challenging to identify diverse witnesses and perspectives in RACs.

Investigations should reach out to varied communities, and regularly review the witness accounts that have been gathered to identify any gaps. It is the responsibility of all team members to ensure diversity.

⁹⁶ Lead Investigator 2 for a UN Inquiry.

⁹⁷ Criminal and Human Rights Investigator.

⁹⁸ Ibid; Lead Investigator 2 for a UN Inquiry.

2.4. Gathering additional leads



As out-of-country witnesses will be at various stages of their migration journey, it may be difficult to contact them once they have been identified or recommended to an investigation.⁹⁹ Countless contacts will not eventuate because witnesses have moved locations and started using a new number.¹⁰⁰ Considering this, while it is valuable to be selective about who to interview, it is often prudent to gather many more initial leads than would be required if investigators had access to the area under investigation.



Investigators conducting remote interview should also gather additional leads, as interviews will not always take place due to a changing security situation on the ground or repeated technological complications.



In RACs, it may be difficult to contact out-of-country witnesses on their migration journey, and witnesses with variable access to technology and connectivity. Investigators should gather more initial leads than would be required if they had access to the country or area under investigation.

2.5. Using additional sources



In any investigation, it is important to identify sources of information outside of survivor and witness accounts. This includes information from professional and contextual experts; statements and interview notes collected by other parties; open source information; and satellite imagery and maps.



In RACs, consulting additional sources will help investigators to be more targeted in their use of witness interviews, approaching witnesses for information they cannot obtain elsewhere. These sources will also be useful for background research when an investigation is unable to develop an understanding of the relevant context by making visits to the country under investigation. Gaining this understanding remotely necessitates more extensive desk research using more varied sources.¹⁰¹ Investigators should revert to these sources if they later find gaps in witness accounts.

Further, investigators can draw on additional sources when they seek to minimise risks to survivors, eyewitnesses and other vulnerable witnesses. For example, one investigation made a *“strategic decision to focus on cases where we had lots of second-hand information from other sources, eg independent international NGOs or a file of open source info”*,¹⁰² because it was difficult to safely procure detailed information from a survivor over the phone.

While the sources outlined below are valuable to any investigation, their usefulness is detailed here because of their heightened importance to investigations in RACs.



Additional sources of information (eg experts, satellite imagery) are particularly useful in RACs, helping investigators to:

- Develop an understanding of the relevant country context despite being unable to visit in-person.
- Avoid interviewing witnesses where there are costs or risks that cannot be mitigated, for example where it is too dangerous to interview in-country witnesses remotely.
- Avoid repeatedly contacting witnesses for further information when other available sources can assist.

2.5.1. Professional and contextual experts and witnesses



In all investigations, it is necessary to speak to a variety of experts on the country's context, including those who have witnessed relevant events first-hand. This will be useful when investigators are unable to visit the country or area under investigation to learn from local communities and develop a deeper understanding themselves.



In RACs where survivors are especially vulnerable, for example due to in-country security threats or their migration status, it may be preferable to interview professional and contextual experts and witnesses with knowledge of relevant

⁹⁹ Investigator 3 for a UN Inquiry.

¹⁰⁰ Investigator 7 for a UN Inquiry.

¹⁰¹ Legal Advisor 3 for an NGO.

¹⁰² Lead Investigator 2 for a UN Inquiry.

incidents, events or patterns. While an investigation itself might be denied access to the area under investigation, it is likely that some organisations and institutions have or had a field presence there. The experiences of sources such as international human rights workers may not be formally documented, but their direct account and any notes, photos and other record of their time in-country can be more revealing than the reports, articles or other secondary sources their institutions may publish.¹⁰³

Healthcare workers may also have a broad perspective on the type of violations that survivors experience. With consent, they may be able to provide photos, medical documentation, and other forms of forensic evidence.¹⁰⁴ Investigators focusing on vulnerable witness groups, such as children and SGBV survivors, may seek information from medical and psychosocial professionals to avoid re-traumatising survivors,¹⁰⁵ and because of firm guidance that investigators are discouraged from interviewing children remotely.



As various witness groups may be unavailable to investigators working remotely, professionals who have worked with vulnerable witnesses can be a helpful source of information. This may include psychosocial, other medical, religious and judicial professionals who have worked with, for example, children and SGBV survivors.

The availability of professional and contextual witnesses depends on the circumstances. When the area under investigation is governed by hostile authorities or parties, which is common in RACs, investigators found few journalists and other professionals with inside knowledge of the context. Those who had visited these areas were “*reluctant to provide information and knowledge due to fear of reprisals for their work*”, or reprisals for their connections who remained in the country. Some were performing roles that the authorities or parties under investigation would not view favourably, or even criminalise.¹⁰⁶

Investigations should make efforts to mitigate risks to the neutrality of journalists, humanitarian professionals and others with ongoing access to, or work in, the area under investigation. For example, investigators can meet with them in locations and in ways that do not put their neutrality or integrity at risk.¹⁰⁷



When seeking information from professional and contextual witnesses, such as journalists and aid workers with ongoing access to the country under investigation, consider whether cooperating with the investigation may jeopardise their work in-country. Identify ways to mitigate this by maintaining discretion and confidentiality when communicating with them.

It is important to remember that professional and contextual witnesses may be survivors themselves, or may be experiencing work-related stress. For example, a psychologist in an area where there are no other mental health professionals will have significant demands on their time and energy.¹⁰⁸



Professional and contextual experts may require psychosocial or other support during and/or after an interview. Their security context, technological capabilities, support needs and personal profile should be evaluated prior to arranging an interview.

103 Investigator 8 for a UN Inquiry.

104 Program Staff for an INGO; Senior Investigator for a UN Inquiry.

105 Senior Researcher for an INGO.

106 Human Rights Council, *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, p. 15.

107 Investigator 4 for a UN Inquiry.

108 Senior UN Investigator.

2.5.2. Statements and interview notes collected by others



In any investigation where witnesses are being interviewed, it is useful and sometimes necessary to review witness statements, interview notes and affidavits collected by other groups and individuals, for example those taken for asylum applications. These provide leads and red flags that inform the investigator's interviewing strategy.¹⁰⁹ Using prior statements may also mean an investigator can conduct fewer interviews, more targeted interviews, or shorter interviews, avoiding over-documentation and re-traumatisation of witnesses in RACs. Particularly where witnesses had previously provided consistent statements, some investigators relied on secondary information and only spoke to witnesses briefly "to verify key aspects of the information – just an extra five percent to reach our standard of proof."¹¹⁰ When doing this, investigators should be careful to avoid leading the witness or presupposing their answers and attitudes. They should keep in mind that interviews for a different purpose, such as an asylum application, will focus only on issues relevant to that interview.

When using statements and interview notes collected by others, it is important to examine their methodology, security, consent and confidentiality protocols. Investigators need to be sure they are relying on statements that are collected in a way that reflects best practice for conducting witness interviews. It must also be confirmed that using prior statements is in keeping with the legal requirements of their own investigation.¹¹¹

Statements and interview notes collected by others can be particularly useful in RACs due to the heightened security risks involved in interviews (see Section 1.3); and the difficulty of providing psychosocial support during and after interviews (see Sections 1.5, 5.2.2 and 5.5).



In RACs, using statements and interview notes that were collected by other parties (eg NGOs) may mean investigators can conduct fewer, shorter interviews in contexts where connectivity is poor, security risks are high and referral options are limited. Investigators should:

- Confirm that using prior statements is consistent with the investigation's legal requirements and methodology.
- Assess the methodology, security, consent and confidentiality procedures used by the statement takers.
- Assess the level of experience of the statement takers.

2.5.3. Open source information



Open source investigation is an increasingly valued method of harnessing the wealth of information that has already been published about a conflict. It is useful in RACs where witnesses are less accessible. Open source information includes human rights reports, public information on prior investigations, news articles, social media, and sources published by the authorities under investigation. These sources can be used, for example, to create conflict maps and timelines, which facilitate deeper understanding of a conflict, the type and scale of violations, patterns of abuse, potential victims and perpetrators.¹¹²

While this guide does not deal directly with the use of open source information, it is an important component of any investigation where witnesses are less accessible. Relevant guidance can be found in the *Berkeley Protocol on Digital Open Source Investigations*.

2.5.4. Satellite imagery and maps



Satellite imagery (which can be open source or accessible via paid services) is a valuable component of many investigations, and can be used to corroborate or identify gaps in the information provided by witnesses. This is useful in RACs where access to witness relevant pools is limited. In one scenario, investigators realised they had only been connected with a narrow group of witnesses in a refugee camp when satellite imagery revealed numerous destroyed villages that were not mentioned by any of the witnesses they had interviewed.¹¹³

109 Investigator 5 for a UN Inquiry.

110 Lead Investigator 2 for a UN Inquiry.

111 Senior Criminal Investigator.

112 Public Interest Advocacy Centre (PIAC), *Tides of Violence: mapping the Sri Lankan conflict from 1983 to 2009* (PIAC, May 2019): 19.

113 Senior International Lawyer.

Further, when conducting background research in a remote and/ or out-of-country context, investigators placed an emphasis on understanding the physical environment of relevant incidents. Satellite imagery and maps enabled them to more easily follow a witness account and assess its credibility when site visits were not possible. *“Examine maps to see distances, talk to experts to have a sense of the directions [of fighting] and the weaponry used. You need to examine documents and photos, talk to forensic experts and so on.”*¹¹⁴ Satellite imagery can also be used in the place of physical evidence that would have been available inside the country; for example, it can demonstrate the existence of crater damage from artillery shells.¹¹⁵



Investigators should use satellite imagery and maps in RACs to:

- Develop a physical understanding of inaccessible incident sites.
- Remotely identify areas they want to investigate (eg a specific village that has been razed).
- Corroborate other information the investigation has collected.

2.5.5. Other information



Some investigations receive a large amount of information, including pictures and videos, on messaging applications. This will be particularly useful in RACs. All information should be assessed using digital verification techniques and stored according to appropriate protocols. If it is safe to do so, investigators may be able to ask the documenters to send original photos and adjust settings to ensure that the metadata remains intact, which will assist with verification.¹¹⁶ If this content is difficult to verify, investigators can cautiously compare it with survivor accounts and other information they have gathered to identify basic similarities and patterns.¹¹⁷

114 Investigator 8 for a UN Inquiry.

115 Senior Criminal Investigator.

116 International Law Academic.

117 Lead Investigator 2 for a UN Inquiry.

Section 3:

Working with intermediaries and interpreters



In RACs...

- Investigators spend no time in the witness community, or are only there for short periods.
- Intermediaries take on roles that investigators cannot perform remotely, such as facilitating access to support services.
- There may be fewer intermediaries abroad, and fewer who are able to cooperate remotely.



Investigators rely more on fewer intermediaries for a range of responsibilities

Because of this, investigators should:



Take measures to avoid and mitigate overreliance. These include:

- Constantly seeking new and creative entry points into witness communities.
- Coordinating with other stakeholders who may be relying on the same intermediaries.
- Documenting reliance on intermediaries internally (eg in an intermediary log) and externally (eg in final reports).
- Regularly checking in with intermediaries.



Carefully select, vet and brief intermediaries, taking into account the significant demands that may be placed on them in RACs. Consider:

- Affiliations, interests and agendas that are common to RACs, such as a connection with parties to ongoing conflict.
- An intermediary's security context and technology requirements.
- An intermediary's entry points to, and relationships with, the witness community.
- An intermediary's support needs, capability and expectations, including how they should be briefed and whether/how they should be trained.

Working with intermediaries and interpreters



Many of the issues to consider when working in-person with intermediaries in-country are relevant when working in RACs. For example, it is always important to evaluate the prospective intermediary's interests, agenda, relationship to witnesses,¹¹⁸ methodology and security protocols.¹¹⁹



These considerations may assume an increased importance or play out differently when investigators are working in RACs. As investigators are not physically present in the country where witnesses are located, or are only there for a short period, they may rely more on intermediaries for a variety of responsibilities. However, there may be fewer intermediaries available abroad and in hostile areas under investigation. It is also harder to identify, vet, brief and use intermediaries and interpreters from afar.

This section identifies ways that investigators can safely, effectively engage with intermediaries and interpreters in RACs. Investigators should keep in mind that some intermediaries will only connect the investigation with witnesses in their capacity as, for example, service providers. Others will be fact witnesses themselves, who can facilitate an investigator's access to additional witnesses. Where this is the case, guidance surrounding selection of and engagement with witnesses is also relevant.



Without a trusted, reliable network of intermediaries and other support staff on-the-ground, it will be challenging and often impossible to remotely prepare for or conduct interviews in a safe manner.

3.1. Increased reliance on, and responsibilities of, intermediaries

3.1.1. Increased reliance: limited or no time in witness communities



International investigations usually involve missions to a number of countries for varying lengths of time. Investigations with access to the country or area under investigation may be able to establish a secretariat, dedicated country office, investigation team or a trusted network of sources and partners in-country. This allows for more extended interaction with witness communities. By contrast, investigators conducting in-person interviews with witnesses abroad will often split their time between multiple host countries, and may only be able to spend limited time in each one. This could mean investigators have less time and fewer opportunities to find witnesses informally, by spending time in communities. Particularly if the investigation or organisation has no permanent in-country presence, investigators on short missions to multiple countries rely almost solely on intermediaries for their on-the-ground needs.¹²⁰



For example, one investigator described the time pressure involved in visiting refugee camps outside the country under investigation, comparing it to their experience in-country. *"There was no accommodation at the camp, so you go in for a day and conduct interviews. There was no possibility of wandering about. Inside [Country X] it was easier. The ideal situation would have been spending a lot more time in the camp, meeting local organisations and gauging intra-camp dynamics."*¹²¹



When conducting remote interviews, investigators spend no time in the relevant in-country or out-of-country witness community. If there is no in-country office to provide support, investigators have to rely on intermediaries for any task that the investigation team cannot perform remotely.

118 Legal Advisor 3 for an NGO.

119 Legal Advisor 1 for an NGO.

120 Matt Kersten and Eva Buzo, "Capturing a Crisis: What lessons can we learn from the "overdocumentation" of the Rohingya crisis?" *Justice in Conflict*, 20 May, 2020, <https://justiceinconflict.org/2020/05/20/capturing-a-crisis-what-lessons-can-we-learn-from-the-overdocumentation-of-the-rohingya-crisis/>.

121 Investigator 1 for a UN Inquiry.



Investigators undertaking in-person missions to different host countries may have less time to spend in witness communities abroad, while investigators working remotely will spend no time in witness communities. Because of this, investigators in RACs will need to rely on intermediaries for many or all of their on-the-ground needs. For example, intermediaries may play a bigger role in the selection of witnesses, or in facilitating witness access to follow-up support services.

3.1.2. Increased reliance: difficulty in building trust with witnesses



It can be challenging for investigators to build the trust necessary to engage with witnesses without the assistance of intermediaries who know witness communities well. While this may be the case in any investigation, working in RACs entails unique security risks that make witnesses wary of cooperating directly with investigators (see Section 1.3).



For example, investigators observed that in some diaspora communities, survivors are too traumatised and fearful of reprisals to trust international investigators. *“They want to keep their circle of contacts as narrow as possible.”*¹²² Establishing a relationship with witnesses through local intermediaries is vital to helping them feel confident enough to share their account.¹²³ One investigator working in a refugee camp characterised by diverse security threats reported that it was impossible to approach someone without an intermediary.

“If investigators had randomly tried to find people in the camp [without intermediaries], they would have been afraid to talk due to fear of [Government] intelligence infiltrating the camp.”¹²⁴



Intermediaries will be especially helpful when investigators are working remotely, particularly with witnesses in hostile or insecure contexts.



Working with intermediaries who are trusted in witness communities in RACs may be the only way to contact witnesses in high-risk settings, eg diaspora communities infiltrated by the authorities under investigation.

3.1.3. Increased reliance: limited availability of intermediaries



When working remotely, it is likely that investigators will have access to fewer willing intermediaries than they would when working in-person with witnesses in-country. This is partly due to technological challenges that limit the ability of potential intermediaries to engage with the investigation. These may be compounded by the security risks unique to RACs; if prospective intermediaries are living under the control of a hostile regime or group, it may be too dangerous for them to cooperate with investigators. Further, when working remotely, there is no opportunity for investigators to meet intermediaries “randomly” as they might when working on-the-ground.



When working with witnesses outside the country or area under investigation, there will generally be fewer witnesses available than in the country where violations have occurred. As a result, there may also be a smaller pool of community leaders, activists and CSOs to rely on as intermediaries, which may make it more difficult to diversify entry points into a community abroad.



Increased security risks in some communities outside the country under investigation (see Section 1.3) can also make it difficult to build varied networks of intermediaries. An investigator working for one UN inquiry observed that *“The fear in [X diaspora] is of such a nature that people don’t necessarily get together and organise in larger groups. You’re basically engaging with individuals, which is why it was so difficult to establish networks.”*¹²⁵

Humanitarian service providers and camp administrators are important intermediaries when working in refugee camps, often providing the only points of access to camp inhabitants. However, it may be more complicated to cooperate with these stakeholders when the authorities or parties under investigation are hostile to the process. According to investigators, some UN and humanitarian agencies were reluctant to be intermediaries for human rights investigations

122 Legal Advisor 1 for an NGO; Legal Advisor 2 for an NGO.

123 Legal Advisor 2 for an NGO.

124 Investigator 1 for a UN Inquiry.

125 Investigator 3 for a UN Inquiry.

for fear of jeopardising their other activities in the area under investigation.¹²⁶ These agencies may also be wary of possible repercussions for their beneficiaries and staff. Investigators should keep this potential barrier in mind when deciding where to approach witnesses abroad.



Investigators should keep in mind that there will likely be fewer intermediaries available in RACs, because:

- In-country intermediaries often face technology and security barriers to working remotely with investigators.
- Investigators working remotely do not have opportunities to meet intermediaries “randomly” on-the-ground.
- There may be a smaller witness pool available abroad, which means there may be fewer community leaders, activists and CSOs that can work with the investigation.
- Humanitarian workers in refugee camps may be unable or unwilling to cooperate with an investigation due to concerns over repercussions for their beneficiaries, operations and staff.

When there are fewer available intermediaries, investigators will have to rely more on a smaller number of intermediaries.

3.1.4. Increased intermediary responsibilities



Due to their lack of time on-the-ground in RACs, and the limited availability of intermediaries in many of these contexts, investigations in RACs often rely on a small number of intermediaries for a variety of responsibilities. These may include:



- identifying witnesses and building trust in insecure or unstable environments;
- helping to assess witnesses' security, psychosocial and other needs;
- explaining the investigation mandate to witnesses;
- having an initial discussion about issues like confidentiality and consent;
- arranging interpreters and all the associated logistics; and
- connecting a witness with referral pathways and facilitating the provision of follow-up services.

Particularly when investigators are conducting remote interviews, intermediaries may also be relied on to:

- identify or provide a secure location for the interview (see Sections 4.6, 4.7 and 4.8);
- transport the witness to the interview location;
- supply and set up the necessary technology;
- arrange any reimbursements for travel and time spent on the interview; and
- assist with developing a cover story for the witness.



Intermediaries often need to perform these roles for in-person interviews abroad as well as remote interviews, because many of the interview arrangements will need to be made prior to the investigation team's arrival in the host country.



When investigators in RACs rely on fewer intermediaries to perform a range of duties, there will be additional time and resource costs for intermediaries. For example, one investigator reported that in order to conduct a limited number of remote interviews in a COVID context, intermediaries arranged and provided (at their own expense) witness transport to safe interview locations.¹²⁷ Intermediaries may also have to perform tasks that they are not familiar with or adequately equipped for, such as purchasing and setting up secure interview technology.

¹²⁶ Human Rights Council, *Report of the commission of inquiry on human rights in Eritrea*, 29th Session A/HRC/29/42 (4 June 2015): 12; Human Rights Council, *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, 13.

¹²⁷ Investigator 7 for a UN Inquiry.

3.2. Avoiding and mitigating overreliance

3.2.1. Avoiding overreliance



As in any investigation, investigators should map available intermediaries and the communities they have access to in order to identify as diverse a pool of intermediaries as possible. Good investigators will seek multiple entry points to a community, with different areas of familiarity and expertise. Investigators should look beyond community groups, organisations and agencies working on refugee and human rights-related issues, identifying other professionals who may interact with potential witnesses. For example, one investigator relied on doctors to put her in contact with female SGBV victims, and to provide safe, inconspicuous rooms in clinics or hospitals for women to be interviewed. While diversifying entry points is useful in any context, investigators in RACs should make a concerted effort to compensate for limited availability of intermediaries by finding creative and unexpected points of contact.

Another way to avoid overreliance is to remotely plan as much of the interview as possible. For example, investigations should try to provide the interpreter and make separate arrangements for an interview location, rather than using the intermediary's space and resources. *"If as much as possible can be planned remotely and not by the intermediary, you're taking away some of the impact and the potential criticism of overreliance."*¹²⁸ Naturally, this needs to be consistent with threat assessments; in many cases, it will be unfeasible or unsafe for an interviewer to perform certain tasks without the intermediary's support.

In some RACs, intermediaries may be working with journalists, INGOs and foreign governments who are similarly unable to access the area under investigation. It is important to be mindful of this to avoid overburdening intermediaries and using the same access points (see Section 3.3.4).

3.2.2. Acknowledging reliance



Given the likelihood that investigations in RACs will rely heavily on a smaller pool of intermediaries, the investigation should acknowledge and document the nature of its engagement with intermediaries both internally and in external publications. This will be useful for monitoring relationships with intermediaries during the investigation and identifying overreliance at an early stage. It will also help to address any questions and concerns of courts, governments and other end users of the investigation's findings.

Investigators should record the detail of all communications with intermediaries, including how they were briefed, what exact instructions were provided and any expenses that were paid. Reviewing these records may help investigators to ensure that *"what is being communicated to the intermediary is as objective and un-contentious as possible."*¹²⁹ It may also assist an investigation to respond to accusations of partiality or impropriety later on.

It is important to acknowledge the extent to which investigations are relying on intermediaries when communicating with intermediaries themselves. Investigators should regularly check in and ensure intermediaries can cope with the demands placed on them. Further, despite the important role of intermediaries in RACs, it is essential that investigators remain responsible and accountable for the entire interview process. This is vital in contexts where it is necessary to conduct remote interviews, given unique security risks and the investigators' distance from developments on-the-ground.¹³⁰

128 Senior International Lawyer.

129 Ibid.

130 IICI, *IICI Guidelines on remote interviewing*.



Due to their lack of time on-the-ground and the potentially limited availability of intermediaries in RACs, investigations often rely on few intermediaries for diverse responsibilities. To avoid overreliance, investigators in RACs should make extra efforts to:

- Identify creative entry points into witness communities.
- Remotely plan as much as of the interview as possible.
- Coordinate with other stakeholders that may be using the same intermediaries.
- Document reliance on intermediaries internally, in an intermediary log.
- Document reliance on intermediaries externally, in materials published by the investigation.
- Regularly check in with intermediaries to make sure they are coping.

Investigators must maintain full responsibility and accountability for the interview process, despite reliance on intermediaries and distance from the situation on-the-ground.

3.3. Selecting and vetting intermediaries

The information necessary for selecting and vetting intermediaries will be sourced at various stages of the investigation process, both through background research and through direct verification with individual intermediaries and other relevant contacts. Any direct contact with intermediaries should be consistent with the investigation's security and ICT policies. See Section 3.3.3 below for further discussion of contacting intermediaries.

3.3.1. Importance of vetting



Several investigators observed that, because there are often fewer intermediaries available when investigating in RACs, their teams completed a less thorough evaluation of the intermediary's quality than they usually would. Some also found it difficult to vet intermediaries because of time and other constraints. *"We are not always able to vet those organisations well enough to find out about their allegiances, how they are selecting people to interview, their methodology. We're so eager to have an intermediary helping us that we sometimes pay less attention to how they go about finding and selecting people for us."*¹³¹



While the process of vetting intermediaries should always be rigorous, inadequate vetting in RACs can have serious consequences if investigators are relying heavily on a small number of intermediaries. If a problem is later identified with one or two of these intermediaries, this will have a significant impact on the investigation. For example, if an investigation only uses one intermediary to find torture survivors and a problem is later identified with the intermediary's process, the relevant witness accounts may no longer be usable.¹³² Considering this, it is important to verify the intermediary's reputation in the country context and witness community. Investigations can consult INGOs with knowledge of the context when they are unable to source local knowledge remotely.¹³³ This vetting process should not be rushed, even when quickly establishing missions to third countries or setting up remote interviews.



While it may be harder to vet intermediaries remotely, the vetting process should be rigorous in RACs. If investigators are relying heavily on a small number of intermediaries, any problems with one of these intermediaries could taint a large proportion of testimony.

3.3.2. Vetting affiliations and agendas



Like in any investigation, it is essential to develop a thorough understanding of each intermediary's agendas and affiliations, vetting them for anything that could affect the witness's safety and wellbeing, or the quality of information obtained. The dynamics described below in relation to RACs are highly general, and will not be relevant to every context and intermediary.



¹³¹ Criminal and Human Rights Investigator.

¹³² Program Director 2 for an NGO.

¹³³ Legal Advisor 1 for an NGO.

As the conflict under investigation is often ongoing in RACs, intermediaries located both in-country and abroad may be directly affiliated with local parties to the conflict. For example, some investigators found that many intermediaries in refugee camps were either from opposition parties or connected to armed groups.¹³⁴ In contexts where it is necessary to conduct remote interviews with in-country witnesses, the available intermediaries may have no choice but to associate with parties controlling the area where they are located.¹³⁵ Investigators should be aware of how this affiliation affects which witnesses the intermediaries have access to; the stories those witnesses might share; and the risk this may pose for the witness (see Section 3.3.4 for further discussion of this).



Intermediaries from CSOs working in or with communities outside the country may have a more international perspective or affiliation than NGOs in-country, as a natural result of their location abroad. For example, they may be more interested in multi-lateral processes, international accountability processes, or the political agendas of host countries in relation to the conflict. This is not inherently positive or negative, but it may affect the organisation's interests and priorities, and should be considered in the vetting process. Investigators should examine the intermediary organisation's purpose and projects, as well as their staff, funding arrangements and board members. *"Who is funding the NGO can give you important information about any link with, or interest in, foreign governments, for example."*¹³⁶ Intermediaries may also be competing for funding and support from INGOs, other UN agencies and foreign governments. It is important to keep this in mind to avoid exacerbating tensions within the community abroad.

When working with intermediaries outside the country or area under investigation, investigators should be mindful of how different groups and individuals fit into broader "diaspora" politics (see Section 1.2.3), and how this affects their agenda and perspective. For example, an investigator working in one refugee camp found that *"the oldest diaspora groups with the best English and comprehension of justice issues were the best intermediaries, but also the most problematic because they had their own agenda and motivations. What can happen within diaspora communities is that there are voices for justice, pushing people into the process who may not be so willing or aware of their rights."*¹³⁷ By contrast, more recently arrived refugees in this camp had better knowledge of the situation in-country, but often prioritised protection concerns over participation in fact-finding and accountability processes.¹³⁸ Investigators should closely evaluate each intermediary's motivation for engaging with witnesses and make sure to seek out less dominant voices (see also Section 3.3.4). As diasporas may be divided between different groups claiming to represent the voice of the community outside the country, investigations should also take care not to exacerbate inter-communal divisions.¹³⁹



When vetting the affiliation and agendas of intermediaries in RACs, investigators should consider:

- Whether they are affiliated with the regime under investigation or parties to conflict, which is often ongoing in RACs.
- The politics of different diaspora communities to which intermediaries belong.
- Any professional or personal interests, connections or focuses that may affect their perspective.

3.3.3. Security, technology and contacting intermediaries remotely



If intermediaries are located in an unstable context, whether a hostile area under investigation or a refugee camp, even making initial contact may be risky. *"Just by emailing CSOs you put them in danger."*¹⁴⁰ Reaching out to a potential intermediary who is actually hostile to the investigation, or mistakenly contacting the wrong person, may expose the investigation to serious security risks.¹⁴¹



Considering these risks, investigators should undertake thorough background research into the intermediary's security context prior to making contact, looking into:

- who controls the area where the intermediary is located, how effective their control is and what risks this presents;
- whether, how, which and whose communications are being monitored;

134 Investigator 1 for a UN Inquiry; Investigator 2 for a UN Inquiry.

135 Lead Investigator 2 for a UN Inquiry.

136 Legal Advisor 2 for an NGO.

137 International Criminal Justice and SGBV Expert.

138 Senior Investigator for an NGO.

139 Stokke and Wiebelhaus-Brahm, "Syrian diaspora mobilization."

140 Investigator 5 for a UN Inquiry.

141 Program Director 2 for an NGO.

- what phone records or data might reveal to a hostile party, whether inside the area under investigation or in the witness's host country; and
- whether anything about the intermediary's specific profile, including past and current work, makes them vulnerable to surveillance or threats from authorities.

Based on this research, investigators can assess whether making initial contact is safe and consistent with the investigation's overall threat assessment and risk mitigation policies. If it is judged safe to contact the intermediary, investigators should verify the above research with them and ascertain additional information about:

- the intermediary's technology requirements and capabilities;
- the most secure platform to use for further communication; and
- whether the intermediary has a secure location where they can contact and speak with investigators and, when required, witnesses.

For more detailed discussion of some of the security considerations outlined above, see Sections 4.3 and 4.5 on evaluating the individual witness's security situation. See also Section 1.4 about background research on the technology available for contacting witnesses and intermediaries.



Even preliminary contact may be dangerous when intermediaries are located in a hostile area under investigation or host country. Investigators should always conduct thorough background research before contacting intermediaries, taking into account factors such as:

- Whether communications may be monitored.
- Who controls the area where the intermediary is located.
- Whether anything about the intermediary's specific identity or work makes them particularly vulnerable to security threats.

Investigators should verify this information with intermediaries who are safe to contact, and seek additional details on:

- The intermediary's technology requirements (eg whether they need to purchase a new device or additional data).
- A secure way to communicate going forward.
- Whether the intermediary has a secure location where they can speak with investigators on an ongoing basis.

3.3.4. Understanding the intermediary's entry points to witness communities



A major role of intermediaries in any investigation is to facilitate access to witnesses. Intermediaries may be well-connected community members who actively perform this role, selecting witnesses and presenting them to investigators. They may also be people who work in specialised areas and can provide access to specific witness types (eg survivors of a particular violation), or pass on the details of witnesses they have encountered in the course of their regular work as, for example, service providers. It is important to remember that intermediaries may be survivors themselves.

Investigators should always examine how, why and in what capacity intermediaries are identifying particular witnesses. It is common in any context to encounter intermediaries who source witnesses *"from the community that are easy to access/find, or witnesses who intermediaries are already working with, or those who are willing to talk or who convey the right kind of message."*¹⁴²

In RACs where investigations rely on a small number of intermediaries, investigators should take care to avoid becoming entrenched in narrow networks of sources. For example, investigators working in refugee camps and small diaspora communities often have to rely on a limited number of *"middle men"* who provide a gateway to witnesses.¹⁴³ If these intermediaries draw from a narrow pool of witnesses, the information received by an investigation may have significant gaps. An investigator working in one refugee camp realised that intermediaries were providing witnesses from only one

¹⁴² Criminal and Human Rights Investigator.

¹⁴³ Senior Researcher for an INGO.

community when she examined satellite imagery and found evidence of extensive village destruction, “*but had not one witness statement from a 1000 about this.*” This was because “*the intermediaries were just providing witnesses to the same events, from the same groups*”, which meant that the experiences of other available witnesses were not represented.¹⁴⁴

If intermediaries repeatedly draw from the same networks, it can also lead to over-documentation. It is not uncommon in some refugee camps to encounter witnesses who have given many interviews, some videoed and some signed. “*Imagine that person going to court and trying to claim their rights, but there are 22 statements that say different things.*”¹⁴⁵

While this can occur in any investigation, it may be more difficult to understand how intermediaries are identifying witnesses when investigators are not on the ground. It will therefore be important to ask witnesses how they know intermediaries, how they were identified and whether the intermediary has put them in touch with other investigations. Intermediaries should be carefully briefed on the types of witnesses that investigators are looking for (see Section 3.3.6).



Investigators should evaluate whether intermediaries are amplifying the voices of some witness communities over others, intentionally or not. It will be harder to do this in RACs when investigators are spending limited or no time in witness communities.

To avoid a skewed selection of witnesses, investigators can:

- Expand their intermediary pool where safe and possible to do so.
- Brief intermediaries in detail about the specific identity, experience and range of witnesses needed.
- Ask witnesses how intermediaries identified them and approached them about the investigation.
- Compare the type, profile and experiences of witnesses identified through different intermediaries to identify patterns and possible gaps or limitations in source coverage.
- Compare witness testimony with other sources to identify patterns and gaps.

3.3.5. Intermediary-witness relationship



In any investigation, interviewers need to “*factor in power dynamics and what relationship the intermediary has with survivors.*”¹⁴⁶ This is important when conducting remote interviews, as the investigator will be unable to conduct face-to-face observation and evaluation of the intermediary-witness relationship. Investigators can “*ask if the witness was paid any money, or was threatened, exploring the relationship the witness had with the intermediary prior to providing testimony. From time to time, look back and spot patterns.*”¹⁴⁷

It will also be important for investigators to consider how the witness and intermediary’s affiliations and political identity affect their relationship (see discussion in Section 3.3.2).

3.3.6. Support, capability and expectations



• Intermediary capability

It is essential to understand the intermediary’s resources to ensure they are capable of meeting the methodological and security standards of the investigation, and to avoid overburdening them.¹⁴⁸ Investigators should be mindful about whether assisting the investigation takes the intermediary away from providing other services. While this is important in any investigation, it is even more relevant in RACs given frequent overreliance on intermediaries.



If investigators are not confident about an intermediary’s capacity, for example if the intermediary will not have the resources necessary to follow an investigation’s security protocols, investigators should cease or modify any arrangements accordingly.

144 Senior International Lawyer.

145 International Criminal Justice and SGBV Expert.

146 Legal Advisor 3 for an NGO.

147 Senior International Lawyer.

148 Legal Advisor 3 for an NGO.

As in any investigation, intermediaries themselves may be survivors of, eyewitnesses to or otherwise affected by human rights violations. While intermediaries who are not providing accounts will not need the same support as witnesses, investigators should evaluate any support needs the intermediary may have as a result of their work for the investigation. For considerations relevant to providing support remotely and/or abroad, see Sections 1.5 and 4.4.

Investigators must also assess the intermediary's expectations of financial reimbursement and other material assistance.



Always discuss the intermediary's resources with them to ensure they can meet the methodological and security standards of the investigation, and will not be overburdened. This is particularly important in RACs given frequent overreliance on intermediaries.



• Briefing

Intermediaries should always be trained and briefed on their roles, responsibilities, and the investigation's methodology, confidentiality and security protocols.¹⁴⁹ It is especially important to brief intermediaries thoroughly and clearly in RACs, as investigators will likely have less oversight over the intermediary's work. One investigator observed that *"there's often a certain amount of respect - 'we trust you, you do your thing.' That's the amount of direction we give, without saying 'please be careful that you don't do this', or giving even more specific guidance, eg that we're interviewing people from all geographic areas or those without means."*¹⁵⁰

Multiple investigators emphasised the importance of briefing intermediaries to increase witness diversity by providing very clear, specific criteria for witness selection, including gender, age, ethnicity, religion, language, education and other identifying characteristics.¹⁵¹ This is vital in RACs considering the challenge of identifying diverse witnesses abroad and/or remotely (see Sections 1.1 and 1.2).



• Training and capacity-building

Some NGOs provide basic training and capacity-building to intermediaries *"to have more control over the quality of evidence obtained."*¹⁵² This includes training on talking about international justice, approaching survivors in a trauma-sensitive way, referring witnesses to psychosocial and other services, and on investigative methodology itself.¹⁵³

If done well, training can ensure that intermediaries derive some benefit from contributing to the investigation, in terms of skills and capacity.¹⁵⁴ In contexts such as refugee camps, supporting local CSO documentation efforts can even be a way of diversifying entry points into witness communities beyond well-established intermediaries and humanitarian service providers.¹⁵⁵

Investigators should make sure this interaction with intermediaries is well-documented and explained in the methodology of published findings.¹⁵⁶



As investigators in RACs will rarely be based in the same location as intermediaries, they may find it challenging to understand the intermediaries' methods of work. It is important to develop a clear, shared understanding of the intermediary's roles and responsibilities, and of the investigation's confidentiality requirements, security protocols and methodology.

Some NGOs provide basic training and capacity-building to intermediaries, allowing them more influence over the way intermediaries work. Investigators should make sure any training provided is documented and acknowledged in the methodology of published findings.

149 International Criminal Justice and SGBV Expert.

150 Criminal and Human Rights Investigator.

151 Commissioner 3 for a UN Inquiry; Senior International Lawyer.

152 Legal Counsels for an NGO.

153 Ibid; Country Program Manager for an NGO; International Criminal Justice and SGBV Expert.

154 Multiple NGO workers.

155 Kersten and Buzo, "Capturing a Crisis."

156 Senior International Lawyer.

3.4. Selecting, vetting and briefing interpreters

3.4.1. Selecting and vetting interpreters



Where possible, it is preferable for members of the investigation team to identify interpreters. This is important for confidentiality, and to avoid risks of bias and overreliance on intermediaries (see discussion in Section 3.2).



Interpreters should undergo the same vetting process as intermediaries (see Section 3.3). As the interpreter will necessarily be privy to the witness's entire account, it is vital to ensure that nothing about the interpreter's profile would make the witness feel uncomfortable, or expose the witness to real risks. This can be particularly challenging in small communities abroad, or those where very few people outside the witness community speak the relevant language. In one diaspora group characterised by fraught political divisions and significant security risks, some witnesses chose to testify in a second language in which they were not fluent or even comfortable, rather than use an interpreter from within their community.¹⁵⁷

It is also crucial to assess any risks the interpreter may face because of their involvement in the investigation, and any support needs they may have.

3.4.2. Using interpreters remotely



The role of an interpreter may be more complex in a remote review than it would be in other contexts, where interpreters generally have a minimal presence and simply translate what is being said. Scenarios may arise during a remote interview where it is necessary for the interpreter to perform additional functions, particularly if they are in the same location as the witness (and the interviewer is elsewhere).



Interpreters may play a role in responding to witness emotions when, for example, connectivity is an issue for the investigator. An interpreter with better connection or who is in the same room as the witness may have to alert the investigator when a witness is distressed, and to reassure the witness where appropriate. If the witness becomes upset when discussing a sensitive topic, the interpreter may signal to the investigator suggesting they alter the pace of the interview. Because it is harder for an investigator to read body language remotely (see Section 5.2.2), interpreters may play these roles even when connectivity is not a problem. Interpreters may also be required to notify the investigator of security or privacy threats that arise during the interview. For example, when the interpreter is in the same location as the witness, they may need to alert the investigator if someone unauthorised enters the room.

Investigators must assess whether interpreters who may be requested to play additional roles are adequately skilled and experienced; ensure they agree to and are comfortable with such roles; and brief them carefully on if, when and how to intervene in an appropriate manner. When the witness and the interpreter are in the same location (and the investigator in another), the interpreter's increased role may mean they conduct side conversations with the witness. Investigators should cover this possibility beforehand with interpreters to ensure matters of substance are not discussed.

If an interpreter is in a separate location to both the witness and investigator, this may create additional connectivity problems. *"If you rely on interpreters who were also at home, you have to do a three-way call. This was tremendously challenging with poor network in Country X and Country Y."*¹⁵⁸ It may also be difficult to coordinate time zones. These potential obstacles should be factored into the interview plan.



Discuss with interpreters in advance whether they may have to perform roles outside of interpreting during the interview, particularly when they are in the same room as the witness. For example, interpreters may have to communicate with the witness and/or alert the investigator if:

- The investigator's connection drops.
- Someone else enters the room.
- The witness is in emotional distress that is imperceptible to an investigator working remotely.

Brief interpreters carefully to ensure they are comfortable with these roles and will not overstep any boundaries.

¹⁵⁷ Commissioner 2 for a UN Inquiry.

¹⁵⁸ Investigator 8 for a UN Inquiry.

Part II:

Witness interview

Key issues:

- Setting up a remote interview can take **longer** than arranging in-person interviews due to unique technology, security and other logistical considerations. These considerations include: **safely contacting witnesses** (see Section 4.2); **identifying a secure platform** for remote interviews (see Section 4.5); and **finding a secure location** for the interview (see Sections 4.6, 4.7 and 4.8).
- Asking pre-interview questions about the witness's security context and support needs may be more difficult in RACs. It will be necessary to **assess in advance** the witness's **technological capabilities** and security context, particularly when working with witnesses who are speaking covertly from an insecure context (eg a hostile country under investigation). Even messaging witnesses on a secure application can increase the risk of identification by, and reprisals from, authorities and groups that oppose the investigation.
- The safety and quality of remote interviews will often be undermined by: **poor connection**; the **challenge of building rapport** and **responding to witness needs** without being in the same location as them; the difficulty of **remotely ensuring** that the interview **location** remains **secure** throughout the interview; and other obstacles detailed in Section 5. Audio calls are very challenging from a security and witness support perspective, and should only be conducted in specific circumstances (see Section 4.5.1).
- Witnesses living outside the country, particularly refugees and asylum seekers, may have **unique motivations** and **needs** relating to their migration situation and living conditions. These should be **evaluated** and **considered throughout** the **interview process**, including when managing witness expectations and assessing the witness's account.

Section 4:

Setting up the interview

Who gathers information?

Highly experienced investigators with appropriate training. Investigators conducting remote interviews should receive **specialised training**, eg in digital security.

Investigators should be supported by a team or institution with **adequate time, resources and experience** to conduct safe, trauma-sensitive, high-quality interviews.

How to gather information?

Background research on security, consulting experts, secondary sources and intermediaries.

Use an **appropriate, secure application** to make initial contact with the intermediary, or the witness where possible. Agree on a suitable method of future contact.

Conduct a **screening interview** with the witness, or with the intermediary on the witness's behalf.

If not?

The interview should not proceed

What information?

What is the witness's individual **security situation**?

What are the witness's **support needs**?

What are the witness's **technology requirements**?

Are there any other factors specific to the individual witness that will affect the safety, viability and effectiveness of the interview?

Proceed with arranging interviews if:

It has been established that the witness has:

- A **safe location** to talk
- Access to their own, **secure device**, or a trusted intermediary's device
- The ability to use the necessary platforms and follow **digital security** protocols
- Undergone a **psychosocial** assessment
- Access to any necessary **support**

These assessments should be consistent with the investigation's broader security, support, ICT and other relevant protocols.

Setting up the interview



Once investigators have access to a witness pool, they need to assess how an individual witness might contribute to the overall investigation strategy. Investigators will perform this analysis as part of their investigation planning, incorporating the RACs- specific considerations raised in Part I.



This section covers the subsequent process, which involves evaluating whether and how it is safe, logistically feasible and otherwise appropriate to interview a specific witness who has been identified as relevant to the investigation.

“ You have to establish where you can speak to them, which phone you can use, which safe house [or other location] they can go to, what reason they give their parents or their village leader to travel there. We had to think through every single step, it takes forever.”¹⁵⁹

4.1. Preparing and supporting the investigator



Investigators in RACs should be highly experienced, with specialised training in digital security and trauma-sensitive interviewing. Vicarious trauma support should always be available to interviewers.



Given the challenges associated with security, logistics and witness wellbeing that are described throughout this guide, investigators in RACs should be highly experienced and trained appropriately. Investigators conducting remote interviews will likely require specialised training in digital security and trauma-sensitive remote interviewing practices. The latter is particularly important in light of the challenges involved in responding to witness distress remotely (see Section 5.2.2).



Individual investigators must be supported by an investigation team, mechanism or organisation with adequate time, resources and experience to conduct safe, high-quality interviews. Considering the significant security risks in RACs, and the difficulty of responding to a changing situation on-the-ground when working remotely, investigators should feel comfortable avoiding or deciding not to proceed with interviews. It is important to foster an organisational culture that allows investigators to make informed decisions about whether or not, and how, to move forward with particular witnesses and witness groups.¹⁶⁰ As with in-person interviews, remote interviews should be followed by a lessons learned review, which should be shared with the wider investigation team. These reviews should be used to inform policies, procedures and interview plans.



Investigators should also be provided with vicarious trauma training and support, which should take into account that they may be conducting remote interviews from their home. This may pose additional psychological challenges for investigators¹⁶¹ (see Section 4.6.1).

4.2. How and when to obtain preliminary witness information



Obtaining preliminary witness information can be difficult in RACs if when direct, pre-interview contact entails security risks. Interviewers can:

- Send a template to intermediaries to complete a risk assessment and provide other witness information.
- Consult secondary sources, experts and other vetted parties.

¹⁵⁹ Investigator 5 for a UN Inquiry.

¹⁶⁰ IICI, *IICI Guidelines on remote interviewing*.

¹⁶¹ Legal Advisor 3 for an NGO.



In any context, it is important to develop an understanding of the witness's personal situation, including their security context and psychosocial profile, prior to arranging an interview. Based on this, investigators can establish a safe time, place and platform for a substantive conversation.

These preparatory steps are more challenging when investigators cannot access the area under investigation, or are undertaking time-limited missions to witness communities abroad. When preparing for remote interviews, the investigator's distance is complicated by the fact that any digital communication with witnesses in hostile or insecure contexts can be risky. This means investigators have to rely more or entirely on information from others, rather than assessing the witness's situation and context for themselves.

Depending on the security environment, there are a number of ways investigators can obtain preliminary information prior to a remote interview or an in-person mission abroad. Investigators may be able to send a template for intermediaries to complete a risk assessment and provide other witness information.¹⁶² If this is not possible, the investigator can consult secondary sources, experts and other trusted third parties, and verify their research with witnesses at the start of an interview. Whatever the means of obtaining preliminary information, investigators should not arrange an interview unless they have basic details about the witness's security situation, technology requirements and potential support needs.

 Investigators should not proceed with an interview unless they have been able to obtain basic information about the witness's security context, technological requirements and potential support needs.

4.3. Evaluating and mitigating individual security risks

4.3.1. Where to obtain security information



The investigation's background research on the security environment should be verified with the individual witness. Investigators must also ask the witness about any specific risks they may personally face.

Witnesses must be involved in all decision making about their personal safety. Investigators and witnesses should only proceed if both feel comfortable with the level of risk being assumed.



As part of the investigation's threat assessment and risk mitigation strategy, investigators should already have researched the security environment of witness groups and individuals (see Section 1.3). It is important to confirm the accuracy of this background information with the individual witness and ask about risks specific to their personal situation. It will be harder for investigators in RACs to verify the witness's security situation themselves, as they have little or no access to witness communities.

It is essential to involve the witness in all decision-making about their personal safety and security. However, investigators cautioned against solely relying on witnesses and intermediaries to evaluate the safety of their own situation. *"People will tell you they are safe, that nothing worse can happen to them...sometimes a witness out of anger or willingness to tell the story doesn't give full consideration to the risks."*¹⁶³ Even if they have security concerns, witnesses may feel compelled to talk by intermediaries, or simply because *"you're UN or a court or some sort of authority, so they think that they must talk, that they don't have any other option."* Or *"they might hope they'd get some sort of assistance because they have no other options."*¹⁶⁴ Conversely, witnesses may overestimate their level of physical risk, far beyond the actual threat that exists. Proceeding in these cases may cause psychological harm to the witness.¹⁶⁵ Investigators will need to consider the witness's own assessment before making a final judgement call about whether and how to proceed.

 If an investigator does not feel confident about the witness or intermediary's assessment of their security or protection situation and cannot gain further information using other sources, they should not proceed with the interview. If the witness does not feel comfortable moving forward with the interview, the investigator must not proceed.

¹⁶² Investigator 5 for a UN Inquiry.

¹⁶³ Investigator 8 for a UN Inquiry.

¹⁶⁴ Criminal and Human Rights Investigator.

¹⁶⁵ Senior Criminal Investigator.

4.3.2. What security information to obtain



Investigators should find out about:

- Aspects of the witness's identity (eg their profession) or experiences (eg witnessing a particular incident) that make them vulnerable to security threats.
- Whether the witness has a secure location to provide testimony.
- Who controls the area where the witness is located and the risks this presents.
- Whether witnesses have family and other close contacts who may be vulnerable to reprisals.
- Whether out-of-country witnesses may return to the area under investigation.



When preparing for interviews in RACs, it will be important to identify any aspects of the witness's identity (eg political affiliation, employment history) that make them vulnerable to security threats. Investigators should ask the witness who might overhear their conversations, either directly (ie people in/near their location) or by monitoring their digital communications; and whether they have access to a secure interview location (see Sections 4.6, 4.7 and 4.8). The investigation team should have researched who controls the area where the witnesses are located, how effective their control is and the risks this presents to the witness¹⁶⁶ (eg patrols by security forces, raids by armed groups). Investigators must verify this information with witnesses and try to establish whether the witness may discuss violations committed by the group or authorities in control of their area.¹⁶⁷



Multiple investigators emphasised that the risk of in-country reprisals is the first issue to address with out-of-country witnesses. Many witnesses were off-limits because of a perceived or actual fear of adverse consequences for their family and other close contacts in-country.¹⁶⁸ "It is very rare that people we talk with have no connections back there."¹⁶⁹ Investigators should also consider whether witnesses abroad may return to the area under investigation themselves, willingly or unwillingly. In this case, providing an account may put them at risk of reprisals on return. This consideration is particularly relevant when working with displaced persons and asylum seekers who are living in a situation of insecurity in locations neighbouring the area under investigation.¹⁷⁰



If any concerns for the witness's personal safety are raised during the evaluation process, investigators should not proceed with the interview unless they can put a protection strategy in place.

See Section 1.5.3 for discussion of the complications involved in providing protection in RACs.

4.4. Evaluating individual support needs and access requirements



Investigators should find out about:

- The witness's migration status and its impact on their access to support.
- Whether the witness is located close to ongoing hostilities.
- The witness's comfort using referral pathways that have been set up remotely, without anyone on-the-ground to help them access providers.
- Whether the witness will need specialised support and if that support is available.

Investigators should explain to the witness that they do not need to answer all questions and can stop the interview at any time.

¹⁶⁶ Investigator 8 for a UN Inquiry.

¹⁶⁷ Ibid; Lead Investigator 2 for a UN Inquiry.

¹⁶⁸ Legal Advisor 2 for an NGO; Investigator 2 for a UN Inquiry; Country Program Manager for an NGO; Human Rights Council, *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea*.

¹⁶⁹ Country Program Manager for an NGO.

¹⁷⁰ Ibid.

While investigators should have already conducted background research into what support is generally available in the witness's context (see Section 1.5), it is important to understand the witness's personal needs and access requirements. This is essential in order to set up adequate referral pathways for the witness.

Information to obtain includes:

- where the witness is on their migration journey and if they have access to host country services;
- if they are willing to access host country services and whether there are other barriers; (eg stigma in their community);
- whether the witness is located close to ongoing hostilities; and
- whether the witness is comfortable and able to use referral pathways that have been set up remotely, without on-the-ground assistance.

When the investigator or the intermediary screens the witness to determine if their story is relevant to the mandate, it will also be important to obtain a general sense of the violations suffered, in order to determine whether they need specialised support (eg for torture and/or SGBV survivors).

If the witness is thought to be particularly vulnerable based on background knowledge and/or screening questions, but their information is deemed essential to the investigation, they may need to undergo a vulnerability assessment by a clinical psychologist with appropriate training.¹⁷¹ Based on this assessment and the available services, multiple investigators refrained from conducting the interview, deciding that: *"If you can't figure out a way to do remote interviewing safely, with security support and trauma support, don't do it."*¹⁷²

Aside from obtaining information about the individual witness's wellbeing and needs, investigators should ensure the witness knows they do not have to answer all interview questions if they do not want to, and can stop the interview at any time. This should also be emphasised at the start of, and during, the interview itself. All investigators should be trained in conducting trauma-informed interviews. The pre-interviews and interview itself must be conducted in a trauma-sensitive manner. In addition to this, an investigator with the appropriate training will be able to provide psychoeducation in advance of the interview. Psychoeducation involves explaining to the witness the potential psychological impacts of providing an account of traumatic events.¹⁷³ It is particularly useful that investigators in RACs are to equipped to do this given the difficulty of noticing and responding to a witness's emotional distress remotely (see Section 5.2.2).



If an investigator is not confident that a witness will have adequate access to psychosocial services when needed, it is not safe or ethical to arrange an interview.

4.5. Choosing a remote interview platform

4.5.1. Conducting audio calls



Investigators should already have conducted research into the various video- and audio-platforms that are available and accessible to witnesses (see Section 1.4). When choosing the most appropriate platform for an individual witness, it is important to keep in mind that it is challenging to conduct trauma-sensitive interviews over audio-call. Without video, investigators and relevant support people will be unable to monitor for visual signs of re-traumatisation, re-stimulation and disassociation.¹⁷⁴ It will also be difficult to monitor the security of the witness's location and the potential interference of unauthorised parties during the interview process (see Section 5.1.3 for further discussion of this).

Audio-calls may be viable if they are conducted by highly trained investigators, following a thorough assessment of the witness's profile, preference, support needs and security context. If audio-calls are conducted, they should be specifically covered by the investigation's policies and procedures, which should be developed in consultation with subject-matter experts (including experienced trauma experts). Even in this scenario, it is advisable to turn on the video at the beginning of the call to verify the speaker's identity, unless a support person in the same location as the witness can perform this role. Having video on at least at the start will also allow the witness to see the investigator and their environment, which will help to build trust.

¹⁷¹ United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh (UNITAD) and Mental Health Program at Stanford University, *Trauma-informed Investigations Field Guide* (United Nations: New York, 2021): 26-27.

¹⁷² International Criminal Justice and SGBV Expert.

¹⁷³ UNITAD and Stanford University, *Trauma-informed Investigations*, 27.

¹⁷⁴ IICI, *IICI Guideline on Remote Interviewing*.



Audio calls can be very challenging, particularly with survivors and witnesses of traumatic events. Investigators need to assess the appropriateness of audio-interviews, keeping in mind that:

- It is challenging to conduct trauma-sensitive interviews over audio-call.
- Audio-calls do not allow the interviewer to monitor the safety and privacy of the witness's location throughout the interview.
- If the investigation team has assessed that it is safe and appropriate to use audio, video should be used at the start of the interview where possible, to identify everyone on the call and verify their locations.
- If the investigation team has assessed that it is safe and appropriate to use audio, having a trusted support person available during the interview can mitigate some challenges of an audio call.

4.5.2. The individual witness's technology requirements



The suitability of the investigation's preferred platforms (see Section 1.4) will have to be evaluated in relation to each specific witness, taking into account:



- their security environment;
- their personal profile, including their ability to access, and use or learn to use, a secure platform;
- telecommunications infrastructure in their area; and
- the sensitivity of the account they will likely provide.

As noted above, any form of communication with witnesses and intermediaries living in a hostile context can attract unwanted attention from authorities. *"Even a simple contact, a missed call could endanger them."*¹⁷⁵ This danger does not always come from authorities monitoring communications – a witness's family or others in their vicinity may pose a threat. All of these risks should be factored into the investigation's threat assessment and communicated with the witness so they understand the potential consequences of cooperating with the investigation.

Investigators should always ask whether the witness has exclusive access to their device and who else may use it, with or without permission.

“Do they have their own phone, or are they sharing with their husband? Can they be honest with their partner or do we need to camouflage our approach and continued contact? Is it going to be suspicious for them to go somewhere and speak with you, to disappear for a few hours?”¹⁷⁶

Women, the elderly and other minorities in many contexts may not own a personal device, requiring them to use the phone of an intermediary, service provider or other CSO. Before approving this arrangement, investigators must be able to assess the security of these devices as well. Any software on the device should be examined for security vulnerabilities that might mean the interview could be monitored or traced.

Whatever device is used, investigators should employ, and instruct the witness on, digital security hygiene measures. For example, investigators may take steps to ensure the same number cannot be used to link witnesses to the investigation or one another.¹⁷⁷ Investigators and witnesses should also manually or automatically delete content and metadata on a regular basis.

It is important to assess the investigation's preferred technology in relation to the individual witness's technical and financial capacity. This will involve asking:

- whether the witness has enough credit to conduct a call of sufficient length using data or a phone network;
- whether the witness has good connectivity, which will affect the quality and viability of the interview (see Section 5.1.2) and the ability of the interviewer to use visual aids; and
- whether the witness has the skills necessary to use the required applications and to follow digital security protocols.

¹⁷⁵ Investigator 4 for a UN Inquiry.

¹⁷⁶ Criminal and Human Rights Investigator.

¹⁷⁷ Lead Investigator 2 for a UN Inquiry.

When using a video platform, investigators should flag with the witness that video calls may require significant bandwidth and data. This should also be factored into an assessment of the witness’s technological capacity and digital security; for example, investigators should consider whether using additional data will draw unwanted attention to the witness. Investigators must decide whether it is appropriate and possible to reimburse the costs of the data (see Section 4.10).

If the investigator needs to share documents and other interview material with the witness, they must carefully consider the most suitable means of transferring and storing files, taking into account ease of use, accessibility of technology, cost of transmission and security.

Investigators should also establish alternative platforms or communication forms to use in case the preferred platform malfunctions or the interview is disrupted. An alternative platform may also be more suitable for follow-up contact, for example when the witness is interviewed at an intermediary’s offices or a safe house but is unable to travel there again. Communication via alternative platforms must still be consistent with the investigation’s security and ICT policy.¹⁷⁸



Investigators should find out whether the witness has:

- Exclusive access to their own device.
- Software on it that may cause security vulnerabilities.
- Sufficient data and/or credit.
- Good connectivity.
- The technological skills necessary to use secure platforms.
- An understanding of the digital security risks involved in speaking with the investigation.

Where investigators use video-calls, they must consider whether this will require excessive data use. This may impose undue costs on the witness or intermediary, or draw unwanted attention to them (eg from family members inquiring about unusually high data use). Investigators should ask about alternative communication forms in case the chosen technology/device malfunctions at any point during the interview process.

These factors need to be considered in conjunction with physical security; while the witness’s device may be secure, the space in which an interview is taking place might not be (see Sections 4.6 and 4.8).

4.6. Choosing a secure location for a remote interview



If witnesses outside the country will be interviewed remotely, the challenges involved in finding secure interview locations outlined below will be compounded (see Section 4.8).

4.6.1. Suitability and contamination of private spaces



The witness and interviewer will both need to speak from places that are secure and private, which will be harder to find if the witness is testifying covertly in a hostile country under investigation or host community. Witnesses may feel more secure speaking when they are at home, rather than when they are at work or somewhere else where a long phone conversation would seem suspicious.¹⁷⁹ Where this is the case, investigators should evaluate the suitability of the witness’s home, including whether they might be overheard or overseen by people in neighbouring rooms, homes or on the street; whether they have stable WiFi or mobile service; and whether they are likely to experience power outages.



Investigators also need to be aware that talking about traumatic events might ‘contaminate’ what is otherwise a safe space for the witness. This means that the witness will associate a traumatic memory with, for example, their bedroom or their tent. This can have significant impacts on a witness’s long-term wellbeing and ability to live comfortably in their own home. If investigations decide to proceed with home-based interviews, these should be conducted according to a protocol developed in consultation with trauma specialists, and evaluated in relation to each witness’s profile. Investigators working remotely may also be conducting interviews from their home environments, and should consider the impact of this on their own comfort and wellbeing.¹⁸⁰

178 UNITAD and Stanford University, *Trauma-informed Investigations*, 123.

179 Investigator 2 for a UN Inquiry.

180 Legal Advisor 3 for an NGO.



While a witness, investigator or interpreter may prefer or be required to conduct the interview in their living space, this risks contaminating an ordinarily safe space. Investigators should carefully consider this possibility and discuss it with all involved parties.

When evaluating the suitability of the witness's home as an interview location, investigators should also take into account:

- Privacy (eg who might overhear the witness).
- Connectivity (eg wifi and mobile service availability).
- Power (eg scheduled or frequent outages).

If the witness will be interviewed outside their home, in an external location, investigators should consider:

- the privacy of the space, keeping in mind that even witnesses who are familiar with technology may talk more loudly when on a video-call;¹⁸¹
- whether the witness can safely, affordably travel to the external location;
- whether they will have to pass through security checkpoints, and whether this will attract unnecessary attention to them or otherwise endanger them;
- whether the location is an innocuous place for the witness to visit, and whether it has discreet entrances/exits;
- the impact of any quarantine or health restrictions on witness movement;
- whether the witness will need to explain or justify their travel to relatives, employers, authorities and other curious or hostile parties;
- whether they will need childcare or be required to miss work in order to travel there; and
- whether the location is traumatising for the witness; for example, if the witness was subject to violations at an office or in a hotel room, it will not be suitable to interview them in a similar space.¹⁸²



When advising on or arranging travel to an external location, investigators should consider:

- The privacy and discreetness of the interviewing location.
- Travel requirements, eg whether documentation is needed.
- Whether the witness has prior travel experience.
- How the witness will explain their travel to, and presence in, this location, as well as their absence from their regular location.
- The risks involved in travel (eg whether the witness will pass through checkpoints or be subject to searches).

It will be challenging, if not impossible, to arrange an external location without on-the-ground support

The above points should also be considered in relation to intermediaries, support people, interpreters and other third parties who will be attending the location. These stakeholders may have to arrive separately or at different times, use different entrances and take other precautions in order to avoid drawing unnecessary attention to the location.

It will be challenging, if not impossible, to identify, set up and arrange travel to a safe, innocuous and private location without the assistance of a trusted support network on the ground.

4.6.2. Anonymising the location



When setting up a remote interview location, it is important to anonymise the environment. From a security point of view, family photographs, other images in the background and even distinctive architectural or environmental backgrounds (eg mountain ranges) may provide information about the location of the interview and identity of the witness.



181 IICI, *IICI Guideline on Remote Interviewing*.

182 Program Director 2 for an NGO.

Interviewers should also remove personally identifying details from their background, taking particular care when working from home in a COVID context. They may decide to have the logo of their organisation or agency behind them to anonymise their background and help the witness to feel more comfortable about the authenticity of the interview.



Investigators should ensure there are no personally identifiable details in their background and the witness's background. This includes family photos, or distinctive architectural features and landscapes, such as mountain ranges visible out of a window.

4.7. Bringing witnesses outside the country under investigation



If investigators are unable to establish a secure platform or location for remote interviews in-country, it may be possible, on rare occasions and if absolutely necessary, to bring a witness to a third country. This, however, can have significant security and psychosocial impacts.



“ There are too many security checkpoints with armed groups, and these people have never travelled before. How are we going to put a village leader who has never been outside his region on a plane to come and meet a foreigner in another country to talk about this horrible story?”¹⁸³ ”

Travelling from remote areas may also be physically uncomfortable and taxing for witnesses.



Regardless of who is arranging witness travel, the option of transporting a witness outside their country should be carefully considered and only carried out in extreme circumstances, when absolutely necessary and with risk mitigation strategies in place.

Further, bringing someone to a third country entails a number of logistical considerations. Investigations must factor in time to access documents like a passport or in some cases a birth certificate for travel purposes.¹⁸⁴ They also need to arrange for travel allowances and establish whether the witness will be chaperoned; who will be responsible for security and safety; and what kind of transport is available in the two countries.¹⁸⁵

The witness and often their support person may need a cover story to justify their travel.¹⁸⁶ Investigators should be aware that cover stories can be very complicated to use and easy to detect if the witness is inexperienced or the cover story does not have a history built up behind it.¹⁸⁷ In some contexts, travel to a third country for interviews is straightforward to explain; for example, in one investigator's experience, certain ethnic groups could easily travel across the border to visit relatives who lived in the neighbouring country.¹⁸⁸ In contexts where travel is less easy to explain, using cover stories will depend on the sophistication of the witness and security environment.¹⁸⁹



Moving a witness to another country for an interview is complex. It requires careful consideration of all factors involved in facilitating witness travel to any location outside their home (see Section 4.6.1), and additional consideration of requirements for travel abroad (eg whether the witness has a passport).

183 Investigator 5 for a UN Inquiry.

184 Legal Counsels for an NGO.

185 Ibid; Senior International Lawyer.

186 Investigator 5 for a UN Inquiry.

187 Senior Criminal Investigator.

188 Senior International Lawyer.

189 Ibid.

4.8. Choosing a secure location for an interview with out-of-country witnesses

4.8.1. Secure locations in refugee camps



Out-of-country witnesses often comprise refugees or asylum seekers who are located in temporary or semi-permanent camps. Camps generally have a limited number of private areas¹⁹⁰ and most have few permanent structures, which makes it challenging to find an interview space that is soundproof and secure. *“Survivors need to be able to testify without being worried they will be overheard by someone through a tarpaulin sheet.”*¹⁹¹ There is also a danger of contaminating the safe space of, for example, a witness’s tent or shelter (see also Section 4.6.1). *“Survivors [often] do not like to testify in their tents, or with their children around.”*¹⁹² Investigators must consult witnesses and intermediaries in advance to determine the most appropriate place to conduct the interview.

In addition, refugee camps often host inhabitants who are affiliated with or sympathetic to different parties to conflict (see Section 1.3). This can be dangerous when *“many people know who you are speaking to, it’s very difficult to hide this in a refugee camp.”*¹⁹³ Because of this, out-of-country witnesses may be threatened by others who assume they gain some advantage from providing an account, either material or in relation to their asylum application. *“It won’t matter that you aren’t offering money to interviewees; if you participate [in an interview], there’s the perception that you benefit. If you’re in a refugee camp and someone overhears you talking on the phone, they may target you.”*¹⁹⁴

Host countries may also maintain a presence in refugee camps. Several investigators reported that either protection officers or other local authorities, each of which had distinct agendas, attempted to follow them around and/or be present during interviews.¹⁹⁵ This may make it harder for investigators to find discreet places to talk to witnesses.

Considering these risks, it is preferable if investigators can plan the interview location in advance, with a good appreciation of camp dynamics and an understanding of the physical space. However, particularly in refugee camps, advance planning is not always possible.



If it is not possible to prepare an interview location in advance, investigators should be cautious about speaking to refugees in an ad hoc, unplanned manner, especially if they are unfamiliar with camp dynamics.

If witnesses outside the country or area under investigation will be interviewed remotely, the considerations outlined in Section 4.6 also apply.

4.8.2. Mitigating security risks in refugee camps: in-person interviews



Aside from preparing a safe in-person interview location where possible, investigators can minimise risks to witnesses in politicised camps by being discreet about their presence and activities. One investigator suggested randomly visiting different areas of a camp before conducting interviews. *“You can’t sit in a room and ask everyone you need to see to be brought to you. That puts people in more danger than it benefits them. You really need to think about that in advance – camps are [sometimes] really well organised into blocks, so you have to do a random visit of block C in order to see people in block A.”*¹⁹⁶ Investigators should also consider whether conducting interviews repeatedly in the same location will look suspicious.

Investigators can be initially circumspect when sharing why they are in the camp and what type of witnesses they are looking for. This can avoid specific witnesses and groups from being singled out against their will or without their knowledge, and ensures the bare minimum of people are aware of why witnesses may have spoken with an investigation. One investigator had a preliminary meeting with a broad range of stakeholders in the camp where they explained the purpose of the investigation, but kept the details as general as possible. They then waited for people to approach them with information.¹⁹⁷ This initial discretion will naturally need to be balanced with specificity about what witnesses investigators will ultimately seek contact with, once trusted intermediaries have been identified.

190 Senior Investigator for a UN Inquiry.

191 Country Program Manager for an NGO.

192 Criminal and Human Rights Investigator.

193 Lead Investigator 2 for a UN Inquiry.

194 Investigator 6 for a UN Inquiry.

195 Lead Investigator 1 for a UN Inquiry; Lead Investigator 2 for a UN Inquiry.

196 Investigator 8 for a UN Inquiry.

197 Senior Investigator for a UN Inquiry.

Because there are often a variety of foreign professionals and volunteers in refugee camps, the presence of investigators may not be too noticeable.¹⁹⁸ Investigators should be mindful that witnesses themselves are not inadvertently misled into thinking the interviewer is there to provide a service (see Section 5.3.1 for further discussion of witness expectations).¹⁹⁹



Refugee camps generally have limited private areas and may have been infiltrated by parties hostile to the investigation. Investigators should:

- Plan the interview location in advance, avoiding ad hoc conversations.
- Be discreet about approaching and interacting with witnesses to avoid drawing unwanted attention to a witness's cooperation with the investigation.
- Consult witnesses and intermediaries to determine the most appropriate place to interview the witness, given the limited available private spaces.

4.8.3. In-person interviews outside refugee camps



Due to the challenge of finding safe and secure locations within a refugee camp, it can sometimes be preferable (although not without risks) to interview out-of-country witnesses in an offsite location. For example, one investigator working in displacement sites observed that *“when I was physically going into [X region], I didn’t go into the camps, it would have raised red flags. The intermediary would go in and bring the person physically from the camp to a secure office location where I already was. No one ever saw us connected together.”*²⁰⁰

When working offsite, investigators often relied on interview spaces provided by other multilateral agencies or NGOs.²⁰¹ In such circumstances, it is always important to arrange secure transportation for witnesses in advance, and to avoid drawing attention to their activities.²⁰² However, some investigators reported that witnesses in refugee camps can be targeted just for riding in a foreign professional's vehicle.²⁰³ Arranging for witnesses to leave a camp to speak with an investigator may also require a convincing cover story, which is often difficult to devise and stressful for an inexperienced witness to use. Where this is the case and risks cannot be mitigated, the interview should not proceed.²⁰⁴

Remote interviews outside of refugee camps will pose additional challenges (see Section 4.6).

4.9. Making a time for the interview



The time the interview is scheduled for should be considered carefully. Witnesses providing information covertly may be less likely to be interrupted at certain times (eg while others are at work), although it may appear more suspicious for them to be at home during these times.



The interview time should factor in its likely length. When conducting a remote interview, it may take additional time to set up the necessary technology, establish a good connection, verify the safety of the witness's location and secure their consent (see Sections 5.1.1, 5.1.2 and 5.1.3). As it can be uncomfortable for the witness to talk to a screen for hours, several investigators split the interview up over several days to allow for additional breaks.²⁰⁵ In other contexts, particularly those where the security threat was acute or the connection was poor, interviews were shorter than normal in case the witness was identified or the call triangulated.²⁰⁶ The time of day may also affect the quality of internet connection, which will be weaker during high-traffic periods and non-existent if there are scheduled or random power cuts.

198 Ibid.

199 Investigator 8 for a UN Inquiry.

200 Senior Researcher for an INGO.

201 Investigator 8 for a UN Inquiry.

202 Lead Investigator 1 for a UN Inquiry.

203 Investigator 4 for a UN Inquiry; Investigator 6 for a UN Inquiry.

204 Senior International Lawyer.

205 Legal Advisor 3 for an NGO; Legal Counsels for an NGO.

206 Executive Director of an NGO.



When choosing a time for a remote interview, assess:

- The likelihood of physical interruptions in the interview location (eg children returning home).
- Whether being in the chosen location at a particular time will draw unwanted attention to the witness.
- Possible technical challenges at different times (eg connectivity during peak periods).
- Likely interview length, factoring in the possible need for more breaks during remote interviews due to witness fatigue.

4.10. Reimbursements



Investigations may need to reimburse intermediaries and/or witnesses for various expenses, including the cost of their time; obtaining adequate technology; travelling to a safe location; accessing psychosocial support and other services; and arranging childcare. In certain scenarios, it may be appropriate to compensate the intermediary or witness for the wages or work they sacrificed in order to arrange or participate in the interview.

Prior to conducting the interview, investigations should establish a secure means of transferring funds, making sure *“there is no financial link between the investigation and the intermediary [or witness]. [For example], we found other intermediaries to act as a financial broker between us.”*²⁰⁷ The best means of transferring funds will depend on the context; for example, call data may be transferred between phones in one country but not another. In addition, like any other interaction with the witness, financial arrangements should be tailored to their specific needs. For example, one UN Inquiry could not use certain local organisations to reimburse female witnesses, as there was no female protection officer at their offices, and it would not have been appropriate in this context for the female witnesses to meet with a male.²⁰⁸



Where appropriate, investigators will need to determine secure, reliable options for reimbursing witnesses and/or intermediaries. Based on the options available, the investigator should decide with the witness or intermediary the most suitable means of reimbursing them, keeping in mind the potential need to remove digital traces of any transactions.

²⁰⁷ Investigator 5 for a UN Inquiry.

²⁰⁸ Ibid.

Section 5:

Conducting the interview

ENGAGE AND EXPLAIN

This phase has increased value because it is often the first contact between the interviewer and witness. It is an:

- Opportunity to convey important information
- Opportunity to build rapport
- Opportunity to discuss trauma-related issues, for example, how to communicate if the witness needs a break or wants to stop the interview

This phase may take longer due to connectivity and other technology problems, and because it takes longer to build rapport remotely. More time should be allotted to this phase in remote interviews.

MANDATE and FORMAT

Explain the investigation purpose
Share reason for remote format
Discuss expected interview length and number of sessions

KEY INFORMATION

Obtain witness contact details
Verify the witness's identity
Address witness expectations
Discuss and obtain informed consent

TECHNOLOGY

Test equipment and platforms
Discuss solutions for any glitches and malfunctions

SECURITY

Verify the safety of the witness's location
Explain importance of confidentiality of involvement

ACCOUNT PHASE

The account phase may take longer and be more challenging due to technology problems, the difficulty of emotionally engaging a witness remotely, and the interviewer's lack of control over the witness's environment.

BUILDING RAPPORT

Interview may be more disjointed and disrupted due to technology problems
Investigators lack physical trust-building tools

WELLBEING

Harder to respond remotely to witness emotions
Harder to probe witness account sensitively

VISUAL AIDS

Requires advance preparation
Requires digitisation if physical

EVALUATION PHASE

Keep in mind that witnesses abroad may have unique motivations, beliefs and interests when providing testimony. Consider issues like:

- Migration status
- Recency of departure
- Reason for departure
- Location of relatives
- Political affiliations
- Diaspora dynamics
- Personal experience
- Impact of 'collective memory'

CLOSING

Closing an interview remotely can feel abrupt.
More time should be spent on this.

SECURITY AND CONSENT

Remove digital traces of contact
Re-iterate confidentiality
Reconfirm consent

FOLLOW UP

Obtain future contact details (particularly important if on the move)
Provide options for psychosocial and other referrals (even if on the move)

Conducting the interview



During the 'Engage and Explain', 'Account' and 'Closing' phases of remote interviews, it may be more challenging to communicate with the witness due to poor connectivity, technology problems, the difficulty of reading body language, and the sometimes-disjointed quality of conversations over remote platforms.

During the 'Account' and 'Evaluation' phase of the interview, investigators working in-person or remotely outside the area under investigation should keep in mind the unique motivations, interests and beliefs of witnesses abroad.

This section also covers follow-up with witnesses remotely and/or witnesses abroad, identifying ways for investigators to ensure adequate post-interview support.

The considerations raised throughout this Section should inform the development of an interview plan. Any decisions made by investigators during the interview process should be consistent with the investigation's policies and procedures.

5.1. Engage and explain phase considerations

5.1.1. Initial issues for investigators to cover



All interviews start with the investigator explaining the process and answering any questions the witness may have, regardless of whether there has been a lengthy screening process. When conducting interviews remotely, this 'Explain' phase is especially important if the witness has had little or no prior contact with the interviewer. Where this is the case, investigators will need to verify any information obtained from or by intermediaries about the interview process and the witness's background.

- **Explaining the investigation mandate**

It is important to make sure the mandate of the investigation is properly understood in a remote interview, as it is harder to communicate effectively. *"A huge challenge when conducting the interviews [remotely] was to ... explain very clearly our mandate, we paid a lot of attention to the fact that people really understood why we wanted to speak to them, what they could expect from us. That was obviously quite challenging but very important. Unless people understood, we didn't continue engaging."*²⁰⁹ The interviewer should also explain why they cannot be there in-person and why certain technologies are being used.

- **Explaining the timeline**

When conducting interviews remotely, witnesses are often at home (see Section 4.6.1), and may be providing information covertly. This makes it especially important to ask the witness whether it is still a good time to speak; to explain how long the interview might last; and to ensure they will have connectivity and privacy for the entire duration of the interview. Investigators should also explain how many interviews they anticipate doing, given that remote interviews may be conducted over several days for security and connectivity reasons, or to minimise witness fatigue.

- **Confidentiality of involvement**

While there may have been general discussions about discretion and confidentiality of involvement when setting up the interview, communicating the imperative of confidentiality is crucial, and should be done often and clearly. *"You really have to tell people not to speak [about providing information] in front of others. It seems obvious but you have to be proactive. Then at the end of the interview, you may have to stress 'don't tell anybody that you spoke to us.'"*²¹⁰

²⁰⁹ Investigator 3 for a UN Inquiry.

²¹⁰ Lead Investigator 2 for a UN Inquiry.

Confidentiality of involvement may require a witness to take measures to conceal their cooperation with the investigation. For example, if appropriate, a witness can disguise the interviewers' contact details under a local name or number. It is also important to emphasise that the witness should not record the interview, and to assess whether they have the capacity and motivation to do so. This is necessary not only for confidentiality reasons, but also for version control and admissibility requirements if the account will be used in a court or another accountability mechanism.



Given the witness may have had little to no prior contact with the investigator, and that communicating remotely can be harder, investigators should take extra time to:

- Explain the mandate, introduce themselves and clarify why a remote interview is needed.
- Ask whether the chosen time still works and is safe.
- Emphasise the importance of confidentiality.

• Obtaining consent

When conducting a remote interview, it can be harder to ensure that consent is properly understood. This is because of greater reliance on intermediaries to communicate background information with witnesses in RACs (see Section 3.1); the difficulty of interpreting body language remotely; and because communication is often more strained during remote interviews.

As in any context, investigators should start by obtaining the witness's consent to be interviewed, acknowledging that the witness does not need to answer all questions and can stop the interview at any point. They should also confirm the witness is comfortable for notes to be taken, alerting the witness that they may be able to hear the investigator typing. Investigators should then explain the investigation's confidentiality protocols and potential future uses of the witness interview. It may take time to detail the various courts, mechanisms and other bodies that may use the witness's account. It is important to discuss whether the witness would like to be contacted prior to future use of their interview, noting that follow-up contact may be challenging after a remote conversation (see Section 5.5.1). Investigators should let the witness know that guarantees of confidentiality may be limited by any weakness in technology.

As these explanations may take more time remotely, a longer introductory section and frequent check-ins are often necessary. *"We have a heavy focus on consent: every 15 minutes there was a check-in, asking do you feel comfortable and willing to proceed."*²¹¹



If investigators doubt that the witness is providing informed consent, or if they sense the witness's attitude to consent changing, they should check in and terminate the interview if they cannot secure or reconfirm informed consent.

In many cases, it will be necessary to obtain the witness's consent again at the end of the interview, taking into account the content of the information provided and how they consent for it to be used or shared. If the witness statement is particularly lengthy and needs to be transcribed before being reviewed, the witness may only be contacted for consent at a later date. However, investigators should be aware that it can be extremely challenging to complete this process, given the risks and logistical obstacles associated with remote follow-up contact (see Section below and 5.5.1).



Obtaining informed consent may be harder remotely. Investigators should:

- Take extra time to explain and obtain consent.
- Clarify that the witness is free to end the interview at any time.
- Check in with the witness throughout the interview to ensure that they are comfortable continuing.
- Reconfirm consent to use and share the information when the interview closes.

Investigators should note that any follow-up contact to obtain consent may be more difficult remotely.

211 Program Staff for an INGO.

• Contact details

Obtaining reliable contact details may be difficult when the witness is using a borrowed phone, speaking from an intermediary's office or other safe location, or is in a transient/ impermanent location. Even when a witness is speaking on their own device, it may not be safe to contact them on that device again, particularly if the security situation changes. When a witness has acute safety concerns, they may refuse to provide contact details, requiring investigators to rely solely on intermediaries for follow-up communications.²¹²



If the witness is still on their migration journey, it is important to obtain a means of contacting them after they move camps, cities or countries. *"A local phone number is not sufficient. You need to spend time with a witness really fleshing out how they'll contact you in a year or five years when they have a different SIM card."*²¹³ If witnesses live in refugee camps, they may not have a personal phone, so it is important to take down *"any type of identifying feature, such as the NGO he or she was in touch with, so even if the witness immigrates to Canada or Australia you can find them."*²¹⁴

Establishing reliable contact details is particularly important for purposes of informed consent. If the witness's information is needed at some point for a newly established mechanism or a court, the investigator may need to contact them to obtain further consent for their information to be passed on if the initial consent provided did not cover this scenario.²¹⁵ As in any context, investigators should establish a sustainable way to communicate with the investigation, for example if the witness wants to withdraw consent. This contact should remain valid even when the individual interviewer leaves their role or the investigation is complete.



It is important to obtain longer-term contact details in RACs, as the witness may be speaking on a borrowed device, or travelling between countries as a refugee/migrant.

There should also be a sustainable way for the witness to contact the investigation.



• Identifying the witness remotely

Verifying the witness's identity at the start of the interview may be difficult, considering that the investigator has often had limited prior contact with the witness. Except in specific circumstances, the witness's video should be on at least to begin with, allowing investigators to see their face. However, depending on connectivity, data costs and the devices used, the quality of the witness's video may not be clear, further complicating identification. Ideally, the investigator will have been able to obtain a copy of the witness's identification card or similar official documentation prior to the interview. Where this is not possible, one investigator suggested doing an internet search before the interview to try and find a picture of the witness. The value of this will depend on the individual's online profile. It will also be important to verify the identity of support people, interpreters or other persons who are permitted to be in the room, ensuring that there is no coercion or collusion (intentional or otherwise).²¹⁶

Investigators should show the witness their own identification card, which may contribute to witness comfort and trust-building.



It may be difficult to verify anyone's identity remotely. Investigators can:

- Observe the witness over video, where a video call is possible.
- Obtain a relevant picture (eg a copy of the witness's photo identification card) or description of the witness in advance.
- Verify the identity of intermediaries, interpreters and anyone else in the room.

The investigator should also show the witness their own identification card or documents.

²¹² Program Director for an NGO.

²¹³ Investigator 4 for a UN Inquiry.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

5.1.2. Technology and connectivity



Investigators should test technology and discuss potential malfunctions with a witness prior to the interview, or at the start of the interview. This involves:

- Describing or (if feasible) demonstrating possible glitches.
- Planning for a dropped call, and determining who will call back, when and how.
- Letting the witness know that the call may drop during discussions of sensitive or traumatic material, and that this will be out of the investigator's control. Investigators should confirm that witnesses want to proceed regardless, and reconfirm the availability of any psychosocial support that has been arranged for during or after the interview.

It will be helpful to determine priority questions in advance in case the connection drops.

It is prudent to test technology and equipment with the witness and the interpreter before the interview starts. If this is not possible, technology should be tested when the interview commences.

Investigators should describe or demonstrate any delays, freezes and other glitches that commonly occur, so that witnesses are able to recognise these and respond accordingly. It is important to prepare the witness for a scenario where the investigator, witness or interpreter's connections drops or freezes during the interview process, developing strategies tailored to the witness's specific technology and security situation. For example, if the witness has travelled to a designated third location for the interview, discuss how long it is safe and logistically feasible for them to wait for the connection to be re-established. If the investigator plans to call the witness back at a later date or time, ascertain whether the witness will still have access to a private location and a personal, secure device. Investigators should also confirm whether the witness has an alternative phone number or form of contact to use in case the preferred platform or device malfunctions.

It should be pre-determined whether the witness or investigator will call back if the connection does drop out. There can be a number of reasons for the connection dropping, including connectivity issues, but there also may be security reasons for a witness to intentionally end the call.

In some cases, the witness may experience connectivity problems that cannot be immediately perceived on the investigator's end, which will undermine the quality of the interview. Investigators should be attuned to any indications of poor connectivity on the witness's device, including unusual delays before the witness responds to a question, and repeated requests to reiterate a question. It is important to keep a record of the time and duration of the call, and any interruptions due to connectivity or other issues.²¹⁷

When discussing these issues in advance, investigators should emotionally prepare witnesses as much as possible for connectivity problems during discussion of sensitive subjects. If the connection drops when the witness is discussing a traumatic incident, this may cause significant emotional distress. If there is a risk the interview will be terminated earlier than planned, investigators should also determine priority questions to ask early on.

 If there are connectivity problems during the call and the investigator is aware that the witness intends to discuss a potentially traumatic subject, they should consider rescheduling the interview if the investigator and witness agree that this would be in the witness's best interests.

217 IICI, *IICI Guideline on Remote Interviewing*.

5.1.3. Setting up and verifying the safety of the interview location remotely



To verify a witness's location remotely, investigators can ask the witness:

- To show them the space over video.
- Whether anyone unauthorised is present or could overhear them.
- To set up the space or sit so that entrances are visible.
- Whether they are comfortable, with access to water, power and so on.

Investigators should also show the witness their own location, which will help to build trust.

Investigators can develop a signal with witnesses, intermediaries and/or interpreters to indicate someone has unexpectedly entered the room.

In the initial preparation phase, a secure location should have been arranged by the interviewer and/or intermediary (see Sections 4.6 and 4.8). Investigators should always verify this at the start of the interview, asking the witness about the space and the surrounding environment in detail, and examining it visually through the witness's camera (see Section 4.5.1 for discussion of video and audio options). Relying on the witness to assess the security of their location is not always sufficient. In one instance, *"the person was so eager to talk to us, they said they were alone and in a private place, but they turned on their video and they were on a street somewhere."*²¹⁸ Eagerness aside, witnesses may also have a different understanding of what constitutes a "private" place.

Due to the fraught security environment in which many remote interviews take place (see Section 1.3.1), there is a higher chance of witness coercion and monitoring. It is important to verify that there is no one in the room other than, for example, a support person or interpreter. Investigators can ask the witness to list all of the people within hearing distance, and repeat this check several times throughout the interview. Investigators can also direct the intermediary or witness to set up the space so that entrances and exits are visible to the interviewer, keeping in mind this may involve the witness sitting with their back to the door. Some witnesses may not feel comfortable with this, and it may be difficult to achieve if a room has more than one door.

The investigator, witness, and/or interpreter and intermediary (if they will be present) may want to agree on an innocuous gesture to signal that someone unauthorised has entered the space.²¹⁹ The interviewer should be aware of any changes in the witness's voice or comfort levels that may indicate an intrusion. Other indicators include the microphone being muted and sudden background noise, although these could be the result of activity outside the interview room. Issues like background noise and how to deal with it should be discussed at the start of the interview to avoid inadvertently drawing the wrong conclusion about who else might be in the room.

Even if investigators determine the interview location is initially safe, it is difficult to secure and control the space throughout the interview.

“During in-person interviews, if someone tries to come in you can tell them not to...there's a lot more protection you can provide as an investigator. People were a lot more tense [during remote interviews] because they had to protect themselves in that setting.”²²⁰

This challenge highlights the importance of establishing a secure location for the interview prior to commencing (see Section 4.6).

Aside from verifying the privacy of the space, investigators should assess whether the witness can comfortably remain there throughout the interview. *"Before the substance of the interview, I would ask them to show the room; I would ask and see if anyone was there; I would ask questions like: Are you comfortable speaking? Do you have enough electricity, enough water? If you take a break where can you go? Are your children waiting outside, is there somebody taking care of them?"*²²¹

218 Program Staff for an INGO.

219 UNITAD and Stanford University, *Trauma-informed Investigations*, 120.

220 Legal Advisor 3 for an NGO.

221 Investigator 5 for a UN Inquiry.

Proper verification requires enough time to ask the witness detailed questions about their environment. In the majority of cases, a video link is necessary for investigators to verify the space themselves. It is not advisable for investigators to conduct hurried interviews, or to conduct audio calls except in specific circumstances (as discussed in Section 4.5.1). If the witness is unable to turn on their video during a planned video call and the investigator has any doubts about the safety of their location, they should not proceed with the interview.

Ideally, investigators will be able to rely on trusted local intermediaries to assist with verifying and securing the space, as even with video turned on, the interviewer will have restricted visibility of the room and witness.²²²



If the investigator is unable to verify the safety of the interview location, they should not proceed with the interview.

5.1.4. Addressing witness expectations



One positive corollary of remote interviews is that they may help witnesses understand that the interviewer is not able to provide goods and services. *“If I’m not physically there, there is no assumption I will come with a bag of rice, or a mattress.”*²²³ However, witnesses may be provided with money to reimburse their travel and time, particularly when they need to be transported to safe interviewing locations (see Sections 4.6 and 4.7) or access support services. It is a common issue in all investigations that *“when witnesses testify and they come back with money, other people in the country think that when you go testify you come back with money.”*²²⁴ Managing these expectations, particularly when conducting remote interviews, requires the interviewer to ensure intermediaries are communicating accurately and clearly, and not promising outcomes that will not eventuate (see Section 3). The interviewer must also be confident that interpreters, where they are used, are passing on an accurate message.²²⁵

See Section 5.3 for expectations that may be more common among witnesses abroad.

5.2. Account phase considerations

5.2.1. Building rapport



Building rapport remotely may be challenging, as people may be less trusting and comfortable when they are not in the same physical location as the interviewer. Techniques investigators can use to build rapport include:

- Spending more time on preliminary parts of the interview.
- Asking more introductory questions where appropriate (eg about the witness’s wellbeing).
- Reassuring the witness about the investigator’s identity, for example by showing an official identification card.

In some cases, witnesses may prefer to discuss sensitive or traumatic experiences remotely, as they feel less self-conscious when in a different location to the interviewer. However, investigators have observed that many people are less trusting and comfortable during remote interviews. This is explained by a variety of factors: the difficulty of making a personal connection without face-to-face contact; the fraught security environment in which many remote interviews take place; and the patience and stamina it requires to sit in front of a screen for extensive periods, especially when recounting traumatic experiences.²²⁶

It is also difficult for the witness to feel like they know who they are talking to remotely, as basic communication techniques such as making eye contact are harder over teleconferencing applications.²²⁷ Further, the cadence and fluidity of a remote interaction can be disjointed and unnatural. This can be because of technological problems, but also happens frequently even when the internet connection is strong, simply due to the nature of talking on a device.

²²² Program Staff for an INGO.

²²³ Senior Researcher for an INGO.

²²⁴ Legal Counsels for an NGO.

²²⁵ Investigator 3 for a UN Inquiry.

²²⁶ Criminal and Human Rights Investigator.

²²⁷ Investigator 8 for a UN Inquiry.

Communication issues will be exacerbated if the remote interview requires an interpreter, which can make it challenging to build and maintain a comfortable flow in the conversation.

Investigators working remotely cannot draw on many traditional methods of overcoming these communication barriers.

“ You don't have the tools you normally do when interviewing remotely. If it's in person you can make coffee, offer biscuits and so on. Interviewing is a very physical process.²²⁸ **”**

Instead, investigators can build a personal connection with witnesses by spending more time on preliminary parts of the interview, such as verifying the safety of the witness's location and obtaining consent.²²⁹ Investigators may want to ask more introductory questions than they usually might about, for example, the witness's wellbeing, work/study situation and family.²³⁰ They can also share information about where they are located themselves and show the witness their official identification.

All of these strategies necessitate a lengthier interview, which may be impossible due to security concerns, or if the witness is uncomfortable speaking for extended periods over video.²³¹

 If a lengthy interview is necessary in order to build trust, but not possible, the investigator should consider arranging a follow-up interview, or reconsider whether to interview this witness at all.

5.2.2. Witness wellbeing during the interview



Investigators should have already conducted an assessment of the witness's psychosocial state and access to support prior to proceeding with the interview (see Section 4.4).²³²



 If the investigation team has any doubts about the witness's psychosocial state, ability to access support, the comfort of their environment or any of the other factors discussed in Section 4.4, the interview should not proceed, particularly considering the challenges outlined below.

- **Reading body language**

It is challenging to remotely identify when the witness is distressed and in need of emotional support. *“In a real-life setting, you can see elements of the person who speaks to you and you can read their face more clearly, which tells you if they're impacted or traumatised.”*²³³ Even over video-link, it is difficult to interpret a witness's body language when only their face and upper body are visible, or when the connection is poor. This also makes it hard for an interviewer to decide when to ask more probing questions, change course, or delve deeper into a topic. Silences can be more uncomfortable and feel more forced over a screen.

Some investigators have participated in training on how to better recognise distress over video. For example, they can ask the witness to sit so that the interviewer sees more of their body and can evaluate it from a trauma-informed perspective.²³⁴ Trauma-sensitive interviews enable investigators to properly observe witnesses (including their body language) and professionally respond to signs of, for example, distress and re-traumatisation.

 Especially in relation to survivors and witnesses of traumatic events, remote interviews should only be conducted in a trauma-sensitive way, following a thorough, individualised threat assessment and with necessary support on hand.

228 Criminal and Human Rights Investigator.

229 Investigator 8 for a UN Inquiry.

230 Legal Advisor 3 for an NGO.

231 Criminal and Human Rights Investigator.

232 Legal Advisor 2 for an NGO.

233 Investigator 8 for a UN Inquiry.

234 Legal Advisor 3 for an NGO.

• Responding to distress

Even when it is possible for investigators to identify a witness's distress, it can be harder to respond appropriately when working remotely. *"When a person disassociates in an interview, it is much more difficult for me to react via the screen."*²³⁵ Investigators are left feeling relatively powerless in these situations. One investigator described interviewing *"someone who was very uncomfortable with the questions, he was constantly threatening to end the interview. He didn't come back on the last day to read back and sign [his statement]. If I was there in person, I could have eased the situation. But I didn't have many tools aside from just talking to him through a computer screen thousands of miles away."*²³⁶

Connectivity problems can also make it difficult to respond to a witness's emotions, particularly if the connection cuts out completely. This may leave a witness feeling vulnerable and exposed. An interviewer must make a careful assessment of the benefits and risks of continuing if connectivity is bad (see Section 5.1.2 for further discussion of connectivity).

Investigators should decide how to proceed when a witness is distressed on a case-by-case basis, in accordance with the investigation's protocols on dealing with such a situation. It is important to factor in the individual witness's psychosocial evaluation (see Section 4.4), the presence of support persons during the interview, access to follow-up support services, and the witness's comfort and willingness to proceed. In some cases, investigators may be able to rely on an appropriately briefed support person or interpreter to assist with comforting the witness. In others, the investigator may be able to change their interviewing focus and speak about relevant subjects that are less upsetting for the witness.

If the interview must be terminated, investigators should follow pre-determined procedures that avoid or minimise any risk of exacerbating the witness's distress. These may include grounding exercises and a safety intervention conducted by a trained interviewer or psychosocial support staff (see Section 4.1 on training).²³⁷ It is important to close the interview gently, not abruptly, and follow up (where safe) with witnesses and any intermediaries or trusted contacts on-the-ground, who can provide in-person comfort and facilitate access to services.

• Unexpected content

Investigators should plan for scenarios in which the witness unexpectedly describes sensitive experiences during a remote interview. Depending on the witness's personal profile and psychosocial state, and the experience of the investigator, it may be appropriate to proceed with discussion of these experiences. In other cases, the investigator may decide to continue the interview by acknowledging the disclosure but expressing their concerns about delving deeper into a sensitive subject. If the investigator has doubts about the witness's wellbeing and fitness to continue speaking, it will be necessary to stop the interview, following the guidance set out in the section above.

Some witnesses may be more comfortable discussing traumatic subjects remotely, without seeing or being in the same room as the interviewer. The comfort of the witness should therefore be considered on a case-by-case basis, keeping in mind the referral pathways in place and the availability of reliable intermediaries to assist with follow up.



Investigators have few tools available to identify and respond to witness distress remotely. To assist with this, they should:

- Complete training in trauma sensitive remote interviewing.
- Plan out different options for responding to witness distress based on the witness's personal profile.
- Develop a plan for responding (eg redirecting the conversation or rescheduling the interview) if a witness unexpectedly discloses sensitive content.
- Adjust the pace and tone of the interview where necessary, for example by allowing for pauses and questions. This is important even though silences may feel more uncomfortable during remote interviews.

235 Ibid.

236 Criminal and Human Rights Investigator.

237 UNITAD and Stanford University, *Trauma-informed Investigations*, 128.

5.2.3. Using visual aids



Visual aids are particularly useful in remote interviews where, for example, the witness needs to explain the precise location of a specific incident or the direction from which shelling was fired. It may actually be easier to use visual aids when interviewing remotely – *“for showing photographs, videos, documents, even their statement, sharing on the screen works really well... You can all see the same thing, you’re not turning around a table to show, and can use a cursor point things out.”*²³⁸

Taking advantage of visual aids during remote interviews requires careful preparation. It is always important to ensure there are no accidental security or privacy breaches during a screen share. *“When you share a document, they could see everything on your laptop, they could see another witness’s name.”*²³⁹ Given the limited time available during many remote interviews, it is also helpful if the witness is prepared to view and understand visual aids. *“Make a list of all clips with dates and locations, send it to witness in advance so you can refer to it in a coherent fashion.”*²⁴⁰ If the witness will be sharing visual content (eg a sketch of an incident location) with the investigator, a secure application or channel for communicating this content should be established in advance.

It can be difficult to use visual aids that are not digital, requiring investigators or witnesses to hold objects, pictures or diagrams up to a camera, which can be hard to perceive. Interviewers should therefore prepare visual aids in a digital format prior to the interview, keeping in mind that a three-dimensional object will be less useful in a two-dimensional format. Investigators should also note that, where bandwidth is low, it will be much harder to use visual aids.

When conducting an audio interview, investigators will be unable to share visual aids in real time, and will have to send them in advance. They should only do this if the material is relatively innocuous and can be sent securely.



Visual aids can be very useful during remote interviews. To use them effectively, investigators should prepare the material well in advance and ensure that the witness has adequate bandwidth to view them.

5.3. Out-of-country witness expectations, motivations and beliefs



Every witness will have their own reasons for speaking to an investigation, which need to be probed and understood both during and after an interview. While these vary according to the context and individual, the investigators interviewed and literature on this subject have revealed overarching themes that are particularly relevant to witnesses being interviewed for human rights investigations. This section reviews these themes, but does not cover the full range of evaluation considerations, providing general overviews that will not apply to every context.

Witnesses interviewed remotely will also have specific motivations for speaking to investigators, particularly because they are often at increased risk of reprisals if they are interviewed covertly. However, the investigators interviewed and literature consulted did not reveal any thematic differences between the motivations of witnesses interviewed remotely and in-person.

5.3.1. Migration situation



- **Impact on information provided**

Asylum seeker and refugee witnesses are often in a particularly vulnerable physical, psychological and legal situation. In some cases, *“witnesses might assume that sharing information with investigative authorities might have a positive impact on their asylum proceedings.”*²⁴¹ Others *“are ashamed or afraid to share information that may impact their [asylum] application.”*²⁴² When interviewing asylum seekers in Country X, one investigator found that, depending on the government of the day’s approach to granting asylum applications, people either omitted or embellished any affiliations with rebel groups.²⁴³ Even if they do not consciously omit or modify facts, witnesses may have recounted their story multiple times for asylum proceedings, developing a *“consistent approach”* to how they present their narrative. Investigators should keep these factors in mind when assessing and probing the account and motivations of witnesses abroad.²⁴⁴

²³⁸ Criminal and Human Rights Investigator.

²³⁹ Ibid.

²⁴⁰ Investigator 4 for a UN Inquiry.

²⁴¹ Investigator 2 for a UN Inquiry.

²⁴² Legal Advisor 1 for an NGO.

²⁴³ Program Director for an NGO.

²⁴⁴ Senior Investigator for a UN Inquiry.

- **Impact on expectations: goods and services**

Any witness in a vulnerable position may assume or hope that a foreign professional will be able to provide aid or assistance. Investigators working predominantly with refugees and asylum seekers, especially those living irregularly or in camps with limited resources, may frequently encounter this expectation. Some investigators reported that witnesses have difficulty distinguishing between investigators and the other UN officials or INGO staff administering camp life. While clearly communicating the investigator's objectives and capacity to assist is important, it does not always dispel a witness's hopes of assistance.

"No matter how many times I say I have nothing to do with the provision of food or assistance, my background [ie professional affiliation] creates the inherent belief that speaking to me might provide some benefit. We go to great pains to tell people this [that we can't provide anything]... I am constantly terrified of that reality and the motivations of people speaking with me despite the best preface of what we're doing."²⁴⁵

To avoid raising a witness's expectations, investigators should be careful to minimise confusion between their work and the work of humanitarian service providers in refugee camps. One investigator described a situation where her team *"was working at X refugee camp and was meeting people who had been in the camp for a long time and had already been interviewed, or their story was a few years old. So they had the idea to meet people in the intake area, while they were waiting to get their blankets and other items. I can understand why they thought this was a good idea, but there was also a sense of quid pro quo, like 'I have to speak to them in order to get my blanket or get a good tent.'"*²⁴⁶ If investigators approach witnesses in these settings, they should have already identified a safer and more private location to speak in; should screen witnesses before deciding to interview them; and must make a careful assessment about proceeding in line with the investigation's security, witness wellbeing and other relevant protocols.

An additional complication is that witnesses are sometimes provided with reimbursements, particularly when they need to be transported to safe interviewing locations (see Section 4.8) or access support services. Again, these expectations may be acute when working with vulnerable populations like refugees and asylum seekers living in densely packed camps. Investigations should reimburse witnesses in a confidential, anonymous manner, and emphasise to witnesses they should not discuss any compensation with others in the camp.

- **Impact on expectations: asylum and visa applications**

Asylum seekers are understandably looking for opportunities to improve the chances of success of their asylum application. This may mean they only talk to an investigator because they believe it will assist their application, even if the investigator has been clear about their mandate and capacities. *"Many people asked for help getting refugee status... people sent their lawyers asking for a testimony that I have spoken to this person and have documented their experience. Before talking to anyone I made sure I explained that information they shared went into a report and there was nothing else I could do. I always laid this on the table as one of the conditions for having an open conversation. Managing expectations was something I did all the time."*²⁴⁷



Asylum seeker and refugee witnesses are often in a vulnerable physical, psychological and legal situation. They may have specific expectations surrounding aid and their asylum status. Investigators should be careful to:

- Clearly explain, at the outset of the interview, what the investigation can and cannot provide or how they can or cannot assist.
- Keep these expectations in mind when probing the witness's account.
- Distinguish themselves from support and service providers in refugee camps and other insecure contexts.

5.3.2. Political dynamics



When relying predominantly on witnesses abroad, investigators must understand the political beliefs, divides and allegiances driving the conflict or crisis under investigation, and also the dynamics in various communities outside the country (see Section 1.2.3 for further discussion of these). In general, it is important for investigators to remember that witnesses abroad will be motivated by a combination of "over-there" interests, related to the needs and preferences of local populations, and "over-here" interests, which include considerations such as the *"viability, security, image and standing, and self-perception of the diaspora in the hostland."*²⁴⁸

²⁴⁵ Senior Researcher at an INGO.

²⁴⁶ Criminal and Human Rights investigator.

²⁴⁷ Commissioner 1 for a UN Inquiry.

²⁴⁸ Yossi Shain and Aharon Barth, "Diasporas and International Relations Theory," *International Organization* 57 (Summer 2003): 456.

5.3.3. Insider witnesses



Interviewing insider witnesses and understanding their motivations is always complex. It is particularly challenging abroad, where asylum claims can make people's intentions even less clear. *"With insiders [from X country], you never know if they want to have a clear conscience and regret what happened, or if they have a different agenda. They may want to obtain asylum and will do whatever they can to obtain it, saying they have things of interest but you don't know if it's really what they think, or they can be spies for [X] government. They may try to talk to NGOs and to civil society, to get information about ongoing cases."*²⁴⁹

In contexts where the authorities or parties under investigation have a significant presence abroad, their agents may pose as insider witnesses, which can present a significant security risk to the investigation.

5.3.4. Collective memory



Several investigators observed that witnesses living in close communities like refugee camps and small diasporas may present collective memories as their own. This can occur unintentionally, simply because a large number of witnesses to diverse incidents are living at close quarters, often in a state of significant trauma. An investigator working in one refugee camp observed that *"it can take a quite a long time to establish whether they actually saw something - the stories are so embedded that people who couldn't have seen things are saying that they saw things."*²⁵⁰

This phenomenon may be more or less likely depending on the time between the incident, displacement and an interview.

“ In some ways, it is easier to interview someone talking about something for the first time – it's more spontaneous, not influenced by things they've read about it. When people around them are talking about what happened, there is media around, people start confusing what they experienced and what they heard from others. It's just the way memory works.²⁵¹ **”**

Alternatively, witnesses may feel a desire to “speak for” relatives and other close contacts who remain in the conflict zone, particularly if they think the stories of local witnesses are underrepresented, or if they feel a sense of guilt about leaving relatives behind. Investigators should be aware of this motivation and develop a close understanding of both the population and the witness's personal profile, so that inconsistencies can be identified and they can gently probe what the witness has personally experienced. *"You will always be subjected to the collective narrative. The person will always say they saw it, but you ask detailed questions based on what you know from videos etc. and then it ends up they say, my aunt, my wife, etc. was there."*²⁵²

The phenomenon of collective memory is not always specific to interviewing witnesses abroad in RACs. It can also be common in internal displacement sites and other small, close communities that are visited by investigations with access to the country or area under investigation.



Collective memory may be common in refugee camps and close-knit diasporas. Witnesses may adopt narratives that are prevalent in the community, or may feel a desire to “speak for” relatives and others who remain inside the area under investigation. Investigators should be aware of this phenomenon and carefully probe what the witness has personally experienced.

5.4. Closing the interview



As noted in Section 5.2.2, closing the interview remotely may require more time and signposting than ending it in-person, when body language and informal exchanges make the process more natural. To compensate for this, investigators can ask the witness if they have questions or, if time permits, initiate an informal conversation. Investigators should also instruct witnesses on removing digital traces of their contact, including text messages, the investigator's number and metadata.

It is important to discuss follow-up arrangements, including referrals to support services, and to outline any measures taken to protect witness security after the interview.

²⁴⁹ Legal Advisor 2 for an NGO.

²⁵⁰ Country Program Manager for an NGO.

²⁵¹ Senior Investigator for a UN Inquiry.

²⁵² Investigator 2 for a UN Inquiry.



One investigator advised others working in-person with refugees to “make sure you have petty cash in case the survivor needs to get support right after the interview and they are not eligible for humanitarian or government services.”²⁵³ The appropriateness of this will need to be decided in advance by the investigation team.

Ways to contact the witness for follow-up purposes should have been discussed at the start of the interview (see Section 5.1.1) and should be reconfirmed when closing the interview.



When closing the interview remotely, investigators should:

- Take time and avoid abruptly cutting off the call.
- Go through digital hygiene measures.
- Discuss follow-up arrangements, including referrals, contact details and means of contact.

5.5. Follow-up

5.5.1. Following up remotely



While following-up remotely is often necessary, investigators should keep in mind that it may be extremely challenging and plan accordingly. Contacting witnesses or intermediaries a second time may increase the risk of identification by hostile local authorities, especially if they are in-country. It may also be difficult to regularly get back in touch with witnesses who do not have long-term access to secure technology, or who reside in areas with poor network.²⁵⁴ Considering that it is not always possible to follow-up on every form of contact, particularly short screening interviews, it is important to be direct and honest with witnesses about what follow-up might look like.

When discussing referrals to support services in particular, investigators should remember that even mentioning a possible referral can raise the witness’s expectations.²⁵⁵ Considering this, referrals should only be offered if steps are in place to follow through. It is also important to keep in mind that some witnesses decide not to take advantage of support until long after the interview; “there are cases where people refuse at the beginning but come back two years later.”²⁵⁶



Faced with a situation where a witness may need follow-up support, but it is unfeasible or unsafe for them to access service providers, investigators must determine whether it is safe or ethical to proceed with the interview.

5.5.2. Following up abroad



Follow-up is also more complicated when investigators make one, short mission to a context outside the country or area under investigation, particularly those without a permanent UN presence or a strong civil society network. As one investigator remarked,

“The issue of trauma is a huge concern when working as we did, where you undertake short missions, finalise the schedule, come back to interview and then leave. Obviously if you’re not in the same country where you conduct the investigations, that is much more difficult and requires much more engagement, preparation and follow up.”²⁵⁷

If a large number of witnesses are still on their migration journey, switching communication devices and phone numbers, or in camps/contexts with poor telecommunications infrastructure, it can be almost impossible to ensure consistent follow-up (see Section 5.1.1).²⁵⁸

253 Investigator 5 for a UN Inquiry.

254 Investigator 9 for a UN Inquiry.

255 Ibid.

256 Legal Advisor 1 for an NGO.

257 Investigator 3 for a UN Inquiry.

258 Senior Researcher for an INGO.

In these scenarios, at a minimum, investigators made sure to provide witnesses with contact details for the investigation team and a list of local NGOs, humanitarian actors and other stakeholders offering support services in multiple countries.²⁵⁹ They also placed emphasis on developing partnerships with local organisations that had a sustainable presence in communities and could provide ongoing support to witnesses. Where possible, investigators working in refugee camps can work more closely with existing case management processes to streamline provision of support and take advantage of established referral pathways.²⁶⁰



Following up remotely can be challenging, as it may be unsafe or difficult to contact the witness a second time. Following up with a witness abroad is also hard when the witness is still on their migration journey.

To ensure adequate follow-up in RACs, investigators should:

- Map support services in advance of the interview (see Sections 1.5.1 and 1.5.2).
- Liaise with trusted support networks on-the-ground.
- Provide witnesses with thorough information about services available in their area, and the potential risks and benefits of accessing these.
- Obtain sustainable contact details where possible, and ensure that the investigation can be contacted well after the mandate period (see Section 5.1.1).

259 Investigator 3 for a UN Inquiry.

260 Kersten and Buzo, "Capturing a Crisis."

Annex

1. Understanding the witness pool

1.1. and 1.2. Diversity of witnesses available in RACs

How can investigations identify and reach diverse witness groups remotely and/or outside the area under investigation?

- Undertake thorough mapping of the witness pool available and any gaps. Consult experts with on-the-ground knowledge and continually update the information gathered.
 - When mapping the witness pools available remotely, identify whether witnesses relevant to the investigation can safely access/use the necessary technology.
 - When mapping witness populations abroad, keep in mind that in-country witness communities may have separated and dispersed across multiple cities, countries and regions. Map different migration/displacement paths and the recency of migration/displacement.
- Consult experts and witnesses who may have knowledge of vulnerable or marginalised groups that the investigation team may be unable to access. For example, former (now adult) child soldiers, or healthcare workers who have worked with female survivors, or disability support workers.
- When selecting a secure interview platform for remote interviews, factor in usability for: older witnesses; witnesses with cognitive and sensory impairments; and witnesses living in areas where only certain types of devices are available.
- When identifying witnesses abroad, look outside of common, centralised refugee and asylum destinations. For example, locate witnesses in informal urban settlements as well as established refugee camps.
- Consider ways to make contacting the investigation easier and more confidential for witnesses in sensitive security situations (eg insiders), for example by publishing and disseminating a call for submissions and creating anonymous contact options.

Investigations should acknowledge any diversity gaps in the witnesses they were able to access in their final report and recommendations.

 In accordance with guidance from the Institute for International Criminal Investigations, this guide discourages conducting remote interviews with minors. For further discussion of this topic, investigations should consult the relevant experts in this highly specialised area.

Investigators should also consider the political, social and other dynamics of different witness communities abroad, and how these relate to in-country dynamics. This will help investigators to understand the representativeness and perspectives of witnesses outside the area under investigation.

1.3. Security limitations on access to witnesses

Conduct both an initial assessment of the broader security context and an individualised risk assessment. This will help to determine whether and how it is safe to approach potential witnesses. Review and revise this assessment throughout the investigation process.

If one or more of the parties or authorities under investigation is hostile or uncooperative, consider whether they are likely to:

- Monitor or threaten in-country witnesses who are interviewed remotely.

- Monitor or threaten witness communities abroad.
- Retaliate against witnesses and their families in-country or abroad.

Also assess whether host governments are hostile to witness communities on their territory, particularly unregistered migrants and witnesses on temporary visas.



Special care must be taken to do a full assessment of these security risks when selecting locations to visit and witness groups to approach. Witness interviews should not be considered if the risks cannot be adequately mitigated.

1.4. Technology considerations

When considering the technology available to an investigation and how it affects access to witness communities, investigators should research:

- The secure applications available, their accessibility and any risks involved in using them in the areas where witness groups are located. This research should be regularly reviewed and updated.
- Whether, how, which and whose communications may be monitored in different contexts.
- Risk mitigation methods available in different contexts, eg whether digital hygiene measures can remove traces of contact on the available applications.

1.5. Support, protection and referral considerations

1.5.1. Support services for witnesses interviewed remotely

When mapping support and referral systems for witnesses being interviewed remotely, consider that:

- It may take more time and resources to identify, vet and build a network of service providers from afar.
- There may be few service providers with adequate capacity and security in countries under investigation or host countries.
- It may be unsafe or difficult for witnesses in dangerous contexts (eg a hostile country under investigation) to access services that have been arranged remotely.



The investigation should avoid engaging with entire witness communities if systemic barriers to support have been identified.

1.5.2. Support services for witnesses in different host countries

Assess support services for out-of-country witnesses in each host country, factoring in:

- The range, availability, affordability and quality of services in different host countries.
- Access constraints due to witness migration status.
- Language and cultural barriers to accessing support.
- Stigma surrounding mental and physical illness, and its impacts in diaspora and host communities.

1.5.3. Protection in RACs

The best form of protection is a cautious approach to proceeding with interviews and robust security protocols. More extreme protection measures (eg relocation) are usually expensive for whoever arranges them, stressful for the witness and should therefore be avoided unless absolutely necessary.



If investigators assess that physical protection may be necessary, and it is unlikely to be provided effectively, they should not proceed with the interview.

1.6. Legal and political considerations

1.6.1. Legal constraints

When interviewing witnesses abroad, different legal systems will present unique challenges for investigators. Consider:

- The laws of each host country and how to tailor information collection accordingly, ensuring that investigators abide by the law.
- The extra time and resources it may take to consider these factors in multiple host countries.
- Admissibility requirements for evidence in different jurisdictions, if witness accounts may be used in court proceedings.

1.6.2. Political context of host countries

When relying on in-person interviews with witnesses abroad, investigators may have to engage with more foreign governments than they would if they had physical access to witnesses in-country (and were consequently visiting fewer countries). Consider:

- The requirements involved in seeking entry to the country, including the need to obtain visas.
- The motivations of different host countries for cooperating with the investigation.
- The political balance of countries visited.
- The additional time and effort it may take to build these relationships.

2. A targeted approach to using witness interviews in RACs

In RACs, it can be challenging to find the types of witnesses that are useful to an investigation's mandate and priorities. In order to identify diverse witnesses, and find witnesses who can corroborate or speak to a specific event, investigators should adopt a targeted approach to gathering testimony.

2.1. Corroboration and comparison outside the country or area under investigation

When communities have been dispersed and displaced because of a conflict, it can be hard to find witnesses who can corroborate or provide different perspectives on another's account. It may also be difficult to find people who can speak about a specific incident or type of violation. Mapping witness migration paths will assist investigators to find the witnesses they need and identify gaps. Investigators may also rely on pattern corroboration, identifying common elements across multiple, similar incidents.

2.2. Weighing the “opportunity cost” of interviews

Because of security, wellbeing and logistical challenges in RACs, interviews may impose significant time, resource and emotional costs on all involved parties.

Investigators should carefully weigh the benefit and cost of each interview, considering:

- The interests of all individuals involved.
- The importance of the interview to the investigation mandate and strategy.
- Alternative sources of information.

It is advisable to prioritise quality over quantity of interviews.

2.3. Ensuring diversity and representativeness

It can be challenging to identify diverse witnesses and perspectives in RACs.

Investigations should reach out to varied communities, and regularly review the witness accounts that have been gathered to identify any gaps. It is the responsibility of all team members to ensure diversity.

2.4. Gathering additional leads

In RACs, it may be difficult to contact out-of-country witnesses on their migration journey, and witnesses with variable access to technology and connectivity. Investigators should gather more initial leads than would be required if they had access to the country or area under investigation.

Note: gathering more initial leads does not mean conducting more interviews.

2.5. Using additional sources

Additional sources of information (eg experts, satellite imagery) are particularly useful in RACs, helping investigators to:

- Develop an understanding of the relevant country context despite being unable to visit in-person.
- Avoid interviewing witnesses where there are costs or risks that cannot be mitigated, for example where it is too dangerous to interview in-country witnesses remotely.
- Avoid repeatedly contacting witnesses for further information when other available sources can assist.

2.5.1. Professional and contextual experts and witnesses

As various witness groups may be unavailable to investigators working remotely, professionals who have worked with vulnerable witnesses can be a helpful source of information. This may include psychosocial, other medical, religious and judicial professionals who have worked with, for example, children and SGBV survivors.

When seeking information from professional and contextual witnesses, such as journalists and aid workers with ongoing access to the country under investigation, consider whether cooperating with the investigation may jeopardise their work in-country. Identify ways to mitigate this by maintaining discretion and confidentiality when communicating with them.

Professional and contextual experts may require psychosocial or other support during and/or after an interview. Their security context, technological capabilities, support needs and personal profile should be evaluated prior to arranging an interview.

2.5.2. Statements and interview notes collected by others

In RACs, using statements and interview notes that were collected by other parties (eg NGOs) may mean investigators can conduct fewer, shorter interviews in contexts where connectivity is poor, security risks are high and referral options are limited. Investigators should:

- Confirm that using prior statements is consistent with the investigation's methodology.
- Assess the methodology, security, consent and confidentiality procedures used by the statement takers.
- Assess the level of experience of the statement takers.

2.5.3. Open source information

Open source information will be particularly useful in RACs where witnesses are less accessible. For example, it can be used to create conflict maps, which facilitate deeper understanding of a conflict, the type and scale of violations, patterns of abuse, potential victims and perpetrators.

2.5.4. Satellite imagery and maps

Investigators should use satellite imagery and maps in RACs to:

- Develop a physical understanding of inaccessible incident sites.
- Remotely identify areas they want to investigate (eg, a specific village that has been razed).
- Corroborate other information the investigation has collected.

3. Working with intermediaries and interpreters



Without a trusted, reliable network of intermediaries and other support staff on-the-ground, it will be very challenging to remotely prepare for or conduct interviews in a safe manner.

3.1. Increased reliance on, and responsibilities of, intermediaries

3.1.1. Increased reliance: limited or no time in witness communities

Investigators undertaking in-person missions to different host countries may have less time to spend in witness communities abroad, while investigators working remotely will spend no time in witness communities. Because of this, investigators in RACs will need to rely on intermediaries for many or all of their on-the-ground needs. For example, intermediaries may play a bigger role in the selection of witnesses, or in facilitating witness access to follow-up support services.

3.1.2. Increased reliance: difficulty in building trust with witnesses

Working with intermediaries who are trusted by witness communities in RACs may be the only way to contact witnesses in high-risk settings, eg diaspora communities infiltrated by the authorities under investigation.

3.1.3. Increased reliance: limited availability of intermediaries

Investigators should keep in mind that there will likely be fewer intermediaries available in RACs, because:

- In-country intermediaries will likely face technology and security barriers to working remotely with investigators.
- Investigators working remotely do not have opportunities to meet intermediaries “randomly” on-the-ground.
- There may be a smaller witness pool available abroad, which means there may be fewer community leaders, activists and CSOs that can work with the investigation.
- Humanitarian workers in refugee camps may be unable or unwilling to cooperate with an investigation due to concerns over repercussions for their beneficiaries, operations and staff.

When there are fewer available intermediaries, investigators will have to rely more on a smaller number of intermediaries.

3.2. Avoiding and mitigating overreliance

Due to their lack of time on-the-ground and the potentially limited availability of intermediaries in RACs, investigations often rely on few intermediaries for diverse responsibilities. To avoid overreliance, investigators in RACs should make extra efforts to:

- Identify creative entry points into witness communities.
- Remotely plan as much as of the interview as possible.
- Coordinate with other stakeholders that may be using the same intermediaries.
- Document reliance on intermediaries internally, in an intermediary log.
- Document reliance on intermediaries externally, in materials published by the investigation.
- Regularly check in with intermediaries to make sure they are coping.

Investigators must maintain full responsibility and accountability for the interview process, despite reliance on intermediaries and distance from the situation on-the-ground.

3.3. Selecting and vetting intermediaries

3.3.1. Importance of vetting

While it may be harder to vet intermediaries remotely, the vetting process should be rigorous in RACs. If investigators are relying heavily on a small number of intermediaries, any problems with one of these intermediaries could mean that a large proportion of testimony is ultimately tainted.

3.3.2. Vetting affiliations and agendas

When vetting the affiliation and agendas of intermediaries in RACs, investigators should consider:

- Whether they are affiliated with the regime under investigation or parties to conflict, which is often ongoing in RACs.
- The politics of different diaspora communities to which intermediaries belong.
- Any professional or personal interests, connections or focuses that may affect their perspective.

3.3.3. Security, technology and contacting intermediaries remotely

Even preliminary contact may be dangerous when intermediaries are located in a hostile area under investigation or host country. Investigators should always conduct thorough background research before contacting intermediaries, taking into account factors such as:

- Whether communications may be monitored.
- Who controls the area where the intermediary is located.
- Whether anything about the intermediary's specific identity or work makes them particularly vulnerable to security threats.

Investigators should verify this information with intermediaries who are safe to contact, and seek additional details on:

- The intermediary's technology requirements, eg whether they need to purchase a new device or additional data.
- A secure way to communicate going forward.
- Whether the intermediary has a secure location where they can speak with investigators on an ongoing basis.

3.3.4. Understanding the intermediary's entry points to witness communities

Investigators should evaluate whether intermediaries are amplifying the voices of some witness communities over others, intentionally or not. It will be harder to do this in RACs when investigators are spending limited or no time in witness communities.

To avoid a skewed selection of witnesses, investigators can:

- Expand their intermediary pool where safe and possible to do so.
- Brief intermediaries in detail about the specific identity, experience and range of witnesses needed.
- Ask witnesses how intermediaries identified them and approached them about the investigation.
- Compare the type, profile and experiences of witnesses identified through different intermediaries to identify patterns and possible gaps or limitations in source coverage.
- Compare witness testimony with other sources to identify patterns and gaps.

3.3.5. Intermediary-witness relationship

When conducting remote interviews, the investigator will be unable to conduct face-to-face observation and evaluation of the intermediary-witness relationship. It is important to ask the witness questions about the nature of this relationship, including whether the intermediary paid them any money or provided other material incentives to cooperate with the investigation.

3.3.6. Support, capability and expectations

Always discuss the intermediary's resources with them to ensure they can meet the methodological and security standards of the investigation, and will not be overburdened. This is particularly important in RACs given frequent overreliance on intermediaries.

As investigators in RACs will rarely be based in the same location as intermediaries, they may find it challenging to understand the intermediaries' methods of work. It is important to develop a clear, shared understanding of the intermediary's roles and responsibilities, and of the investigation's confidentiality requirements, security protocols and methodology.

Some NGOs provide basic training and capacity-building to intermediaries, allowing them more influence over the way intermediaries work. Investigators should make sure any training provided is documented and acknowledged in the methodology of published findings.



If investigators are not confident about an intermediary's capacity, for example if the intermediary will not have the resources necessary to follow an investigation's security protocols, investigators should cease or modify any arrangements accordingly.

3.4. Selecting, vetting and briefing interpreters

Discuss with interpreters in advance whether they may have to perform roles outside of interpreting during the interview, particularly when they are in the same room as the witness. Interpreters may have to communicate with the witness and/or alert the investigator in the following situations:

- If the investigator's connection drops.
- If someone else enters the room.
- If the witness is in emotional distress that is imperceptible to an investigator working remotely.

Brief interpreters carefully to ensure they are comfortable with these roles and will not overstep any boundaries.

4. Setting up the interview

4.1. Preparing and supporting the investigator

Investigators in RACs should be highly experienced, with specialised training in digital security and trauma-sensitive interviewing. Vicarious trauma support should always be available to interviewers.

4.2. How and when to obtain preliminary witness information

Obtaining preliminary witness information can be difficult in RACs when direct, pre-interview contact entails security risks. Interviewers can:

- Send a template to intermediaries to complete a risk assessment and provide other witness information.
- Consult secondary sources, experts and other vetted parties.



Investigators should not proceed with an interview unless they have been able to obtain basic information about the witness's security context, technological requirements and potential support needs.

4.3. Evaluating and mitigating individual security risks

The investigation's background research on the security environment should be verified with the individual witness. Investigators must also ask the witness about any specific risks they may personally face.

Witnesses must be involved in all decision making about their personal safety. Investigators and witnesses should only proceed if both feel comfortable with the level of risk being assumed.

Investigators should find out about:

- Aspects of the witness's identity (eg their profession) or experiences (eg witnessing a particular incident) that make them vulnerable to security threats.
- Whether the witness has a secure location to provide remote testimony.
- Who controls the area where the witness is located and the risks this presents.
- Whether the witness has family and other close contacts who may be vulnerable to reprisals.
- Whether an out-of-country witness may return to the area under investigation.

 If any concerns for the witness's personal safety are raised during the evaluation process, investigators should not proceed with the interview unless they can put a protection strategy in place. If the witness does not feel comfortable moving forward with the interview, the investigator must not proceed.

4.4. Evaluating support needs and access requirements

Investigators should find out about:

- The witness's migration status and its impact on their access to support.
- Whether the witness is located close to ongoing hostilities.
- The witness's comfort using referral pathways that have been set up remotely, without anyone on-the-ground to help them access providers.
- Whether the witness will need specialised support and if that support is available.

Investigators should explain to the witness that they do not need to answer all questions and can stop the interview at any time.

4.5. Choosing a remote interview platform

4.5.1. Conducting audio calls

Audio calls can be very challenging, particularly with survivors and witnesses of traumatic events. Investigators need to assess the appropriateness of audio interviews, keeping in mind that:

- It is challenging to conduct trauma-sensitive interviews over audio-call.
- Audio-calls do not allow the interviewer to monitor the safety and privacy of the witness's location throughout the interview.
- If the investigation team has assessed that it is safe and appropriate to use audio, video should be used at the start of the interview where possible, to identify everyone on the call and verify their locations.
- If the investigation team has assessed that it is safe and appropriate to use audio, having a trusted support person available during the interview can mitigate some challenges associated with an audio call.

If investigators do use video-calls, they must consider whether this will require excessive data use. This may impose undue costs on the witness or intermediary, or draw unwanted attention to them (eg from family members inquiring about unusually high data use).

4.5.2. The individual witness' technology requirements

Investigators should find out whether the witness has:

- Exclusive access to their own device.
- Software on it that may cause security vulnerabilities.
- Sufficient data and/or credit.
- Good connectivity.
- The technological skills necessary to use secure platforms.
- An understanding of the digital security risks involved in speaking with the investigation.

Investigators should ask about alternative communication forms in case the chosen technology/device malfunctions at any point during the interview process.

4.6. Choosing a secure location for a remote interview

4.6.1. Suitability and contamination of private spaces

While a witness, investigator or interpreter may prefer or be required to conduct the interview in their living space, this risks contaminating an ordinarily safe space. Investigators should carefully consider this possibility and discuss it with all involved parties.

When evaluating the suitability of the witness's home as an interview location, investigators should also take into account:

- Privacy, eg who might overhear the witness.
- Connectivity, eg wifi and mobile service availability.
- Power, eg scheduled or frequent outages.

When advising on or arranging travel to an external location, investigators should consider:

- The privacy and discreetness of the interviewing location.
- Travel requirements, eg whether documentation is needed.
- Whether the witness has prior travel experience.
- How the witness will explain their travel to, and presence in, this location, as well as their absence from their regular location.
- The risks involved in travel, eg whether the witness will pass through checkpoints or be subject to searches.

It will be challenging, if not impossible, to arrange an external location without on-the-ground support

4.6.2. Anonymising the location

Investigators should ensure that there are no personally identifiable details in their background and the witness's background. This includes family photos, or distinctive architectural features and landscapes, such as mountain ranges visible out of a window.

4.7. Bringing witnesses outside the country or area under investigation

Moving a witness to another country for an interview is complex. It requires careful consideration of all factors involved in facilitating witness travel to any location outside their home, and additional consideration of requirements for travel abroad (eg whether the witness has a passport).

 Regardless of who is arranging witness travel, the option of transporting a witness outside their country should be carefully considered and only carried out in extreme circumstances, when absolutely necessary and with risk mitigation strategies in place.

4.8. Choosing a secure location for an interview with out-of-country witnesses

Refugee camps generally have limited private areas and may have been infiltrated by parties hostile to the investigation. Investigators should:

- Plan the interview location in advance, avoiding ad hoc conversations.
- Be discreet about approaching and interacting with witnesses to avoid drawing unwanted attention to witness's cooperation with the investigation.
- Consult witnesses and intermediaries to determine the most appropriate place to interview the witness, given the limited available private spaces.

 If it is not possible to prepare an interview location in advance, investigators should be cautious about speaking to refugees in an ad hoc, unplanned manner, especially if they are unfamiliar with camp dynamics.

4.9. Making a time for the interview

When choosing a time for a remote interview, assess:

- The likelihood of physical interruptions in the interview location (eg children returning home).

- Whether being in the chosen location at a particular time will draw unwanted attention to the witness.
- Possible technical challenges at different times, eg connectivity during peak periods.
- Likely interview length, factoring in the possible need for more breaks during remote interviews due to witness fatigue.

4.10. Reimbursements

Where appropriate, investigators will need to determine secure, reliable options for reimbursing witnesses and/or intermediaries. Based on the options available, the investigator should decide with the witness or intermediary the most suitable means of reimbursing them, keeping in mind the potential need to remove digital traces of any transactions.

5. Conducting the interview

5.1. Engage and explain

5.1.1. Initial issues for investigators to cover

- **Explaining the investigation mandate, timeline and confidentiality of involvement**

Given the witness may have had little to no prior contact with the investigator, and that communicating remotely can be harder, investigators should take extra time to:

- Explain the mandate, introduce themselves and clarify why a remote interview is needed.
- Ask whether the chosen time still works and is safe.
- Emphasise the importance of confidentiality.

- **Obtaining consent**

Obtaining informed consent may also be harder remotely. Investigators should:

- Take extra time to explain and obtain consent.
- Clarify that the witness is free to end the interview at any time.
- Check in with the witness throughout the interview to ensure that they are comfortable continuing.
- Reconfirm consent to use and share the information when the interview closes.

Investigators should note that any follow-up contact to obtain consent may be more difficult remotely.



If investigators doubt that the witness is providing informed consent, or if they sense the witness's attitude to consent changing, they should check in and terminate the interview if they cannot secure or reconfirm informed consent.

- **Contact details**

It is important to obtain longer-term contact details in RACs, as the witness may be speaking on a borrowed device, or travelling between countries as a refugee/migrant. There should also be a sustainable way for the witness to contact the investigation.

- **Identifying witnesses remotely**

It may be difficult to verify anyone's identity remotely. Investigators can:

- Observe the witness over video, where a video call is possible.
- Obtain a relevant picture (eg a copy of the witness's photo identification card) or description of the witness in advance.
- Verify the identity of intermediaries, interpreters and anyone else in the room.

The investigator should also show the witness their own identification card or documents.

5.1.2. Technology and connectivity

Investigators should test technology and discuss potential malfunctions with a witness prior to the interview, or at the start of the interview. This involves:

- Describing or, if feasible, demonstrating possible glitches.
- Planning for a dropped call, and determining who will call back, when and how.
- Letting the witness know that the call may drop during discussions of sensitive or traumatic material, and that this will be out of the investigator's control. Investigators should confirm that witnesses want to proceed regardless, and reconfirm the availability of any psychosocial support that has been arranged for during or after the interview.

Investigators should determine priority questions in advance in case the connection drops.

 If there are connectivity problems during the call and the investigator is aware that the witness intends to discuss a potentially traumatic subject, they should consider rescheduling the interview if the investigator and witness agree that this would be in the witness's best interests.

5.1.3. Setting up and verifying the safety of the interview location remotely

To verify a witness's location remotely, investigators can ask the witness:

- To show them the space over video.
- Whether anyone unauthorised is present or could overhear them.
- To set up the space or sit so that entrances are visible.
- Whether they are comfortable, with access to water, power and so on.

Investigators should also show the witness their own location, which will help build trust.

Investigators can develop a signal with the witness, intermediary and/or interpreter to indicate someone has unexpectedly entered the room.

 If the investigator is unable to verify the safety of the interview location, they should not proceed with the interview.

5.2. Account phase considerations

5.2.1. Building rapport

Building rapport remotely may be challenging, as people may be less trusting and comfortable over video- or audio-link. Techniques investigators can use to build rapport include:

- Spending more time on preliminary parts of the interview.
- Asking more introductory questions where appropriate, eg about the witness's wellbeing.
- Reassuring the witness about the investigator's identity, eg by showing an official identification card.

 If a lengthy interview is necessary in order to build trust, but is not possible, the investigator should consider arranging a follow-up interview, or reconsider whether to interview this witness at all.

5.2.2. Witness wellbeing during the interview

Investigators have few tools available to identify and respond to witness distress remotely. To assist with this, they should:

- Complete training in trauma sensitive remote interviewing.
- Plan out different options for responding to witness distress based on the witness's personal profile.

- Develop a plan for responding (eg redirecting the conversation or rescheduling the interview) if a witness unexpectedly discloses sensitive content.
- Adjust the pace and tone of the interview where necessary, for example by allowing for pauses and questions. This is important even though silences may feel more uncomfortable during remote interviews.

 If the investigation team has any doubts about the witness's psychosocial state, ability to access support, the comfort of their environment or any of the other factors discussed in earlier, the interview should not proceed, particularly considering the challenges involved in responding to witness distress remotely. Especially in relation to survivors and witnesses of traumatic events, remote interviews should only be conducted in a trauma-sensitive way.

5.2.3. Using visual aids

Visual aids can be very useful during remote interviews. To use them effectively, investigators should prepare the material well in advance and ensure that the witness has adequate bandwidth to view them.

5.3. Out-of-country witness expectations, motivations and beliefs

Asylum seeker and refugee witnesses are often in a vulnerable physical, psychological and legal situation. They may have specific expectations surrounding aid and their asylum status. Investigators should be careful to:

- Clearly explain, at the outset of the interview, what the investigation can and cannot provide or how they can or cannot assist.
- Keep these expectations in mind when probing the witness's account.
- Distinguish themselves from support and service providers in refugee camps and other insecure contexts.

Collective memory may be common in refugee camps or close-knit diasporas. Witnesses may adopt narratives that are prevalent in the community, or may feel a desire to "speak for" relatives and others who remain inside the area under investigation. Investigators should be aware of this phenomenon and carefully probe what the witness has personally experienced.

5.4. Closing the interview

When closing the interview remotely, investigators should:

- Take time and avoid abruptly cutting off the call.
- Go through digital hygiene measures.
- Discuss follow-up arrangements, including referrals, contact details and means of contact.

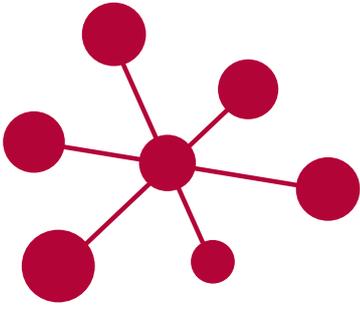
5.5. Follow-up

Following up remotely can be challenging, as it may be unsafe or difficult to contact the witness a second time. Following up with a witness abroad is also hard when the witness is still on their migration journey.

To ensure adequate follow-up in RACs, investigators should:

- Map support services in advance of the interview.
- Liaise with trusted support networks on-the-ground.
- Provide witnesses with thorough information about services available in their area, and the potential risks and benefits of accessing these.
- Obtain sustainable contact details where possible, and ensure that the investigation can be contacted well after the mandate period.

 Faced with a situation where a witness may need follow-up support, but it is unfeasible or unsafe for them to access service providers, investigators must determine whether it is safe or ethical to proceed with the interview.



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