

CHAPTER 3

COMMUNICATIONS

Before beginning your monitoring project, it is important to think through how you want to communicate your reporting, and to whom. In the era of multiple media and social media outlets, constant information bombardment, and fears of fake news, you will need to be open with your audience about who you are and why you are doing this work. You also need to plan for how you will distribute your reporting, use social media, and build relationships with other observers, including journalists. You need to build trust with your audience so that your communications will be received with interest and your work have an impact.

What you need to know:

There are several aspects that underpin the communication of your trial monitoring:

- **Accuracy:** All actors in atrocity trial processes have a right to expect that their arguments will be accurately reported.
- **Balance:** Monitoring must be objective and fact-based, and you must always bear in mind that every accused person has the right to be presumed innocent until proven guilty.
- **Clarity:** This requires you to learn about court proceedings and the language of the law and legal jargon, and translate them into terms that your audience can understand.
- **Transparency:** Your audience needs to know who you are and what credentials you have for doing this work.

Example: Statements of Transparency from Monitoring Programs

“This report was realized within the Justice programme of the EU, and co-financed by the Office for cooperation with NGOs of the Government of the Republic of Croatia and City of Zagreb. The content of the report is the sole responsibility of the publisher and under no circumstances can it be considered to reflect the attitude of the European Union, the Office for cooperation with NGOs of the Government of the Republic of Croatia and the City of Zagreb.”

“International Justice Monitor was created to expand awareness and understanding of the role of international justice in holding accountable those responsible for atrocities, particularly war crimes, crimes against



<https://www.documenta.hr/en/izvje%C5%A1taj-obra%C4%87enju-su%C4%91enja-za-ratne-zlo%C4%8Dine-u-2017.-godini.html>

humanity, and genocide. It is operated by the Open Society Justice Initiative, part of the Open Society Foundations, and since 2007, our trial reporting has been an accurate, concise, and trustworthy source of information on some of the most significant trials of our time.”

“The KRT Trial Monitor has monitored daily proceedings at the KRT [Khmer Rouge Tribunal, also known as the Extraordinary Chambers in the Courts of Cambodia, ECCC] for more than 10 years, and this report aggregates the work of trial monitors over the course of 274 days of proceedings in this case. The report does not prescribe suggestions or assess the court’s conduct, but rather summarizes testimony and evidence from the two years of evidentiary hearings and points to six of the most prescient legal or procedural issues.”

“This guest post, part of an IJ Monitor series of summaries on the Hissène Habré trial, was produced by a group of Senegalese law school graduates, with the assistance of TrustAfrica. The views expressed below do not necessarily reflect the views of the Open Society Justice Initiative.”

3.1 COMMUNICATING WITH YOUR TARGET AUDIENCE

Part of your planning must include defining who your audience is and what you expect to provide for them.

What you need to know:

There can be multiple audiences for your work. But you will have to decide who the main target is. Potential target audiences include, but are not limited to:

- Victims’ communities
- Legal professionals
- Human rights activists
- Academics
- Diplomats or other government decision-makers
- The public at large

You will be explaining key concepts differently to each of those groups (see later in this section), and using different language. You may also have different channels that you use to communicate with them, including print publications, websites, social media, or videos.



<https://www.ijmonitor.org/about-this-website/>



<https://handacenter.stanford.edu/publications/another-trial-review-case-00202-second-trial-nuon-chea-and-khieu-samphan-extraordinary>



<https://www.ijmonitor.org/2016/02/hissene-habre-trial-before-the-extraordinary-african-chambers-december-hearings/>

Example: Television as Communication Component

This Cambodian based project used video via local TV channels to provide regular reports on proceedings at the ECCC.

“In this new batch of 6 weekly episodes, ‘Facing Justice’ covers the announcement of the trial judgment in Case 002/02 at the Extraordinary Chambers in the Courts of Cambodia (ECCC), the second and final trial against the surviving Democratic Kampuchea senior leaders Nuon Chea and Khieu Samphan. ‘Facing Justice’ is sponsored by the British Embassy in Phnom Penh. It is produced by KMF (Khmer Mekong Films) with editorial partner WSD HANDA Center for Human Rights and International Justice at Stanford University. The six new episodes are shown weekly on Cambodia’s top TV channels MyTV and CTN.”



<https://handacenter.stanford.edu/videos/facing-justice-episode-59>

3.2 LEGALESE

You are covering processes that have a language of their own: a shorthand and set of words or acronyms that are not always immediately understandable to outsiders. Part of your role is to interpret or translate. How do you do that?

What you need to know:

Legal language is complex and obscuring. It can take intense study to master it. As a monitor, you have to interpret this language for your audiences. That means you have to know it or be able to find out what it means.

Your audiences do not necessarily need a moment-by-moment account of what happens at the trial. However, you have to know legal terms in order to follow the events in the courtroom, decide if they are significant enough to report on, interpret them accurately, and convey them to your audience in terms they can understand. Interpreting legalese will often require rephrasing court filings and judgments in order to attain clarity; however, that does not mean you should completely refrain from verbatim quotes.

A good way to decide whether something is useful or not is asking on your audience’s behalf: why did the judge deny a motion? Why is the defense upset? If you can explain the details of a court case in clear language, or find people to quote who provide an explanation, you will be serving your audiences.

“ You have to know what specific terms mean, as a monitor. And then you have to find ways to explain those terms for non-specialized audiences. I check with experts to make sure I know what a legal term means. Reading the court’s rules and regulations also helps. Getting the 'translation' right for a broader audience is not easy. But it's essential so that people really understand what is happening in court, and what all the arguments are. That helps to prevent wild theories and the spread of misinformation.”

Wakabi Wairagala — Trial monitor with OSJI

Example: Explaining the Court’s Ruling

At the Extraordinary Chambers in the Courts of Cambodia (ECCC), which seeks to address crimes committed under the Khmer Rouge regime in Cambodia, judges were asked to rule on whether evidence obtained by torture was allowed in court. The monitoring report explains why evidence obtained by torture is generally not accepted in courts. But the report also explains that in this case, because the evidence was obtained via the alleged crimes the defendants are charged with, the judges decided the evidence could be presented.

“Excluding the use of torture-tainted evidence is intended to eliminate an incentive to use torture to obtain information, to prevent those that torture from benefiting from their actions, and to preserve the integrity of judicial proceedings...Neither the prosecution nor the accused at the ECCC are suggesting that evidence obtained by torture be used against persons that were subject to torture. However, both the prosecution and the defendants are asking the chamber to modify its earlier bright line test and allow reference to the substance of some evidence obtained by torture.”



<https://www.ijmonitor.org/2015/06/potential-hazard-eccc-trial-chamber-considers-expanded-use-of-evidence-tainted-by-torture/>

3.3

KEY CONCEPTS FOR AFFECTED COMMUNITIES

It can take a long time for an atrocity crime to be investigated, for there to be arrests, a trial or hearing, and for there to be a judgment or even reparations. When working with affected communities, finding ways of explaining and engaging without getting people’s hopes too high can be a challenge.

Those who live or have lived in places where atrocities have occurred may see that many different types of people are involved in examining and investigating a crime and supporting steps toward accountability. These can include national and international human rights NGOs,

journalists, investigators, court officials, and development NGOs. Your role may not be entirely clear to members of affected communities who are sorting through all these different actors. Additionally, court proceedings or other transitional justice processes can often happen at a great distance, the terminology can be challenging, and there may be language barriers.

To help affected communities, your job in monitoring trial processes may also involve explaining key concepts for them. Make sure you know the terminology and its meanings yourself. Be honest and transparent with communities about what is known and what is unknown. Be clear about your role and its limitations.

Example: Explaining a Legal Term

In this article, the monitor quotes the judge directly and then goes on to explain the practicalities of having a witness declared hostile by a court.

“As a preamble to the decision, Judge Eboe-Osuji gave a definition of a hostile witness.

‘A hostile witness is a witness who is not desirous of telling the truth to the court at the instance of the calling party,’ said the judge.

The declaration means senior trial lawyer Anton Steynberg, who has been questioning Witness 743, can now cross-examine him on his testimony against his statement to the prosecution and explore any inconsistencies between the two. If the witness had not been declared hostile, Steynberg would have been required to ask him open-ended questions, and he could not challenge the witness on any contradictions between his testimony and previous statements to the prosecution.”

Depending on the platform used to publish your trial monitoring reports, you may find that affected communities want to engage with your reports and ask questions about the trial process. Robust debates can take place on the margins of the trial monitoring work, so it is important to stick to the facts, remain neutral, and not take sides.

“Your responsibility as a monitor is to be strictly accurate. Only by sticking to the facts can you build trust in the communities who are following a trial. When we were monitoring trials at the Special Court for Sierra Leone, there were many commentators on the website—from affected communities—with one strong point of view, and others who passionately disagreed. It was not our job to support one side or another. But as we responded to comments we would try to stick to the precise facts of what happened in court, so that any debate was based on that. We were very pleased to see the debates, and the level of interest in what was happening in court.”

Alpha Sesay — Trial monitor with OSJI and the Sierra Leone Court Monitoring Programme



<https://www.ijmonitor.org/2015/01/trial-chamber-declares-witness-743-a-hostile-prosecution-witness/>

3.4

STRUCTURING MONITORING REPORTS

All monitoring reports need to have enough detail to enable audiences to understand what transpired. Audiences will appreciate information that has a clear beginning and end. Sometimes it is difficult to be clear about what elements of the story to include and what should be left out.

What you need to know:

The structure of your monitoring report will depend on the audience you are writing for and how you are distributing or publishing the report. But all audiences need to be able to clearly follow the structure of your report and appreciate the elements you have chosen to highlight.

A whole week or even a single day of court proceedings can sometimes be difficult to summarize. It is important to be conscious of which parts of the proceedings are linked to the charges against the defendant, and highlight those areas for the audience. There may also be information or witnesses that are of particular interest to specific audiences, and you may want to focus on these.

Example: Finding the Key Detail

“During a trial hearing at the International Criminal Court (ICC), it emerged that Ugandan President Yoweri Museveni’s half-brother may have tried to help Dominic Ongwen leave the Lord’s Resistance Army (LRA).”

Other monitors may be focusing more directly on fair trial standards by examining the extent to which a trial is complying with national or international standards. Their reports will make reference to the legal framework which forms the benchmark for the reporting.

As always, accuracy, transparency, and clarity will be essential to making your reports useful for the audience.

For example, if you are reporting on the examination of a witness by the prosecution, the report needs to have sufficient background information about what the trial is about and the current stage of the proceedings in order to provide context for the reader. After that, it



<https://www.ijmonitor.org/2017/01/witness-ugandan-presidents-half-brother-may-have-tried-to-help-ongwen-escape-lra/>

is up to the monitor to pick the essential quotes and exchanges that illustrate exactly what one of the protagonists in the court is trying to do through their line of questions. In many ways, the monitor is the eyes and ears of the audience and has to pick elements that help the audience get a full sense of—and insight into—the proceedings. Sometimes it is difficult to find the precise ‘story’ through a day of legal motions and maneuvering; not every day features dramatic witness testimony.

The monitor should also be conscious that this report might be one of many—particularly if you are reporting daily or weekly—and that providing a snapshot is very useful. What happens at another stage of a trial will be covered then. It is impossible to cover everything in one report. Inevitably, a single report may focus more on prosecution or defense. That should be balanced by a focus on the other side at a future trial stage.

“You can’t achieve neutrality only by counting articles and reports. You also need to seek balance in the way that you gather information, craft headlines, and report on proceedings. Is that really neutral? Is that playing fair? Do you report equally on defense? Are you explaining the terminology you use? Are you attributing statements to the prosecution or the defense of the victims appropriately? Are you adding in your own bias?”

Jennifer Easterday — Trial monitor with OSJI and UC Berkeley War Crimes Studies Center (now Center for Human Rights and International Justice)

Example: Summarizing for an Annual Report

“The legal team of Documenta – Centre for dealing with the past, Center for peace, nonviolence and human rights from Osijek, and Youth initiative for human rights Croatia (YIHR), monitored hearings in 23 criminal proceedings for war crimes trials at the four county courts in Croatia, as well as 12 public sessions in appeals before the Supreme Court of the Republic of Croatia.

The report on war crimes trials in Croatia provides an overview and key findings of all first instant verdicts as well as finished cases, which are of importance to the public. For the full insight in the course of the individual proceedings and their findings, the previous annual trial reports are also relevant. The report focuses on the work of prosecutors and specialized courts, the analysis of the indictments and verdicts in individual cases, critical observation of the judiciary, and offers conclusions and recommendations.”



<https://www.documenta.hr/assets/files/Izvestaji%20sudjenja/REPORT-ON-WAR-CRIME-TRIALS-IN-CROATIA-DURING-2017.pdf>

3.5

DISTRIBUTION OPTIONS

From the outset of your project, you should be thinking about how your target audience will receive and read your reports. Knowing about your audience and how it prefers to consume information will help shape both your reporting and how your reports are disseminated. You will need to think about how to distribute your work most effectively.

What you need to know:

Most organizations already have a website or other digital space that can be used to publish trial monitoring reports. Posting your reports online is important, even if not all of your audience has internet access. Printing costs a lot of money, and events at which you display your work can also take a lot of resources. You will want your product to be available and to be seen by your target audience (and you will want to measure the numbers you reach), so the digital space can be very useful.

In addition to creating a repository for your work, you will also want to pass the information on to others. Apart from using social media (discussed later in this section), you may also use email, in the form of a listserv or digital newsletter. There are many options available and most are low-cost. The number of avenues through which you distribute your reporting will depend on the resources available to you and which avenues you find to be most effective. Keep in mind, if you collect information about your audience, including their email addresses, you will need to have their agreement and promise to protect their data and comply with strict privacy rules, such as the European Union's General Data Protection Regulation (GDPR).

“ I find it is useful to have a direct channel of communication. In my case, it’s a mailing list of people that I send occasional updates to. Not every day, not every week, but I can get feedback via that list every so often. So I get a sense that people know what I’m doing. And at events, sometimes people share with me directly what they think. In some cases, people who haven’t yet been introduced to this work also become my new readers.”

Tom Maliti — Trial monitor with OSJI

Your target audience may not only be people who simply want to receive your monitoring reports, but also those who want to talk about your reports or interact with you or your project. In this era days of social media, no communication is solely one way. People expect to be able to react and feed into your work. By interacting with readers, you can test assumptions, make your conclusions more robust, and make the business of amplifying or advocacy smoother. There is also considerable opportunity for learning—on all sides—when you have an active community engaged with your monitoring.

3.6

SOCIAL MEDIA

In social media, the entry costs can be very low: it is easy to set up a Facebook page or a group or to start tweeting. However, building expertise and using social media channels takes time and effort. And there are drawbacks that are important to consider.

What you need to know:

In many countries, Facebook is the major digital channel through which people get their news. In others, WhatsApp rules on people's mobile phones. For some journalists and academics, Twitter is their daily lifeblood. Each social media space has its own rules, and its own types of audiences. It is important for you to have: clarity on why you want to use a particular channel (or combination of channels), an understanding of what you plan to use it for, and a way to make it part of your content planning. Someone on your team should be assigned to create posts and engage with followers, and there should be a system of checks to make sure that person has sufficient support.

Sometimes it is difficult to transfer the same tone from one channel to another and you can be in danger of not being clear with your audience about the nature of your work and what they should expect from you. Sometimes social media channels change their rules, and you can be left without the space you thought you had. Although you will not have total control over the channel you are using, social media is still an important way to disseminate your work directly to interested people. Social media can provide good spaces to build like-minded communities who want to share information.

“I have live-tweeted from the major trials in Guatemala. Many people are eager to know exactly what is going on in these trials. It's a great way to get the news out, and to communicate the perspectives of the victim communities. I also use Twitter to raise specific issues—such as the recent effort by the Guatemalan Congress to impose an amnesty law—or the implications of a procedural problem. Social media brings the issues to a wider audience, gets discussion going. But it can be a double-edged sword. You very well may face online harassment. If you're going to use social media, it's a good idea to have policies in place to know how you will deal with critics.”

Jo-Marie Burt — Trial monitor with OSJI and political science professor at George Mason University

3.7

TRADITIONAL MEDIA

Liaising with local or international print, radio, and television media outlets can also be a useful way to amplify your work. Press releases with a large amount of background detail may seem commercial or old-fashioned, but journalists and traditional media outlets will still appreciate news or specific information if your monitoring work is of interest to their audiences.

Bear in mind that journalists' priorities may be different from your own and that they may have specific deadlines for their work. Becoming known as a reliable source of expertise on a particular trial or court will lead journalists to approach you more readily and can help make the work of your monitoring project be seen by a wider audience. However, editors of a different platform will be controlling how your words are presented, so building relationships and trust is at the heart of a useful symbiosis.

CHECKLIST FOR COMMUNICATIONS

- ✓ Stick to the ABC's: accuracy, balance, and clarity.
- ✓ Tell the audience who you are and why you are doing this work, as part of your communication.
- ✓ There may be multiple audiences: decide which ones you will prioritize.
- ✓ Translate legal concepts so that your audience can follow your reports.
- ✓ Remain factual and considerate when moderating discussions about contentious issues.
- ✓ Include enough background information to enable the audience to follow the report.
- ✓ Provide balance over time: it is acceptable for a particular report to focus on a specific actor or element of the trial.
- ✓ Think about how your audience will use your reports.
- ✓ Decide where and how your audience will access your reports.
- ✓ Choose a low cost method of distribution.
- ✓ Social media can be useful for you to raise your profile and tap into like-minded communities, but has risks.