

# Knowledge for Peace

Transitional Justice and the Politics of  
Knowledge in Theory and Practice

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# Contents

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<i>List of contributors</i>	vii
<i>Foreword</i>	xii
<i>Acknowledgements</i>	xv
1 Knowledge for peace: transitional justice and the politics of knowledge in theory and practice <i>Briony Jones and Ulrike Lühe</i>	1
PART I POLITICS OF KNOWLEDGE FOR PEACE	
2 Knowledge production and its politicization within International Relations and Peace Studies <i>Burak Toygar Halistoprak</i>	21
3 ‘Knowledge for peace’: integrating power to increase impact <i>Laurent Goetschel</i>	37
4 Producing knowledge on and for transitional justice: reflections on a collaborative research project <i>Briony Jones, Ulrike Lühe, Gilbert Fokou, Kuyang Harriet Logo, Leben Nelson Moro and Serge-Alain Yao N’Da</i>	49
PART II THE INTERLINKED POLITICS OF KNOWLEDGE PRODUCTION AND AGENDA SETTING	
5 Knowledge asymmetry and transitional justice in Côte d’Ivoire <i>Serge-Alain Yao N’Da and Gilbert Fokou</i>	75
6 Power struggles and the politics of knowledge production in the Burundian transitional justice process <i>Wendy Lambourne</i>	99
7 The politics of knowledge in the emergence of the transitional justice industry in Zimbabwe: the case of the ‘Taking Transitional Justice to the People Programme’, 2009–10 <i>Shastry Njeru and Tyanai Masiya</i>	120

PART III KNOWLEDGE PRODUCERS: EXPERTS AND  
EXPERTISE

8	Who are the members of truth commissions? <i>Dietlinde Wouters</i>	145
9	Developing the African Union Transitional Justice Policy: an assemblage perspective <i>Ulrike Lühe</i>	167
10	Playing politics with knowledge: the works of multiple actors within IGAD PLUS <i>Kuyang Harriet Logo</i>	191
11	The meaning of violence and the violence of meaning: the politics of knowledge in Burundi <i>Stanislas Bigirimana</i>	214
12	Conclusion: empirical insights on the politics of knowledge production and its transfer into policy and practice <i>Briony Jones and Ulrike Lühe</i>	245
	<i>Index</i>	267

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**Dietlinde Wouters** has a Master's in Philosophy (Ghent University, Belgium) and Human Rights (Universidad Nacional de La Plata, Argentina). She holds a PhD degree from Ghent University, Department of Philosophy and Moral Sciences. In her PhD thesis, she analysed the functioning of truth commissions from a philosophical and (social-)epistemological perspective, starting from the truth commissions of Argentina, Chile, South Africa and El Salvador. Her PhD thesis focuses on topics such as the epistemic profile of truth commissioners, the role of the truth commission archive, knowledge and knowledge production, as well as the analysis of truth commissions in terms of epistemic injustices.

# Foreword

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A book on the politics of knowledge and transitional justice (TJ) is overdue. Since the dawn of TJ in the 1990s, the field, as many ‘experts’ call it, has moved with an astronomic speed onto the policy agenda in transitional and post-conflict settings. TJ with its four-pillar structure has been ‘normalized’, as prominent commentators of the field have declared. There is hardly a peace agreement today that does not stipulate some kind of TJ measures. No policy process at the international level can leave TJ out, as currently witnessed by the discussion around the SDGs and the review of the peacebuilding architecture at the UN. Regional organizations, such as the AU and EU, have recently adopted framework policies around TJ. The academic debate has been moving forward equally rapidly. Today we find journals and a plethora of books and articles that seek to enrich the field of transitional justice. In my own ‘TJ lifetime’ debates have evolved from introverted discussions on criminal justice vs. truth seeking, to external criticisms that contrast bottom-up versus top-down interventions, to existential discussions urging a move from a victims-perpetrator binary approach to a victim-centered paradigm, and to current debates about the scope of TJ and whether it should include questions of economic violence and issues of inequality. TJ has been branded and coded depending from which directions it is looked at. I always found it, however, remarkable with what vigor and conviction certain statements of defense of one or the other opinion were made, as if the knowledge were so clear and gray zones do not exist. One statement that I have witnessed and heard again and again from various sides is that we know a lot, and, consequently, for TJ to work it is just a problem of implementation or connecting the dots more strategically. The consistent call in the face of past and ongoing violence is to act, and to act now. The question, however, of why and on what basis we are doing this is left out, at least most of the time.

This book is a healthy change to this fast-forward moving apolitical TJ project that today is more about doing and less about reflecting. The book forces us to pause a little and allows us to take a step back to look at what counts as knowledge in the field of transitional justice. What are we ‘allowed’ to use in terms of knowledge and what not? This publication offers us space to rethink the crucial intersection between research, policy and practice from the perspective of knowledge. Such a novel approach

to TJ and its underpinning knowledge dynamics can make a huge difference both in academic research and also in practical work. I find myself wondering how troubled TJ situations, such as Bosnia and Herzegovina, would look today if a more critical approach around what knowledge is 'allowed' to count as valid in the design of justice responses would have taken place at the time. How would this have played out within the policy, practice and research nexus that has been put to work on the ground there and elsewhere? The opposite was the case. TJ in Bosnia was mainly limited to a judicial approach to address conflict-related crimes. The use of knowledge was restricted in order to be used predominantly towards that end. One can argue today that policy interventions which have been designed and supported by such a narrow knowledge base have failed to address the structural causes for violence, including ongoing economic harm, social stigmatization and discrimination, all of which affect women more adversely – to mention just one priority we claim to serve with TJ. This can be sadly seen in Prijedor, Northern Bosnia, one of the region's earliest sites of ethnic cleansing. Crimes committed have been prosecuted by the International Criminal Tribunal for the former Yugoslavia and other courts, but little has changed for women survivors. The trauma of ethnic cleansing is revived by provocation from local authorities through a revisionist reinterpretation of remembrance sites, and economic discrimination faced when searching for jobs. Politics around knowledge are of course not the only reason for these failures around transitional justice, but I feel that they are a significant part of it. A better understanding of how knowledge is generated around TJ and what the political dynamics are that shape what knowledge is permitted for us, and what not, would certainly provide important solutions today for the standstill around dealing with the past in Bosnia, the rest of the region, and elsewhere.

This book can be a fundamental 'game-changer' if its messages are heard and taken into account. It would in particular help one group that we have pledged so many times to support, the victims. Politics around knowledge have framed the debate around victims and their participation in a specific way, seeing them often as helpless subjects in need of our, often Western, helping hand. Recent studies have shown that such an approach has not significantly changed the life of victims. Some would even claim that it has undermined the cause of victims. It has in fact cornered them into a role they would like to get out of rather earlier than later, and to get out stronger and with regained agency. This book and the thinking that went into it can help to unpack all of these dynamics and open doors we have not dared to open yet. Let me close by congratulating the authors for such a meaningful contribution and sincerely thank them for taking up the fight for a better understanding of knowledge and TJ. If

used in a meaningful way, it is this knowledge that can be used to meaningfully change the lives of those who were harmed.

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# Acknowledgements

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This book is a collaborative effort and represents years of exchanges, effort, and patience. We would like to thank all those involved in the research project which has led to this book. The Swiss National Science Foundation and Swiss Development Cooperation which generously funded our work. The whole research team – Laurent Goetschel, Leben Nelson Moro, Kuyang Harriet Logo, Gilbert Fokou, Serge-Alain Yao N'Da – and our advisory board. Many colleagues and new friends participated in the project dialogues or helped to run them and for that we are eternally grateful. This book would not have been possible without these exchanges. The book represents a series of small encounters which are too numerous to name – academic gatherings, presentation feedback, coffee machine chats – but which inspire us and have shaped our thinking.

Special thanks go to the authors of this book for their perseverance over numerous rounds of revision, and debates over the ‘final versions’ of chapters. It is important to acknowledge, as we do in Chapter 1, that it is in many ways an incomplete piece of work, as are the debates that we sought to represent. With this in mind we also thank the reviewers of the book chapters, the publishers who have been unfalteringly supportive, and our wider network of colleagues and friends.

Lastly, we owe a debt of gratitude to those who agreed to talk to us during the course of our research, to share their views and experiences, and whose lives and work we discuss on these pages. We do not make claims to represent anyone else, or to offer a complete version of events; we merely invite us all into conversation about what we know, how we make claims, and how we seek to shape ideas and institutions of justice and peace.

Briony Jones and Ulrike Lühe



# 1. Knowledge for peace: transitional justice and the politics of knowledge in theory and practice

**Briony Jones and Ulrike Lühe**

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## INTRODUCTION

The search for justice following large-scale violations of human rights is like a double-bind<sup>1</sup> in which competing yet equally valid messages challenge researchers, policy-makers and practitioners alike. While respecting universal human rights we must remain attentive to context; while drawing on available expertise we must avoid marginalizing other voices; and while seeking order and peace we must show willingness to see and understand disruption and conflict. Because of these creative, normative, epistemic and political tensions we are often challenged to name, describe and categorize experiences, people and places in ways that are too static to fully capture the dynamics of transitioning from violence to peace. But we continue to try and do so, by seeking better categories, better methods and better working ethics. The field of transitional justice is characterized by substantial and difficult debates over what ‘better’ looks like, and we offer our contribution to these debates with this book on the politics of knowledge.

The politics of knowledge is particularly pertinent for a field which, like other peacebuilding endeavours, has the explicit aim of generating knowledge which informs and improves action. Nonetheless, while there are many critical scholars of peacebuilding and transitional justice who seek to deconstruct dominant narratives and challenge assumptions, they also engage and operate in a field which has normative aims. We all want more justice, more peace and more freedom. The debate is over how to get there and indeed how we know what arrival looks like. The end points of justice and peace are not an objective and static point we can see far off in the distance as we edge towards them. Rather, the journey itself changes the destination. In the process of researching, talking about, trying to establish, and measuring and assessing, we determine what it is we are seeking. ‘Justice’, ‘reconciliation’, ‘truth’ and

many other of the field's key concepts and concerns emerge from our debates and conflicts, a product of the varied and perhaps competing ways in which we approach transitional justice as an object of knowledge.

In this book we present a series of chapters which tackle the question of the politics of knowledge and how it relates to and plays out in the field of transitional justice. The mix of theoretical and empirical chapters is relevant not only for scholars of transitional justice but also for those of peace(building), international intervention and the sociology of knowledge more broadly. As will be elaborated in this introductory chapter we make our contribution by drawing on previous scholarship on the politics of transitional justice and its knowledge landscape. We also go beyond this scholarship by focusing for the first time on what knowledge is valued and foregrounded, which agendas shape the scholarship and practice of transitional justice, and the profound consequences this has on policy and practice. While other work has engaged with this topic through other lenses, for example with a focus on norms and norm diffusion or actor-focused analyses of advocacy networks, this book is the first one to focus specifically on the politics of knowledge (production) as the conceptual entry point and to discuss in depth the research-policy-practice nexus. As we will elaborate further below, the field of transitional justice was established through exchanges between these different epistemic communities of research, policy and practice, and any discussion of the politics of knowledge requires a discussion of the actors, communities and knowledge-producing practices which determine what we know and how it is known. This introductory chapter fleshes out the key contours of the book and its collection of chapters. First, we provide an overview of the key debates to which this book speaks and the red threads which run throughout the chapters and to which we asked authors to make contributions: (1) the interlinkages between the processes and politics of knowledge production; and (2) the research-policy-practice nexus. Second, we summarize the content of the chapters and describe how they connect and complement each other in their analyses.

## KNOWLEDGE OF, FOR AND BY TRANSITIONAL JUSTICE

The field that is termed 'transitional justice' is an assemblage of ideas, actors, actions and objects. On the one hand, there is the idea of transitional justice which comprises both a set of aspirations and dominant norms. On the other hand, there is the practice of transitional justice which is made up of varied interventions, mechanisms and processes which may be more or less in line with the dominant norms. In turn, transitional justice has 'three main objects: the situations it examines, the mechanisms applied to them and its self-referential engagement with transitional justice' (Zunino, 2019: 22). As



a field it is developed out of, and in reference to, practices that bring about a plethora of ‘experts’ and a dynamic relationship between research, policy and practice. This all leads to a rich and complex knowledge landscape, infused with a politics of whose knowledge counts, whose knowledge is acted upon, and what is even considered to be knowledge. This includes knowledge produced outside of transitional justice for use by its actors, knowledge produced on transitional justice and its ways of working and imagining, as well as the knowledge produced within and through transitional justice discourse and practice. In order to articulate the particular contribution of this edited book to understanding the politics of knowledge and transitional justice, it is important to outline the scholarship that has enriched the discussion thus far and to which the authors owe an intellectual debt of gratitude. We have divided the work to which this book speaks into four key debates: (1) the emergence of the transitional justice norm; (2) knowledge imperialism; (3) identifying the ‘local’; and (4) the research-policy-practice nexus.

### **The Emergence and Diffusion of the Transitional Justice Norm**

Transitional justice endeavours are underpinned by a normative agenda which seeks a certain kind of justice assuming that this will lead to peace as it will ‘pacify volatile regions’ (Anders and Zenker, 2014: 398). This justice seeking has been inextricably linked to liberal democracy. The contemporary field of transitional justice developed primarily in response to the political transitions of South America and Eastern Europe during the 1970s, 1980s and 1990s (Arthur, 2009). The bringing together of human rights frameworks with literature on democratic transition by the transitional justice field ‘made the question of justice central to democratic transitions, but also made the question of political transformation central to the idea of justice’ (Hansen, 2014: 109). While transitional justice has expanded and now includes transitions in societies negotiating settlements in protracted social conflicts (Bell, 2009: 8), transitional justice is still inherently concerned with the transformation of political communities, a transformation which is seen to be one towards a liberal democracy (Sriram, 2009).

This has been much debated in the transitional justice literature and the idea of a paradigmatic transition has been described as having three components: first, that the previous regime is understood to be illegitimate; second, that the changes brought about by the transition are generally relatively uniform throughout the state; and, third, that it is a process of closure (Ní Aoláin and Campbell, 2005: 173, 181–2). The challenge in early paradigmatic cases like Argentina was to identify the appropriate legal tool to address past human rights violations without threatening the transition towards democracy (Murphy, 2017: 29) and, importantly, a transition to liberal democracy under-

stood in relatively procedural terms (Ní Aoláin and Campbell, 2005: 176). As Andrieu points out, '[b]ecause peacebuilding and transitional justice still rest on a high-politics vision of the state, both focus more on the consolidation of democratic institutions than on the nurturing of democratic politics' (2010: 545). This is seen by such authors as the result of the liberal democracy norms which inform the field, and the way in which it has been consolidated as a norm born of Western Enlightenment traditions of thought (see below).

Sharp has recently written of the 'dominant script' of transitional justice as the 'liberal-legalist' paradigm which determines what is emphasized and what is marginalized (Sharp, 2018: ix). This has been a potent rallying cry for activists, non-governmental organizations (NGOs) and international organizations in acknowledging and addressing large-scale violations of human rights, but it has also led to a narrow focus as the international norm of transitional justice has emerged, evolved and crystallized (Rubli, 2012). Transitional justice as a field of policy and practice has directed its efforts towards certain types of (physical) political and civil violence, has a tendency to implement processes through a top-down template-driven tool-box approach, and has been accused of drawing too heavily on Western and liberal modalities of justice (Sharp, 2018: ix-x). Structural forms of violence, non-state-led forms of change and non-liberal modalities of justice, often referred to as 'traditional justice', have therefore been relegated to the background or even considered to be a threat to transitional justice. This has all been captured in what Nagy (2008) has referred to as the 'global project' of transitional justice. This global project describes a global transitional justice norm through which transitional justice has become an inevitable response in transitioning societies and those that have a past to account for. As Nagy writes: 'The question today is not whether something should be done after atrocity but how it should be done. And a professional body of international donors, practitioners and researchers assists or directs in figuring this out and implementing it' (ibid: 276).

The establishment of the global norm of transitional justice, partly captured in the UN Principles to Combat Impunity<sup>2</sup> and the work of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence,<sup>3</sup> and partly captured by the plethora of expectations and activities around transitional justice interventions (Rubli, 2012), has profound effects on the way we think about and do transitional justice. The origins of the field inextricably link justice with liberal democracy, thereby conditioning what counts as transitional justice, and therefore what counts as knowledge about and for transitional justice. As we will see in the following sections the emergence of the global norm of transitional justice also shapes how knowledge is mapped onto power relations and vice versa, particularly those between the Global North and the Global South, how critical scholars have attempted to capture marginalized voices, and how epistemic communities of research,

policy and practice interact. In this way, the norm of transitional justice establishes a politics of knowledge relevant for all of the chapters in this book.

### **Knowledge Imperialism**

Kagoro contends that the particular origins and development of the transitional justice norm, as discussed above, are part of a ‘post-cold war ascendancy of particular, culturally laden narratives about history, society, governmentality and justice’ (2012: 10). He goes on to write of transitional justice’s ‘knowledge imperialism’ (ibid: 12) – a term that reflects the substantial debate in the transitional justice literature about the extent to which the ‘dominant script’ of transitional justice (Sharp, 2018: ix) continues the imbalances and even violence of relations between the Global North and the Global South. Indeed, the production of knowledge on and for transitional justice is not a practice that different actors can engage in equally: ‘only a particular set of people, in a particular set of circumstances, is able to shape the research agenda which in turn informs policies that shape the world’ (Nouwen, 2014: 258). The scholarship puts forward that this set of people are primarily internationally mobile and privileged ‘experts’ educated in the language of the global norm described above. To illustrate this inequality Nouwen offers the following observation:

Take, for example, the authority of former Principal Judge in Uganda, Justice James Ogoola. Patiently and poetically, he has answered the questions of many a researcher regarding the Ugandan International Crimes Division (ICD, also known as UWCC), for which he laid the foundations. He is the authority on the topic. But when his speech on the ICD was published in a US law journal, the editors complemented it with footnotes. (Ibid.)

Numerous such anecdotal examples abound in the field of transitional justice research, of projects with ‘local’ partners relegated to mere data collectors while academics based in the Global North advance their careers by extracting such knowledge and translating it for consumption.

However, while such problematic dynamics of extraction and unequal relations certainly exist and are an ethical problem for the field, it is not a simple case of the ‘Global North’ versus the ‘Global South’ as a closer look at the origins of some of the field’s most dominant ideas reveals. First, the Western triumphalist narrative hides the fact that international law and the assumption of its universality were developed as a consequence of colonialist thinking and practice and thus in the interaction between the Global North and the Global South. The emergence of transitional justice as part of the liberal peacebuilding infrastructure (Sriram, 2009) and as an international bureaucracy firmly situated in the Global North (Rubli, 2012) has meant that it has been led and promoted by Western liberal democratic countries that were colonizers

(Yusuf, 2018) and which continue to operate in a global order that supports and maintains their influential status. Second, positing that transitional justice originated in the Nuremberg Trials also frames it as ‘entirely a *postcolonial* enterprise’ (Maddison and Shepherd, 2014: 261):

The exceptionalism that defines the context of transitional justice is in itself a colonial practice of power. The imagined history of transitional justice that locates its inception at the Nuremberg Trials effectively posits that transitional justice mechanisms [were] literally brought forth into existence by the horror of the Holocaust. This discursive move allows the ‘international community’ to reset the standard of justice and, by association, delineate a new boundary around crimes that were so severe as to require new ways of dealing with them. These crimes were considered exceptional, and thus in need of new mechanisms and new conceptual frameworks. Except such crimes were not exceptional. Such crimes were part of the everyday lexicon of colonial power. Empires such as those founded by the same powers that organized post-World War II to ensure that Nazi war criminals were brought to justice, were founded on violence, often genocidal violence [...]. (Ibid: 262)

The exceptionalism that is associated with transitional justice thus helps to marginalize not only the un-exceptional character of many human rights violations for large parts of the world, but also the very knowledge of these crimes, and the ways of knowing associated with non-Western attempts of making sense of these.

Third, many of the key cases and practices which have established the field as such are non-Western. The ‘original’ cases of Latin America in the 1970s and 1980s are foundational, as are many of the oft-cited African cases – Rwanda, South Africa, Uganda, Kenya – in shaping how the contemporary field of transitional justice operates. Fourth, most of the current research and knowledge produced in the field emerges from the interaction of researchers and practitioners, often placed in the Global North and the Global South, and is the result of (often unacknowledged) interactions and relationships. Declaring this knowledge international, while true in some sense, thus also helps to hide the contribution of Southern stakeholders.

However, the knowledge imperialism referred to by Kagoro (2012) is now also being challenged explicitly by initiatives such as the African Union Transitional Justice Policy (AU, 2019) or the African Commission on Human and Peoples’ Rights’ (2019) recent report on transitional justice in Africa. The latter identifies African specific innovations which have contributed to expanding the mainstream approach to transitional justice:

1) taking local conceptions of justice into account, especially in terms of collective versus individual approaches to justice and reconciliation; 2) going beyond the mainstream focus on civil and political rights violations to address economic, social and cultural rights violations, historical and structural inequalities, and issues of

sustainable development; and 3) acknowledging the differential impact of conflict on women and the need for women's participation in the design and implementation of TJ. (Ibid.: vi)

These innovations are attributed to continental policy-making around the African Charter and the Malabo Protocol,<sup>4</sup> demonstrating sustained African engagement with transitional justice which does not take the established global norm(s) for granted. This is particularly relevant for the debate around 'local' forms of transitional justice and 'local' forms of knowledge which follows in the next section.

The dynamics outlined here indicate not only that knowledge cannot be assumed to simply be produced in the Global North and transferred to and applied in the Global South. Instead, the critical transitional justice literature is starting to hint at a more complex, interdependent and interactional relationship between the Global North and the Global South in which knowledge is co-produced through cooperation and resistance and challenged by both scholarship and policy-making. This complex relationship, however, often remains invisible. Furthermore, the outlined dynamics also point us towards the third theme of this book, the (overlooked) complexity of the 'local'.

### **Identifying the 'Local'**

In the transitional justice literature the possibilities and limitations of local ownership have been discussed at length.<sup>5</sup> Local ownership as a lens of critique emerged largely in response to the standardized solutions that are offered by international actors from the Global North to the Global South, which are seen as undermining local ownership in terms of control, process and substance (Sharp, 2013). While the one side of the argument focuses on the dominance of actors from the Global North in designing, implementing and evaluating transitional justice practice and producing transitional justice knowledge, the other side focuses on uncovering the Eurocentrism inherent in the field (as discussed above).

The 'local' turn in transitional justice thus includes ideas such as 'justice from below' (McEvoy and McGregor, 2008), the taking into account of different positionalities and standpoints in a 'localized' transitional justice (Shaw and Waldorf, 2010), contesting foreign knowledge in a search for an African transitional justice (Bennett et al., 2012), or struggles over who owns and shapes a particular transitional justice process (Thomson and Nagy, 2011, on the case of Rwanda). Contesting dominant knowledge/s has been an important part of the evolution of the field of transitional justice, and discussions about what a local transitional justice is, and what it adds, as well as how it can be captured, are important foundations for the work of this book. However, an

assumption persists of an unequal binary between international ‘experts’ and local ‘knowledge’ with the latter having instrumental value to the experts as they make policy decisions. Therefore, any attempt to reclaim, revive or render visible the ‘local’ in transitional justice may still be read as an act of those with epistemic privilege seeking to give back power to those whose voices have been marginalized. Thus, instead of deconstructing which voices are seen to be expert and which are seen to be local in the first place these critiques invariably assume and perpetuate a problematic ‘*sense of naturalness and inevitability*’ of transitional justice (Sharp, 2018: 14, emphasis in original) and (the positionality of) its actors.

Indeed, according to Colvin the problem for transitional justice vis-à-vis the local context is not one of a lack of knowledge, but rather a ‘failed ethical relationship to the other’ (2008: 424). Colvin’s observation demands a reflection on how the politics of knowledge of transitional justice produces certain types of relationships between those who claim knowledge and those to whom the knowledge refers. This includes any designation of an actor, knowledge or space as ‘local’ for this belies a series of assumptions about the role that can be played by anyone designated as ‘local’ and how that which is ‘local’ can be known. In reality the merging, intersections and overlaps between what is named ‘international’ or ‘local’ are more illuminating than any such categorizations. Attempts to obfuscate the grey areas and complexities may end up serving the interests of those with epistemic privilege who seek to ‘discover’ the local without fundamentally changing the relationships of power which determine the politics of knowledge.

### **The Research-Policy-Practice Nexus**

The establishment, strengthening and global diffusion of the norm of transitional justice outlined above have gone hand in hand with the field’s bureaucratization and professionalization and a burgeoning of think tanks, consultants and university courses (Rubli, 2012). Hansen has described this as the ‘vertical expansion’ of the field meaning that ‘actors both above and below the State level are increasingly perceived as being relevant for shaping and implementing transitional justice solutions’ (Hansen, 2014: 105). In the process, experts have moved from truth commissions to international organizations, from academia into tribunals, and so forth. Lawyers in particular have moved freely between institutions and ‘taken leadership roles in the international tribunals whose creation they have advocated for’ (Vinjamuri and Snyder, 2004: 348). This has continued to blur the lines between research, policy and practice in a field which anyway has its origins in an impulse to act to seek redress for violations of the past and ensure a political transition to democracy. Miller

(2008: 271) has observed the importance of this character of the field for how to think about a politics of knowledge, noting that:

Transitional justice operates through the actions of a series of groups: policy makers [...] victims groups [...] the larger citizenry [...] scholars [...] and practitioners [...] the movement of ideas about and modes for transition bespeaks not only a series of 'lessons learned' but also potentially the transfer of ideological preoccupations that underpin the seemingly neutral discourse of the project.

Miller goes on to identify an important 'tendency of scholars or ex-commissioners to become consultants to, rather than fully external critics of, the enterprise' (2008: 290). Descriptions of the kind of knowledge which is elevated in these contexts include 'technical', 'professionalized' and 'mobile' expertise (Nesiah, 2016: 34, cited in McAuliffe, 2017: 180) which reinforces the dynamics identified in the previous sections – a dominance of Global North, presumed universally applicable knowledge which 'favours models that are already legible to the field and its "best practices", rather than innovations that may extend or challenge the field as we know it' (*ibid.*).

The way in which the epistemic communities share knowledge, contest knowledge or reinforce models and assumptions is vital for understanding what is even considered to be possible in terms of an individual intervention or transitional justice process. Despite this, the research-policy-practice nexus in transitional justice is insufficiently well-understood and has not been the focus of sustained analysis and discussion. The critiques outlined in the previous sections thus form the starting points of the intellectual preoccupations of the chapters in this book – work which seeks to break down the many binaries that dominate transitional justice thinking, to take a step back to look at what even counts as knowledge, and to reflect on how we can capitalize on the research-policy-practice nexus.

## QUESTIONS AND CONTRIBUTIONS OF THE BOOK

With this background in mind the project from which this book has emerged had a series of aims: to analyse the discursive and material practices of transitional justice; to explore how knowledge about 'peace' and 'justice' is produced and the politics of these processes, including research-policy-practice exchanges; and an analysis of what this means for which types of policies are enacted and which policy options might be overlooked or marginalized.<sup>6</sup> While some very valuable work has been done on the politics of knowledge in peacebuilding scholarship, as well as on how the politics and power of transitional justice marginalize certain voices while elevating others, there has yet to be published a book such as this which brings these insights together and which focuses spe-

cifically on what the politics of knowledge means for (1) how we imagine what is possible in policy and practice and (2) research-policy-practice synergies.

The contributions in this book thus go beyond existing studies which focus on how to translate complex realities to policy actors (see for example Carden, 2009; Paris, 2011), on how research feeds into development practice and can be used by development practitioners (Verkoren, 2008; Laws et al., 2013), on how researchers can justify programmes or convince donors (Davies et al., 2005; Bush and Duggan, 2014), or even the taken-for-granted assumption about the importance of the relationship between research, policy and practice. Instead, the contributions presented here start from the assumption that before we decide which knowledge should be acted on, we need to know more about what counts as knowledge. This is what we mean when we refer in this book to the 'politics of knowledge'. The work of the project, and the ideas expressed in the chapters of this book, thus speak to questions of how knowledge is generated, how the boundaries of such knowledge come to be determined, which forms of knowledge are considered to be more legitimate and authoritative, and how, thus, the politics of knowledge production shapes the types of policies which are considered, designed and implemented. The contributions are guided by two themes:

1. *The interlinkages between the processes and politics of knowledge production*: What are the assumptions, cases, practices, exchanges which form the starting point of knowledge and shape how it is produced? What types of knowledge are being produced? How do the processes of knowledge production interact with (the) politics (of knowledge)? Who is considered an expert? How is expertise constructed?
2. *The research-policy-practice nexus*: How do these communities exchange, engage and interact? Does the distinction between these groups indeed provide a useful lens for understanding knowledge production (in theory and practice)? Does 'research' in this nexus grasp the processes of knowledge production identifiable in the field of transitional justice? If not, what does this mean for the research-policy-practice nexus?

Each chapter speaks to one or both of these two themes and draws on both conceptual and empirical insights. The authors draw on different disciplinary backgrounds, their belonging to different epistemic communities, and their own first-hand experience. While the fact that the book is edited by scholars based in the Global North is not to be ignored, the book is also important in the way it brings together authors from the Global North and Global South in reflective accounts of how we write about the politics of knowledge and are ourselves part of that politics. With that in mind, in the section which follows we map the content of the chapters in relation to the overall themes of the book.



## MAPPING AND CONNECTING THE CHAPTERS<sup>7</sup>

Part I on the *Politics of Knowledge for Peace* comprises three chapters which provide a theoretical context for the empirical chapters in Parts II and III of the book. We open with the chapter by Halistoprak in which he traces the interplay between theory and practice in International Relations and Peace Studies. Charting over time the role of different knowledge in the claims made by scholars in these fields, Halistoprak shows us that ‘discussing knowledge production becomes a debate less about the merits of certain methodological approaches and more a question of how the political context in which knowledge production takes place shapes the process itself’. In his chapter we see clearly the importance of the interactions between research and practice in shaping the knowledge landscape of Peace Studies, and how ‘the practice of peace relies on a certain understanding of peace constructed not only through practice but also through theory’. Theory and practice cannot, and should not, be separated in considerations of the politics of knowledge for peace. This theme is continued in the chapter by Goetschel in which he charts the concrete points of interaction between research and policy, namely the turn towards evidence-based policy-making, promotion of pragmatic approaches to peace practice, and research partnerships. In doing so Goetschel urges us to take on board that debates over the nature of peace ‘are not just about the adequacy of technical approaches and solutions but also about political preferences’. He argues that although the field of peacebuilding has evolved into an evidence-based, policy-facing field ‘the science-policy interaction remains largely opaque and power sensitive’. Goetschel presents a way forward by incorporating a consideration of power through substantive conflict sensitivity assessments alongside well-managed research partnerships. He argues that these practices equal a ‘political sensitivity’ check or a socio-political positionality assessment – something that is ultimately required if peace research is to have the impact expected and desired by all actors in the field.

In the final chapter of Part I, Jones, Lühe, Fokou, Logo, Moro and N’Da connect the politics of knowledge themes identified by Halistoprak and Goetschel with the specifics of the empirical project from which this book has emerged. More specifically, as a project team we reflect on a conversation from the final project workshop in which we discussed the experience of working in a Global North-South research partnership. While current practice and requirements from funders require that such partnerships are central to projects, this chapter unpicks the realities of one such partnership and poses difficult yet important questions. Identifying ‘the multiplicities and tensions inherent in layers of positionality that we inhabit and the emotional and ethical implications of our work and conduct as research partners’ the chapter

identifies key factors driving, shaping and complicating relations between the team. Looking closely at how positionality, ethics and emotion featured in the team dynamics, this self-reflexive piece ‘works its way through the idea of the “research partnership”, not as an ideal or as it is planned on paper and in project management scenarios, but as it plays out in the realities of project implementation’. This chapter attempts to be open about the vulnerabilities, aspirations, experiences and contradictions, which are clearly important for shaping how research partnerships play out in practice, but which do not feature in funder checklists or project management frameworks.

Moving on to Part II the book turns towards *The Interlinked Politics of Knowledge Production and Agenda Setting* with chapters on the cases of Côte d’Ivoire, Burundi and Zimbabwe. In the first chapter N’Da and Fokou describe and analyse the ‘peace market’ in post-2011 Côte d’Ivoire and attempt to establish and, in so doing, to define social cohesion. In the rush of actors and funding entering the country there has been a ‘lack of a common framework of reference between the various transitional justice actors’ which, when combined with the resource asymmetries that shape many transitional justice contexts, has led to ‘high levels of field deployment by international actors who implement activities based on their frameworks of reference, experiences and practices learned from other contexts’. This international-local tension and dynamic has led to the legitimization of knowledge produced outside of Côte d’Ivoire, and the ‘knowledge and know-how, the theoretical skills and the experience held by these actors external to Côte d’Ivoire have structured the dependency/interdependence relationship between stakeholders’. N’Da and Fokou link this politics of knowledge to the lack of progress on a unifying national social cohesion policy which is struggling to have impact on the daily lives of Ivoirians. They point towards consultation over different versions of transitional justice, greater coordination between actors working on social cohesion, and political will to engage with the challenge of social cohesion as a social process, as factors which could lead to change. Ultimately, the competitive arena over who can determine conceptualizations of, and policies for, social cohesion is leading to ongoing harm for the Ivoirian population.

Chapter 6 by Lambourne also takes as an entry point the competition between different actors to determine the transitional justice agenda, this time in Burundi. Lambourne describes what she sees as the ‘political struggle for control over the production and dissemination of knowledge’ which has characterized the transitional justice experience of Burundi. This struggle has taken place between different levels – international, national and local – as well as between different actors – policy-makers, practitioners, funding agencies, civil society advocates and research scholars. Importantly, she argues it has ‘had a profound influence on the mechanisms and programs that have been pursued and the impact these have had’. Focusing on the trajectory laid out by

the Arusha Peace Agreement and the Truth and Reconciliation Commission, this chapter focuses on the tension between the United Nations and the Government of Burundi as they try to influence the discourse and, ultimately, practice of transitional justice. Looking at these struggles through the lens of the politics of knowledge production, Lambourne is able to highlight the role that attempts to control knowledge play in how transitional justice processes may falter. She thus argues for 'a more explicit accounting for the influence of knowledge producers on the process and outcomes of transitional justice'.

In the final chapter of Part II, Njeru and Masiya undertake a detailed critique of the 'Taking Transitional Justice to the People Programme' of the Zimbabwe Human Rights NGO Forum. They frame their analysis with reference to debates over Global South marginalization in knowledge production on transitional justice, as well as the elevation of theoretical knowledge above grassroots/activist/practitioner knowledge which 'undermines the possibilities of dialogue between grassroots activists and the scholarly community'. Charting this specific programme from its conception through to activities and its impact, Njeru and Masiya call into question the use of models imported from other contexts or replicated from the international norm of transitional justice, the way in which translation between language and cultures has not been taken into account, and methods of imparting knowledge to the people of Zimbabwe and thus assuming their ignorance or at least inability to engage more actively. In doing so they also point out that the Forum is part of larger structures and systems which reproduce hegemonies of knowledge, highlighting how we cannot analyse any given transitional justice intervention as stand-alone or disconnected from the field's broader power dynamics in terms of the politics of knowledge.

Part III of the book is focused on *Knowledge Producers: Experts and Expertise* with four chapters on the cases of commissioners of truth commissions, the experts involved in developing the African Union Transitional Justice Policy, the role of the Intergovernmental Authority on Development in South Sudan, and the communicative acts of the population, domestic elites, diasporas, international actors and documentary makers in Burundi. These chapters focus on actors and notions of expertise as the entry point to the politics of knowledge. The first chapter by Wouters explores whether there is a common framework governing the selection of commission members by looking at the truth commissions of Argentina, El Salvador, Chile and South Africa. Wouters argues that truth commissions seek to establish representativity and objectivity as an institution, among others through the selection of their commissioners. However, individual subjectivity of commission members will always exist. As a consequence, the only way to increase objectivity is through overall commission composition. Differences in commission compositions are due to 'differing ideals of objectivity', leading to the finding that authority,

skills and representation are all relevant factors that make commissioners suitable for their delicate work. This context-specific definition of expertise contrasts with the objectivity claims which are made around the selection of commissioners, claims designed to confer authority on the truth commission and its work and thus credibility on its findings and recommendations.

In the chapter which follows, Lühe focuses on the development of the African Union Transitional Justice Policy and investigates how expertise was assembled in the making of the policy. She points out that little attention has been paid in the transitional justice literature to Southern practices of producing knowledge and assembling expertise for policy-making and that academic debates often focus on technical knowledge as the basis of expertise and a shaping factor in policy-making. It thereby limits our understanding of how transitional justice is rendered knowable in specific contexts and how experts meet the shifting demands for expertise in a given policy process. Lühe analyses two key consultation practices – policy revisions and consultation meetings – to illuminate the way in which expertise emerges from the process and how it is assembled and folded into the policy process over time. Her findings however go beyond this particular policy process to be relevant for assembling expertise in the transitional justice field more generally and in other policy processes, demonstrating its necessarily assembled, contested and exclusive character.

In the next chapter Logo reflects on the role of context, in particular that of the non-transition context of South Sudan, and how the politics of knowledge around establishing the Hybrid Court for South Sudan plays out between key actors. She focuses her analysis on the Intergovernmental Authority on Development (IGAD) and the role of regional politics in determining who is able to shape the agenda and control the circulation of information. In doing so she highlights how the dominant narrative put forward by IGAD, and later IGAD Plus, claimed certain knowledge that had a profound effect on the design of transitional justice solutions. As Logo concludes:

conceptualizing the conflict as ethnic, and as one between two dominant tribes, meant that reports on the myriad of issues and roots of the conflict were left outside of the framework of the negotiations and outside of plausible solutions to the conflict, leaving significant gaps in how the international community conceptualized and intervened in the conflict.

These knowledge gaps are rendered more complex and have greater impact in the absence of meaningful transition: ‘South Sudan as a complex, non-transition context, suffering from recurrent wars and cycles of human rights violations, is a difficult and risky environment for the production, use and dissemination of knowledge about human rights violations.’ Given this, Logo underlines the

importance of varied actors being able to contribute to knowledge production, and in particular the reports and recommendations made by civil society groups.

In the final chapter of Part III, Bigirimana renders visible and deconstructs the violence of communicative acts and narratives in the context of Burundi's transitional justice process. The chapter disassembles the complex, contradictory and contentious narrative landscape that shapes any peacebuilding and transitional justice debate in Burundi. In outlining first the challenges of producing academic work in and on this context, and his own intellectual journey that shaped and complicated this endeavour, his chapter speaks to the 'uneasy position of the academic' (Villumsen Berling and Bueger, 2015: 13). It goes further though in presenting the many fault lines of the narratives about the past that shape and define what, at specific points in time, is considered true and where these narratives diverge in their interpretations of the same events. The chapter not only asserts that the availability of cases perceived as similar or comparable (such as Rwanda for Burundi) can serve as narrative reference points and shape the narratives in a given context, but it also unpacks the politics and political use of labels such as 'ethnic conflict' and 'genocide'.

Through these diverse empirical and theoretical contributions, we lead to the conclusion of this book and its concrete contributions to the transitional justice and peacebuilding scholarships. As the concluding chapter discusses, the contributions outline (1) the different processes and actors which shape and constitute the politics of knowledge, (2) the ways in which norms and interpretations interact with power imbalances in the varied politics of knowledge landscapes, and (3) the research-policy-practice nexus as a particular facet of the politics of knowledge in the transitional justice and peacebuilding fields.

To conclude this introduction, it should be noted that the chapters we include are of course only part of the conversation that could, and should, be had on this subject. The case studies are all African countries, which is partly a result of the original case selection for the research project which has led to this book, and partly a function of the abstracts which were submitted through the open call process. In the spirit of self-reflexivity which imbued our project and which we hope imbues this book, it should also be noted that the process of writing and editing the contributions was itself an experience of grappling with the politics of knowledge production. As is always the case, but rarely openly discussed in the ensuing publications, the authors, reviewers and editors are not always of one mind. Indeed, the contentious nature of the book's subject matter, as well as the divisive empirical contexts represented, meant that we as editors were often in the difficult position of striking a delicate balance between supporting and controlling the knowledge product. Some of the issues about what should be included, which citations were required, and how events should be described were not in the end resolved. We believe this is not

a weakness but is rather a strength of the book. We sought variety and inclusivity within the framework of the accepted academic vernacular and publication process. In the sense that the book is a knowledge product, it only captures a moment in time and thought in what are ongoing and open-ended debates. These debates go to the core of the way we understand the world around us and our effects within it. In this sense the book is as incomplete as the knowledge debates which underpin it.

## NOTES

1. The idea of the double-bind was first developed for studies of schizophrenia.
2. Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1), 1997, accessed 14 April 2020 at <https://digitallibrary.un.org/record/245520?ln=en>
3. Accessed 14 April 2020 at <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Index.aspx>
4. The Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (the ‘Malabo Protocol’) was adopted by the AU in June 2014 (AU, 2014). The envisaged African Court of Justice and Human Rights anticipates a General Affairs Section, a Human and Peoples’ Rights Section and an International Criminal Law Section. Clarke et al. (2019: 1) assess that ‘the merger of these three chambers addressing inter-state disputes, human rights and penal aspects into a single court with a common set of judges represents a significant development in Africa and in wider regional institution building and law making’.
5. See for example Lundy and McGovern (2008), Hinton (2010), McEvoy and McGregor (2008), Shaw et al. (2010), Sharp (2013, 2014, 2018), Wielenga (2018a, 2018b).
6. The project, ‘Knowledge for Peace. Understanding Research, Policy, Practice Synergies’, was funded by the Swiss National Science Foundation and the Swiss Development Cooperation. Active for four years from July 2016–July 2020 the project was undertaken by a team of researchers in Switzerland, South Sudan and Côte d’Ivoire with the case studies of Côte d’Ivoire, South Sudan and the African Union.
7. We would like to thank Brownen Webster for her research assistance in preparing notes for this chapter.

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# PART I

## Politics of knowledge for peace

## 2. Knowledge production and its politicization within International Relations and Peace Studies

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### INTRODUCTION

This chapter focuses on how International Relations (IR) in general, and Peace Studies more specifically, have been engaging with questions regarding the politics of knowledge production. The chapter contextualizes Peace Studies mainly within the general field of IR and investigates the questions raised about knowledge production in these respective literatures. Debates on knowledge production in the discipline of IR are particularly relevant for, and in this chapter bridged to, the knowledge production literature in Peace Studies for three key reasons. Firstly, although Peace Studies has been an interdisciplinary field since its inception (Webel and Galtung, 2007), it is influenced heavily by debates within IR due to its (often normative) focus on questions of sovereignty and intervention. Peace Studies' interventionist stance has challenged the Realist and state/system-centric character of mainstream IR. This interaction has created an intense nexus between IR and the field of Peace Studies in which knowledge and theoretical debates in both fields have easily been exchanged and translated by each. Secondly, developments in international politics have had direct implications for the field of Peace Studies and its central concepts. Political developments such as decolonization, the end of the Cold War, and the interstate and civil wars of the 1990s have naturally influenced not only the literature but also the practice of peace. Thirdly, although the field of Peace Studies was initiated in the 1970s by Johan Galtung, the concept of peace has been central to the field of IR including its mainstream and more critical branches. Scholars of Peace Studies usually have a background in IR; or even if they do not they inevitably refer to the literature focusing on the concept of peace within the context of IR. Thus, this chapter explores the knowledge production debates first in IR and then it examines how they resonate in the field of Peace Studies.

The subjective nature of knowledge in the academic field of IR and its subfields (such as Peace Studies, Security Studies, Foreign Policy Analysis) has long been disregarded. This was not just a disregard but also a deliberate choice by the dominant perspectives in the field which presented objectivity as the main prerequisite for the scientific merit of IR. For those scholars, the puzzle is not a complex one: IR is an academic field and as such provides answers to the reality that it aims to address. It follows from this that the main debate should focus on developing appropriate theories, methods and tools to understand the causal relations between variables and present understandable answers to the questions asked in the first place. Looked at in this way, the development of theories and the standardization of methodological processes are not different in their essence from the procedures followed in the natural sciences. Confirmed hypotheses will help to build and justify the main assumptions of a grand theory. Grand theories ought to be umbrella-like frameworks that are capable of explaining as many cases as possible through their assumptions and propositions under certain controlled conditions. In this sense, theoretical insights and their empirical testing precede practical application (Kaplan, 2005: 7). Once they survive scientifically systematized testing processes, theories are ready toolkits that can serve the ultimate aim of explaining the practical reality and also present handy tools for analysing the future trajectories of similarly formed social puzzles.

The questions regarding the subjective content of the abovementioned processes are either ignored or found irrelevant by the defenders of such epistemological stances because the researcher is considered to be capable of preserving objectivity during the conduct of scientific endeavour. In that sense, there is clearly a definable distance between the observer, the theoretical framework utilized and what is observed (Guzzini, 2013). In other words, theory and practical reality are two different categories that are separable from one another and the observer can use theory as an instrument to make sense of the practical reality. This stance, which relies on positivist philosophy of social science, had dominated the field for quite some time before being questioned by some scholars who problematized the way knowledge is generated in IR. According to these scholars, the overall process which is presented as a perfectly functioning scientific machinery was not and could not be exempted from questions posed by the political structure in which the process is taking place. In other words, the very assumption of the possibility of scientific objectivity was subjected to questioning, and subjectivity of the knowledge and its production processes provided the ground for critical scholars to engage with the politics of knowledge production.

Critical scholars' problematization relies on three main points of critique. Firstly, the epistemological stance that positions theory and practice at a distance from one another was criticized. In the social world, theory and practice

are not always separable from each other (Jones, 1995, 2001). In fact, there is a constant interaction between theory and practice. Theory and practice in the social sphere are not mutually exclusive; instead they mutually and constantly construct each other. In other words, theory shapes the practice while practice opens the door to the reproduction of theory. This 'social' dimension in the field gained momentum especially in the 1980s and generated more synergetic approaches to the nexus between theory and practice. The 'Praxis' approach, which takes theory and practice to be in a constant social interaction, is based on such a synergetic approach (Jones, 1999: 154). Secondly, and related to the first point, objectivity of scientific research and of the researcher is not seen as guaranteed, nor even possible (Chan, 2010). The researcher is an integral part of the social world that is investigated and the research is conducted within this world which is shaped by political and social factors. The dualism between the social world on the one hand and the researcher on the other is found to be artificial, which challenges, if not extinguishes, the objectivity assumption. Thirdly, the formation of a research agenda, which is presented as a pure scientific endeavour in positivist philosophy of science, is also problematized by critical and poststructuralist branches of the discipline (Ashley, 1995). The critical accounts emphasized that the overall political context can be, and is, influential in the formation of research questions. For instance, the so-called 'timeliness' of a research agenda is a manifestation of its political relevance. Disregarding how overall political structure renders certain research agendas timely and sidelines others is a major fallacy, and it should be addressed as a problem.

Students of Peace Studies have also been engaged with the questions of knowledge generation in their specific field. It was initiated as a field with a strong normative agenda which intends to create a substantial social change in conflict-affected areas.<sup>1</sup> For such a field, the conditions under which its knowledge is generated and transferred into policy-making are of utmost importance. Therefore, how this subfield positions itself with regard to the points of critique mentioned above is worth exploring. This chapter aims to explore these debates on knowledge production in IR and examines how they feed into the field of Peace Studies and vice versa. Following a general overview of how mainstream IR is challenged by critical scholars questioning the generation of knowledge in the field, the chapter unfolds into the specific subfield of Peace Studies and delves into the debates on the politics of knowledge production and the theory-practice nexus.

## KNOWLEDGE PRODUCTION DEBATES IN INTERNATIONAL RELATIONS

Debates about knowledge production are not new in the field of IR. The field has built a significantly thick literature on the subject as early as the 1950s and 1960s. What is referred to as the ‘Second Great Debate’ in the field is actually a reformation and reconstruction of the discipline in response to points raised on how IR *epistemes* should function (Kratochwil, 2006). However, the points of problematization regarding the generation of knowledge have diversified and deepened throughout the evolution of the discipline. The debate that took place within the context of the Second Great Debate mainly focused on methodological questions whereas the later conversation has been inspired by a Foucauldian gaze (Lewis, 2017) and helped to politicize the debate.

In its early period, the discipline of IR was shaped around studies of the political and diplomatic history of Europe. Inspired by political theories of classical writers such as Machiavelli and Hobbes, early IR scholars focused on presenting assumptions that can explain state behaviour in the international arena. The Classical Realist dominance in the discipline’s early years relied on the assumption that states are the primary actors with an inherently self-help-focused and aggressive nature (Morgenthau, 1978). Knowledge-making claims about the anarchical structure of the international system were also consolidated through this early literature relying on entrenched assumptions suggested by the Classical Realist school. The uncertainty that is caused by international anarchy, according to this tradition, obliges states to act in a selfish manner and accumulate power to ensure their survival. These founding assumptions of the Realist tradition have been the ‘standard knowledge’ for IR expertise in the early years of the discipline. Any other accounts advocating the possibility of cooperation, collective security and world peace were labelled naïve and utopian (Carr, 2016). Considering the early seminal works on international politics written by authors like Morgenthau and Carr, it is fair to suggest that most of these studies were written in a tone addressing policy-makers or statesmen. They were defining how statesmen should act and informing their decision-making through supposedly standard knowledge regarding state behaviour as summarized above. In terms of the theory-practice relationship, it is also safe to suggest that it was a much more vivid relationship compared to the scientific/behaviouralist school which adapted a dualist understanding of theory and practice. Nevertheless, the early Realist tradition was utterly agnostic, if not negligent, regarding the ‘how’ questions of knowledge generation. Despite speaking directly to the practitioners and exhorting them on how they should act in decision-making, the early IR literature did not concern itself with questions regarding their own role in the consolidation of that standard

knowledge. In other words, the assumptions theorized within early IR knowledge were taken as fixed, primordial and pre-given.

The Second Great Debate can be cited as the first endeavour to delve deeper into 'how' to produce knowledge within the field. The debate was initiated mainly by a group of scholars who defended a more 'scientific' approach to the field instead of historicist theorizing (Guzzini, 1998). This first engagement of the field with questions of knowledge generation was in fact through a debate that did not directly speak of knowledge generation. Rather, it was sparked by a methodological objection targeting the historicist understating ascendant in the early IR scholars' writings. The scientific school (later also called behaviouralist) emphasized that what is called IR theory had so far relied mainly on 'undisciplined speculation' on state behaviour and statesmanship (Kaplan, 1966: 19). What is proposed as universal and standard knowledge about the functioning of world politics had not been tested through systematically built scientific methods, according to the scientific school. Science, in that sense, must rely on empirical proof and this proof could only be obtained through scientific testing. IR, being a field of social sciences, is not exempt from this procedure to be able to produce and deliver scientific knowledge. As the pioneer of the scientific school, Kaplan states:

Modern science [...] insists upon the hypothetical character of all empirical knowledge. The test for communicable knowledge depends on replicability even if only in principle. Thus there is no distinction between the physical and human with respect to the need for confirmation and communication. (Kaplan, 1966: 4)

This empiricist understanding relies on a positivist philosophy of science that is built upon multiple dualisms between theory and practice, and the observer and the observed. As in the fields of natural sciences, the objectivity of the research and researcher is not just assumed possible but also presented as the major requirement for scientific knowledge production. At this point, it should be noted that the objection of the scientific school does not target the very assumptions of traditionalists regarding state, state behaviour and the nature of international politics. Rather, what is problematized by the behaviouralists is that traditionalists rely on pure philosophical argumentation without testing these arguments through scientific frameworks (Knorr and Rosenau, 1969). Another point to clarify is that although we can see the Second Great Debate as the first initiative to start a conversation in IR on knowledge production in retrospect, it should be understood that, when it was first initiated, this was an epistemological path-searching of a relatively young academic discipline. The parties of the debate did not engage with the issue of the politics of knowledge generation as such; instead, their stances were shaped in accordance with their

opinions on the possibility of studying social issues through the methods consolidated in natural sciences.

The constructivist intervention to IR theory can be cited as a significant problematization of approaches which take knowledge as fixed and naturally objective. Constructivists pointed out the constructed nature of the social concepts positioned in the centre of the discipline's knowledge accumulation. Wendt's revisiting of the concept of anarchy and reframing it as socially constructed (Wendt, 1992) has introduced a social dimension into the discipline. The 'social' embedded in the major concepts of the discipline is subsequently discovered by this new generation of scholars. The main weakness of conventional IR was, according to this constructivist generation, to take social reality as self-existing and 'out there' waiting to be discovered by researchers. Yet, constructivists argue that knowledge is 'generated by the way we think or talk about it' (Collin, 1997: 2). Similarly, Weldes challenges the fixed notion of another major concept of IR, namely national interest, by emphasizing its elusive nature and how it is constructed through different discursive engagements with politics (Weldes, 1996). This approach to the generation of concepts and knowledge departs from the above-mentioned dualist understanding of knowledge. The assumed distance between theory and practice is no longer taken for granted; instead, theory and practice are considered to be in a social interaction through which knowledge is produced.

Although the constructivist take on knowledge generation revealed the 'social' dimension in IR, it was mainly more critical accounts, such as Neo-Gramscians, Poststructuralists, Postcolonial theory and the International Political Sociology school that engaged with knowledge production in a political manner. Conventional constructivists' exploration of subjectivity and social nature of the knowledge was not accompanied by a problematization that delves deeper into the politics of these social processes. Critical accounts mentioned above, on the other hand, problematized political dynamics that influence the processes in which knowledge is generated and distributed. Hence, critical scholars' questioning of knowledge production was not solely a methodological problematization but also aimed at a politically informed deconstruction. Robert Cox's famous separation between problem-solving theory and critical theory marks an important turning point in the IR literature in terms of its impacts on how knowledge is organized and categorized in the field. In Cox's terms theory, being 'always for someone and for some purpose' (Cox, 1996: 87), is not an objective tool for making sense of the practicality. Rather, it is framed as an instrument of either reproducing or challenging the prevailing order's founding dynamics. Cox defines theoretical perspectives that aim to correct the defective aspects of the prevailing order as problem-solving theories; while he defines perspectives that directly challenge the foundations of prevailing order and seek solutions outside of it as critical



theories (Cox, 1981). It follows from this that the knowledge produced through problem-solving theories is in conformity with the prevailing order, while critical knowledge is normatively motivated for change. Based on this, knowledge production is political as much as it is an academic activity. Accordingly, discussing knowledge production becomes a debate less about the merits of certain methodological approaches and more a question of how the political context in which knowledge production takes place shapes the process itself.

The poststructural critique of conventional IR takes up this challenge of politicizing the engagement with knowledge production and emphasizes the nexus between power and knowledge. In poststructural critique, knowledge production is a social process that has a constitutive impact on the political reality (Adler-Nissen, 2012). Knowledge producers are not blessed with perfect objectivity; instead, producing knowledge is a relational activity (Brigg and Bleiker, 2010: 781). Moreover, it is a crucial element of the preservation of a certain status quo and it is thus necessary to break down the distinction between the subject and the object, the researcher and the research and knowledge producers and political practice. Ashley's deconstruction of Realist theory's participation in constructing sovereignty and anarchy as they have been practised within the context of the Cold War is a good example of poststructural problematization of knowledge production (1995). In Ashley's idiom, what is presented by conventional theories of IR as standard and fixed knowledge about the essence of international politics – and also practised in the international arena – was in fact an outcome of a knowledge production campaign relying on a relevantly tailored discursive construction. This campaign, according to Ashley, standardized a certain notion of sovereignty as the main ordering principle of international politics. This version of sovereignty relied on a strict dichotomy between the domestic and external, in which the former is characterized by the order provided through sovereignty, while the latter is represented as chaotic, and requiring action on a self-help basis. Hence, the conventional IR theories, according to the poststructural critique, participated in the construction of the knowledge that state actors of international politics should act on a self-help basis as the standard and rational pattern of state behaviour. In other words, knowledge produced within IR was not a pure analysis of what unfolds in international politics but was also an outcome and a constitutive element of it.

The Postcolonial school built its critique on similar grounds to poststructuralists but differed in its addition of a focus on agency. The Postcolonial school of IR mainly developed as deep critique of knowledge production processes which had allowed the Western experience to be presented as a universal experience/knowledge. Postcolonial scholars have problematized conventional IR and the knowledge produced through it, a knowledge which constructed a reading of history as if it were the product of a solely Western (mainly

European) experience and disregarded the agency of the non-Western subalterns (Epstein, 2014). What is presented as universalist truth through the conventional IR discipline was defined as informed by the asymmetries between the West and the rest originating from the colonial experience (Grovoqui, 2010). In this regard, the Postcolonial school does not take IR knowledge claims as full accounts of events, rather they are seen to be knowledge claims imposed upon the subaltern (*ibid.*: 241). Conventional IR, in this sense, was said to have developed a mode of knowledge production which is a product of the colonial discursive power of the West which designated ‘reason (rationality), science (positivism), and sensibility (pragmatism)’ as the three pillars of knowledge production (Grovoqui, 2006: 27). The role of knowledge is therefore seen not simply as a mirror of reality, but also as ‘a potent force for shaping what is “out there”’ (Seth, 2011: 182). Thus, the knowledge produced through epistemologies that are negligent of colonial hierarchies are deliberate fallacies constructed to reproduce the colonial hierarchies.

Overall, it is fair to suggest that the early engagements with questions of knowledge production in IR were politically agnostic and more epistemological, whereas more recent challenges to mainstream IR problematize the issue politically and break down the problem into the construction of epistemological standards in the discipline. This overview of the way knowledge has been treated in different branches of IR is important as a context to the way in which the politics of knowledge has emerged as a subject in the subfield of IR that is Peace Studies. A look into the subfield of Peace Studies is also necessary to evaluate how these debates are translated into peace research.

## KNOWLEDGE PRODUCTION IN PEACE RESEARCH

The subfield of Peace Studies was born and developed as an academic field in which practitioners and academics interact in a more constant and effective way compared to other fields of international studies. This is mainly because the field has had a strong normative agenda and has from the outset aimed to create substantial social change in conflict-prone and conflict-affected societies. Therefore, peace research has always been attuned to producing politically relevant and useful knowledge that serves the field’s aim of creating social change (Bush and Duggan, 2014). This policy-oriented character of the field has been considered to be both an advantage and a shortcoming. On the one hand, as a value-oriented field, peace research had to always bear in mind policy-relevance and empirical realities when approaching research and producing outputs. That is why Galtung, the founding figure of the Peace Studies discipline, stated that peace research is in an inevitable relation with the domain of practice and it is this which grants an agential role to the researcher (Galtung, 1985). On the other hand, the field was criticized for being too

focused on pragmatics and remaining largely cut off from theoretical debates (Paris, 2000: 28). The pragmatic focus of the field also brings with it the risk of getting into a vicious circle that is repetitive and reproductive of the prevailing order. This dilemma has further implications for the engagement of the field with questions of knowledge production.

Despite being developed as an interdisciplinary field, the subfield of Peace Studies has had direct connection points to the field of IR, since the enquiries about peace inevitably penetrate debates of intervention and sovereignty. Therefore, the literature on knowledge production in peace research has developed in parallel with the interrogations in the field of IR. Yet, it is also fair to suggest that scholars questioning knowledge production in peace research have never lacked a political dimension in their enquiry as was the case in the early debates in IR theory. Interpretivist and reflectivist critiques on knowledge production in the field of IR have been translated into the subfield of Peace Studies comprehensively. Nevertheless, the early peace research that was shaped within the context of the Cold War was also built upon the presupposition that theory and practice are clearly and categorically distinguished. Building on this dualist understanding, Rapoport (1970) distinguishes between 'pure' and 'applied' peace research. While the former refers to theoretical studies, the latter refers to policy-relevant research. Following the dualist understanding adapted by the scientific school of IR, Rapoport envisages theory and practice as two distinct categories at a distance to each other. In this regard, pure studies handle the concepts in a philosophical manner, and are not necessarily connected to the practical world. They fulfil 'expectations by making some proportion of the world better understood without necessarily bringing it under manipulative control' (Rapoport, 1970: 277). To engender and inform change is the business of applied research, which does not solely rely on the aim of understanding the world, but also changing it towards a desired direction. Therefore, Rapoport does not attribute an agential power to theoretical studies, 'pure research' in his terms, as it does not seek to generate and influence change.

What is neglected by this approach is the fact that the practice of peace relies on a certain understanding of peace constructed not only through practice but also through theory. For instance, studying sub-atomic particles is an example of pure research, whereas a study of its applications for developing nuclear energy is applied research. However, no such distinction is possible in the field of peace research. Discursive construction of peace through 'pure' research can and does shape the practice and the mode of peace sought in it. The rise of the 'social' dimension in the field generated ground for more synergistic approaches to the nexus between theory and practice. Building on the Frankfurt School of political theory, the 'praxis' approach suggests that theory and practice are mutually constitutive of each other (Jones, 1999: 154). Theory

usually serves the aim of producing justifications for a certain social order into which it was born. The practical world constitutes the theory, while theory in return provides a reproductive social setting to this practical world. Once theory and practice are redefined in such a mutually constitutive manner, much wider avenues of deliberation for knowledge production become available.

The phrase 'knowledge production' itself signals a methodological departure from the positivist school, which assumes reality is out there waiting to be explored through scientific methods. If there is a production, the assumption of 'out there' reality is no longer relevant. Therefore, it is possible to suggest that scholars problematizing the knowledge production processes are distancing themselves from the positivist philosophy of science. The problematization of this production process also requires politicization of the enquiry as it departs from the assumption of objective reality. In that sense, the critical literature on knowledge production in peace research can be categorized into three main groups with reference to their points of problematization: (1) those delving into isolation of non-Western peace knowledge from mainstream literature; (2) those problematizing peace research for being reproductive of liberal interventionism; (3) those emphasizing the isolation of critical knowledge from policy-making.

The first point of critique mainly builds on the Postcolonial school's argument that the non-West is underrepresented, if not completely absent, in the mainstream literature, and this is a reflection of a knowledge production logic relying on colonial hierarchies between the West and non-West. The knowledge systems built within peace research, especially in the aftermath of the Cold War, have mostly built on Western ways of 'knowing' (Velthuisen, 2012) which refers to an epistemological setting, of which procedures standardized based on concepts and methods are produced as outcome of Western social, political and historical background. Despite the fact that peacebuilding theories' target cases are usually non-Western conflicts, the theoretical frameworks used to understand these conflicts and structures to be established in the post-conflict stage are an outcome of Western political experiences. Indigenous knowledge systems, which are defined as knowledge that is internally developed from the social processes inherent to the developing societies (Velthuisen, 2012), are utterly isolated from providing input to these theories and methodologies aiming to build sustainable peace in non-Western contexts. However, the relationship between knowledge production and sustainable peace is 'characterized by global interconnectedness, knowledge conversation and central value adding' (Velthuisen, 2012: 18). The exclusion of indigenous knowledge from the theory of peacebuilding has not only caused a fallacy in the theory and practice of peace but has also served as a tool for those who have power to maintain that power 'by their control of definitions and ways of transmitting socially valued knowledge' (Burns, 1981: 115). In that sense,

the exclusion of non-Western knowledge from peace knowledge production is defined as a manifestation of violence through knowledge (ibid.: 116). Through the dominant knowledge production modes within peace research, the non-West, but especially Africa, has been presented as deprived of people or ideas and waiting to be saved. In addition, the inherently produced knowledge that steered and maintained those societies is shoehorned as 'non-science'. 'Indigenous knowledge systems (IKS) were not allowed into public domains, which were then exclusively reserved for knowledges, heritages, cultures, institutions, norms, and idiosyncracies of western society' (Odora Hoppers, 2002: 107). This is embedded, according to the critique, in the colonial rationality that peacebuilding relies on, in which 'internationals' lead the scene and 'locals' are subsumed or at worst even negated (Jabri, 2013: 3).

The second line of the critique emphasizes that peace research in general, and Peace Studies as a specific field, has been instrumental in the reproduction and preservation of a certain type of liberal peace and set it as the standard recipe to be practised. UN Secretary-General Boutros-Ghali's famous speech, 'An Agenda for Peace', set peace interventions as a new international norm, which evolved into comprehensive peacebuilding. He pointed out the need to build a new intervention framework that prioritizes human security over any other agendas, that aims first and foremost at relieving civilian suffering, and that is more proactive and multilateral. These new norms of practice were accompanied by a wide campaign of knowledge production varying from media coverage to building an academic literature (Lewis, 2017: 21). Peace Studies has also been subjected to the influence of this campaign. This is especially the case for the early literature on peace interventions that was shaped in the early aftermath of the Cold War and established based on two major assumptions: (1) that international peace is dependent upon the preservation and enlargement of the liberal international order; and (2) that conflict-prone societies can achieve change towards stability, development and peace through external intervention and by following the blueprints of Western liberal nation states.

Knowledge production within the field has been instrumental in setting liberal peace as the standard approach and reproducing it through problem-solving methodologies that remedy its defective features. In Richmond's terms, the field has produced knowledge through approaches that are characterized by 'methodological nationalism' and 'methodological liberalism' (Richmond, 2019). The former maintains that peace, security and order depend on the balance of power and a strict preservation of the international system that relies on the principle of non-intervention. It sees intervention as an exception and undermines the ethical basis of peacemaking. The field of Peace Studies serves as a means to institute the rules of conduct for situations in which this exceptional need emerges. In this mode of knowledge production 'the role of schol-

arship was to design, refine and disguise intervention, if necessary' (ibid.: 4). The latter, on the other hand, addresses the failures of methodological nationalism that influenced the early period of the field. It promotes multilateralism and the UN system and operates through international financial institutions, regional organizations and transnational NGOs. Knowledge production within this context institutionalizes the principle of 'peace-as-governance', which can also be interpreted as a 'form of neoliberal governmentality' (ibid.: 5).

Methodological liberalism, in Richmond's terms, serves as a process of depoliticization of the overall post-conflict peacebuilding endeavour. Richmond's critique suggests that the field avoids politically informed knowledge production to seek guidelines for technical rationalities that can serve as handy tools for the liberal peace project. In this regard, the 'practical man' expects peace research to come up with efficient standard operating procedures for intervention frameworks (Richmond, 2019). Since theoretical debates inevitably provoke the politicization of action, this practical logic stands aloof to deep theory. 'The "practical man" is suspicious of what he may regard as complex theory, is focused on means, assumes the political debate over ends is settled, and is unconcerned about everyday social or historical context' (Richmond, 2019: 10). The overall peacebuilding logic thus operates as a machinery that removes political questions and renders peace a question of technical expertise (Bächtold, 2015: 197). Following this argument, knowledge production processes are influenced by the promotion of this depoliticized version of peace and are criticized for reducing peacebuilding to bureaucratic means (Goetschel and Hagmann, 2009).

Thirdly, and related to the previous points, it is possible to suggest that the architecture of peacebuilding praxis does not facilitate access for counter-intuitive and critical knowledge to policy-making. As stated earlier, the field of Peace Studies aims to produce knowledge to influence change, and the question of how to contribute to this change towards a peaceful direction has been an inherent concern of the field. Yet, the fact remains that critical knowledge is either isolated from policy-making or distances itself deliberately from policy-relevancy (Paffenholz, 2014). Though they may criticize the depoliticization of peacebuilding discourse, many critical peace researchers have avoided policy-relevance in their studies. For some schools of thought, this was a deliberate choice and does not represent a weakness. Drawing on the *praxis* approach, the categories of theory and practice are not distinct for these scholars; instead, theory and practice interpenetrate one another and are mutually constitutive; therefore the knowledge that they produce suffices to fulfil the task of contributing to the desired change. In line with the post-structural and Foucauldian reflexes, critical peace researchers do not want to present alternative recipes and blueprints to the liberal peacebuilding project. For others, however, a lack of policy-relevance will only contribute to the

fading away of peace research (Jutila et al., 2008: 625, as cited in Paffenholz, 2014: 43). It is still not an easy task to produce both critical and policy-relevant peace knowledge. 'To avoid being misused by power politics in providing alternatives to power holders that support their power systems, Critical Peace Research needs to face the challenge of being policy relevant in a responsible way' (Paffenholz, 2014: 45). Focusing on the 'everyday' and basing the praxis of peacebuilding on 'methodological everydayism' (Richmond, 2019) are offered as options that can bridge critical thinking and policy-relevance.

The synergies between peace researchers and donor institutions, which in most cases also act as practitioner organizations, sometimes limit access for counter-intuitive knowledge to policy-making. Contract-based research agendas and the responsibility of research teams to report to donors make it difficult to produce counter-intuitive knowledge or to inform policy-making (Bush and Duggan, 2014). A significant proliferation of organizations undertaking outsourced research undermines the critical and value-oriented heritage of the field. While the increase in the number of the agents producing peace knowledge helps to cultivate a culture of evidence-based policy-making in peacebuilding it also leads to the growth of a peace research industry, seeking to guarantee the flow of funding from donors to maintain its operation. Critique, or its radical versions, appears risky and detrimental for potential future 'business' that would be offered by practitioner donor institutions. In this context, critical peace researchers stick with established scientific approaches, adapt key standards of neutrality, objectivity, rigour and systematic approaches to assemble credibility and claim validity in the eyes of knowledge demanding practitioners (Aradau and Huysmans, 2019).

Overall, Peace Studies has been and continues to be exposed to questions regarding its knowledge production processes. The scholars of the field contribute to the field's reconsideration of its position vis-à-vis policy-making, the power-knowledge nexus and engagement with counter-intuitive knowledge outputs by increasingly delving deeper into knowledge production processes. Being a value-oriented field aiming to contribute to social change, it is not only a necessity but also an effective strategy to focus more on conditions shaping knowledge production for the field of Peace Studies.

## CONCLUDING REMARKS

This chapter presented a general overview of knowledge production debates in IR and specifically in Peace Studies. Peace knowledge produced within IR and Peace Studies has passed through phases in which it was first taken as fixed; then methodologically challenged; politicized and finally deconstructed through problematization of the power-knowledge nexus. As knowledge production increasingly continues to be the subject of debate in the literature, four

concluding remarks can be derived. Firstly, there is now a consensus that there is no single peace knowledge 'out there'. Instead, there are different conceptions, referent objects and agents of peace and their knowledge. Knowledge is relational. Therefore, the field needs to continue extending its focus into these relational positionalities in knowledge production. The fruitful debate over the conditions that influence knowledge production has the potential to contribute to the field's capacity to catalyse change.

Secondly, the debate should not be limited merely to methodological problematization. The substantial political questions prior to the standardization of methodologies should not be avoided by the scholars focusing on knowledge production in peace. In that sense, peace knowledge is not only a product of pure academic endeavour but is also the outcome of a broader context influenced by certain social, economic and political dynamics. Knowledge production debates, therefore, should also explore how academic processes interact with these dynamics. The nexus between political context and peace knowledge should not be reduced to a unidirectional influence of politics over knowledge. Instead, there is a need for exploration of how peace knowledge plays a constitutive role in the construction of politics as well.

Thirdly, it can be suggested that some points raised by the critiques of knowledge production also bring with them certain risks. Among others, the potential reification of local or indigenous knowledge comes to the fore. The isolation of non-Western local knowledge from the praxis of peace has been problematized within the literature (Odora Hoppers, 2002; Velthuisen, 2012). Nevertheless, local knowledge should not be considered to be a category independent of the politics of knowledge production. The problematization of hierarchical asymmetries between the West and non-West should not be equated to a glorification of local knowledge without questioning the conditions of the politics of knowledge in those contexts. Students of peace research should bear in mind that local knowledge relevant for peace praxis is also the outcome of political processes and can very well be reliant on the silencing of local subaltern subjects. Therefore, they should also be subjected to knowledge production enquires.

Last but not least, although this chapter mainly focuses on knowledge production within the academic sphere, it is also crucial to keep in mind that the production of peace knowledge is prolific, not limited to academic knowledge and spread into different aspects of social spheres varying from media coverage to the arts in peacebuilding processes. Therefore, focusing on specific peacebuilding endeavours such as transitional justice processes as this book does, and examining the politics of knowledge production within these endeavours, will deepen our understandings and help the amelioration of peace praxis more broadly.



## NOTE

1. See also Chapter 3 by Laurent Goetschel in this book.

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### 3. ‘Knowledge for peace’: integrating power to increase impact

**Laurent Goetschel**

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#### INTRODUCTION

The promotion of peace can be improved through adequate knowledge. This is the rationale for peace research which is expected to help generate such knowledge. The general way such knowledge is produced and how it interacts with the policy of peacebuilding have been debated intensively. However, the dimension of power within the research process has hardly ever been explicitly discussed. I argue that power, beyond being an important component of peacebuilding itself, is also relevant in the sphere of knowledge production. A conscious integration of power dimensions into the research process should enhance the quality of research and the impact it has on policy decisions. In this chapter, I will first describe the relation between peace research and peacebuilding with a focus on power-related dimensions. Second, I will sketch some resource asymmetries and the impact of changing political environments that influence these power dimensions. Finally, the concept of conflict sensitivity and the instrument of research partnerships are presented as means to control for power distortions in the production of ‘knowledge for peace.’

#### PEACE RESEARCH AND PEACEBUILDING

Peace research has been subject to many definitions, interpretations, and critiques (Richmond, 2007; Giessmann and Rinke, 2019). While peace research is operating at various levels of analyses, ranging from largely deductive normative approaches to empirical inductive research, within or across a high variety of disciplines, there is a consistent overall objective to generate evidence and insights which would allow relevant actors to reduce the degree of violence used in social interactions. This might occur with the broad ambition to improve the fate of humanity or just to transform a specific social practice at the micro-level.

Thus, peace research is closely linked to the policy of peacebuilding which ‘sustains the full array of processes, approaches, and stages needed to transform conflict toward more sustainable, peaceful relations’ (Lederach, 1997: 20). Accordingly, peace should not be conceived as merely a stage in time, but as a dynamic social construct (ibid.). While in the past peacebuilding used to be influenced through many ‘causal beliefs’ (Goldstein and Keohane, 1993: 10), recognition has grown that in order to be effective, peacebuilding can benefit from scientific evidence. Social scientists coined the label of ‘evidence-based’ practice to describe the ‘promotion of more effective social interventions by encouraging the conscientious, judicious, and explicit use of the best available scientific evidence in professional decision making’ (Zarghi and Khorasini, 2018: 231). In this line of argument, modern peacebuilding should be seen as an evidence-based policy which is open to all methodological and theoretical approaches and not limited by any kind of ‘peace orthodoxies’ in terms of tacit unverified assumptions (Goetschel and Hagmann, 2009: 60). Evidence is expected to improve the quality of peacebuilding and to enhance the probability that peace might be achieved. These assumptions provide the rationale for both peace research and its expected contribution to the promotion of peace.

It is well known, however, that the uptake of scientific evidence into policy does not follow a linear path. Interactions between the spheres of science and policy are characterized by iterative processes and policies are never just about problem-solving, but also about values and political preferences (Young et al., 2008: 218). This counts in particular for the field of peacebuilding where a significant gap exists in our understanding of how research can contribute to peacebuilding and where the understanding of how knowledge circulates and what this means for the types of policies adopted remains very limited (Bush and Duggan, 2014). It seems plausible that this is due to the different values and divergent political preferences at stake in the field of peacebuilding. The fact that peace as such enjoys a broad or even universal positive connotation should not be taken for a universal consensus about either the substance of peace or the trajectories that will lead towards peace. The substance of peace remains contested, so do the views about how to best achieve it.

The logical consequence following this assessment is to request the improvement of the science-policy interface in order to enhance the impact of research on policy. This rationale builds on the tacit assumption that science and policy are two rather separate spheres in terms of power and politics: whereas the policy sphere is contingent on stakeholders’ political interests, the sphere of science functions according to scientific rigor and excellency. I would like to challenge this assumption.

Without questioning the benefit of research for practice and the relevance of iterative exchanges between science and policy, this chapter recognizes that the distinction stipulated between the two spheres is not as hermetic as usually

assumed. Power and politics also enter the sphere of research. Taking them into consideration and including the respective dimension in research processes should improve the quality of exchanges between the two spheres. This starts at the methodological and epistemological level, where research which emphasizes measurable outcomes tends to dominate activities which produce immeasurable outcomes (Eyben, 2013: 10). This ‘politics of results and evidence’ is about how power determines the meanings that influence a course of action including the assumption that evidence pertains to verifiable and measurable facts and a particular understanding of causality, efficiency, and accountability (Eyben, 2013: 4–6). The field of peacebuilding adds additional challenges because peacebuilding results can often not easily be quantified, respective interventions take place in contested environments in which results will be subject to different perspectives depending on the stakeholders’ political orientations, and, finally, peacebuilding is not a linear process (Bächtold et al., 2013: 8).

It is also clear, however, that peace research has always included a critical dimension. In addition to traditional or problem-solving theories, critical theory includes the researcher’s societal environment in interpreting the results (Cox, 1981). Peace research is expected to reflect on its own doing (Weller, 2017). On one side, this is due to its content: peace research aims at transforming the societies it works on (Goetschel, 2009). The ethical responsibility which comes along with this activity asks for constant questioning and a search for best possible alternatives to what is already being achieved. On the other side, the conditions under which research operates affect its content and therefore its results. Thus, reflection on its own ‘modus operandi’ and on the structures governing peace research is essential and follows the precepts of critical theory (Horkheimer, 1974).

So called ‘pragmatic approaches’ to peace research claimed to transcend power-related problems through a better integration of local needs and realities as providing the major (or even only) source for solutions to most peace and conflict related problems (Chandler, 2015). But it remains unclear how such approaches allow for ‘neutral’ knowledge production by focusing on ‘what works’ in a given context. Such a perspective risks obscuring even more the ways in which knowledge comes to be understood and valued and how different kinds of knowledge often exist in hierarchies. This is particularly the case for peacebuilding and peace research where normative positions, a desire for solutions, and the interactions of many different types of actors all shape co-existing and often competing epistemic communities (Lemay-Hébert and Mathieu, 2014; Goetschel and Jones, 2016).

Being aware that knowledge provides a model of reality, explains its problems, and thereby confers the capability to act, such debates are of crucial relevance not only for research but also for policy actors (Grundmann and Stehr,

2012: 16–17). The choice of epistemologies, theories, and methods influences the spectrum of thinkable and therefore available policy options. Therefore, being aware of power dimensions in research and developing possible ways of controlling for them is of eminent relevance not only for quality science but also for peacebuilding policy.

## RESOURCE ASYMMETRIES

When in the aftermath of the Cold War the so-called liberal agenda (Lidén, 2005) became the dominant paradigm of international peacebuilding, it affected not only policies but also related research. Since the mid-1990s bilateral donors, multilateral institutions and NGOs integrated a wide array of peacebuilding activities into their policies and programs, thereby effectively beginning to ‘implement’ peace. This evolution gave way to a proliferation of peacebuilding activities, budgets and staff within foreign ministries and development agencies. Peace forcefully entered the contemporary discourses and practices of policy-makers, bureaucrats and development planners (Goetschel and Hagmann, 2009: 56). Peacebuilding not only penetrated the policy agenda of major diplomatic and aid organizations, it also materialized in new funding schemes in both policy and academia. Academic programs often grounded their reflections on the same ‘peace orthodoxies’ as did civilian peacebuilding. Due to the Northern-based origin of the funding, peace research programs replicated the power asymmetries which could be observed in the policy field. Observers conceived peacebuilding as the benevolent response of Western countries faced with the task of pacifying conflict-ridden or post-conflict societies in developing countries. Most academics supported the basic principles of liberal internationalism that inspired peacebuilding projects (Paris, 2002). Taking preset normative assumptions as a universal given, researchers lacked reflexivity towards the political anchorage of liberal peace. In addition, they were not sensitive enough by far to the multiple dimensions of their positionality resulting from their topic, their relations with policy and their contexts in North and South.

When reflecting on possible power asymmetries of research in conflict, post-conflict, and transitional contexts, it helps to start by looking at structural conditions both in terms of relative resources and in terms of perception of researchers by local stakeholders. Power can have different dimensions such as financial resources or access to political or communication networks. Ultimately, power is seen as a capacity to influence decision-making on relevant issues (Lasswell and Kaplan, 1950). It seems reasonable to assume that power will encounter all the more suspicion when political tensions prevail in the local context both generically and as part of the politics of intervention and the wider conflict dynamics. This may trigger reactions ranging from ‘shrink-

ing spaces' for researchers to the promotion of 'alternative facts' (Hendricks and Vestergaard, 2019) as a counter-version to scientific results (or facts).

The expression of 'shrinking space' has been used to describe the diminishing possibilities for NGOs to act in countries governed by authoritarian regimes, affected by political conflict, or both (swisspeace, 2016). For almost 30 years, NGOs have enjoyed a rather broad range of action even in such environments. Within the last few years, however, states such as Egypt, Ethiopia, Israel, Turkey, or Russia have started to publicly enact political measures and legislative programs that have seriously limited the scope for activities of traditional NGOs, or rendered them entirely impossible. While this is not the place to discuss these measures, it is worth mentioning them, as similar dynamics have started to shape the research field as well. While researchers always had to ask for permission and access to implement their work, discussions about the legitimacy and quality of research in areas marked by political tensions have become more difficult and – perhaps more relevantly – restrictions on research have become more common and even accepted. In addition to restrictions imposed on research space, 'alternative facts' began to be established and legitimized by influential and powerful actors. Referring to the electoral victory of Donald Trump as the 45th President of the USA, several observers described how facts no longer played a decisive role in being elected, nor for making policy decisions. Instead, facts matter because a politically influential person considers them to be 'truth.' While the production of knowledge and evidence about reality follows clear criteria for detaching the results of the findings from the individual researcher by establishing standardized research procedures, so called 'alternative facts' are based on the truth as legitimized through an individual in a position of power. In this case, the issue is no longer knowledge production, but rather 'truth production.' A political regime may refute knowledge produced by science and describe it as subversive. This can lead to situations in which both factors intermingle and where ultimately the power of the researcher (or the institutions behind her/him) determines the validity of facts. Such 'power-determined' research can take various forms and may run under different labels such as the 'validation' of research results (KFPE, 2015). Obviously, such a way of proceeding contradicts fundamental ethical principles of scientific research. In a context in which such 'truth production' prevails, the valorization of research results becomes very difficult: an administration that claims to have the truth does not depend on knowledge production and may even disdain it, because it might function subversively by questioning such 'truths.' This has two consequences. First, it limits the space and the standing of scientific research as political regulations and cuts in funding might occur. Second, it transforms scientific research in itself into a political statement or even a political act. Taken together, this represents

a considerable paradigm shift for scientific research compared to its development over the past years and decades (Gabriel and Goetschel, 2017).

As a consequence, and in order to survive, researchers run the risk of adopting or even internalizing the predominant visions and assumptions of their own societies, forgetting about their subjective and normative nature. This challenge is not confined to any particular region or hemisphere: in the more remote past, typical examples were research agendas shaped under the umbrella of the Cold War or in conflicts such as the Vietnam War in the USA. More recently, the Prevention of Violent Extremism (PVE) agenda or that of Sustainable Development Goals (SDG) also constituted particular political or ideological *a priori*. While the history of the way governments handled the consequences of the COVID-19 pandemic still has to be written, it seems certain that the analysis of the interactions between science and political decision-makers will form a major point of interest. Researchers should not adapt to any kind of ‘state of emergency’ which can preclude asking certain questions about the foundations and bases of particular policies or orders (Lacy, 2011). While they should by no means abstain from analyzing these themes and policy fields, researchers should, however, critically reflect on the implications these programs and labels have on their own choices and on the perception of their roles as researchers by their counterparts in societies in North and South.

In order to deal with these challenges linked to the described asymmetries of power, two practices emerged which both showed a growing consciousness of researchers to the relevance of power and politics in the context of fragile states: the first one is linked to the concept of conflict sensitivity, the second one to the instrument of research partnerships.

## CONFLICT SENSITIVITY

The concept of ‘conflict sensitivity’ applies to actors active in contexts in which political tensions exist, including those that find themselves faced with, in the midst of, or transitioning from, conflict. It refers to the ability of a person or an institution to understand the context in which it is operating, to understand the interaction between its own activities and the context, and to act upon that understanding in order to avoid negative and maximize positive impacts on the conflict. This refers to both what is being done and to how things are being done. It includes intended as well as unintended effects (International Alert, 2004). The concept of conflict sensitivity grew out of ‘do-no-harm’ programs in the field of development and humanitarian policy (Anderson, 1999). It was only recently introduced in the field of research where it rapidly attracted considerable interest and prompted the development of several sets of specific recommendations and guidelines (Hilhorst et al.,



2016; Bentele, 2020). These guidelines stress that research always forms part of one (or several) contexts and that the presence of researchers, particularly international ones, in politically sensitive environments can be very sensitive. They provide questions researchers should keep asking themselves along the whole 'research circle,' e.g. from the development of their research question through the implementation of their research up to the valorization of results.<sup>1</sup>

Though it emerged in the development policy field, conflict sensitivity could easily be adapted to challenges faced by researchers as it focuses on activities taking place in fragile contexts but which are not directly dealing with the conflict itself. Conflict sensitivity foresees a set of measures which should ensure that the researchers internalize and reflect on their own role and its implications in a given context. In order to be conflict sensitive, researchers should try to get an understanding of the context, such as by means of a conflict analysis (Buxton et al., 2006). Their awareness should build on an assessment about the implications their research activities will have on the local context. Such an assessment should be based on the recognition that every activity is part of this context and cannot be understood as neutral. Even well-intentioned acts can end up being seen as partisan or having harmful effects. Reflecting on their positionality allows researchers to reflect on the consequences of research decisions such as why they chose a specific research focus and methodology, why they ask their research questions in a particular way, why and how they choose particular research partners (see also next section) or how particular funding schemes could impact the perception of their work. The political analysis underlying a conflict sensitive approach also entails a positionality-check of the research(er) at the socio-political level. This makes it possible for the researcher and the research institutions hosting or funding them to become more aware of the position of the research project within a given political context (Gabriel, 2017).

Looking at the aforementioned resource asymmetries through the lens of conflict sensitivity, the latter helps discern tensions which could arise in a research environment marked by power imbalances. A scientifically top-rated researcher may encounter opposition and cause frictions within a given context due to a lack of conflict sensitivity. Moreover, international researchers might be seen by research subjects or those in the research context more as agents of power structures in which they operate than as open-minded individuals. Applying a proper conflict sensitivity assessment to their project considerably reduces the risk of this happening.

## RESEARCH PARTNERSHIPS

Research partnerships currently represent the most sophisticated tool for addressing structural inequalities in power during research. Having originated

in the field of development research, they have been used and further developed by research governing bodies such as the Swiss Commission for Research Partnerships with Developing Countries (KPF) or the Global Challenges Research Fund (GCRF) of Research Councils UK. Research partnerships can be defined as innovation-based relationships that involve significant efforts in research and development (Hagedoorn et al., 2000: 567). They may include private or public partners as well as a mixture of both. A specific subset are research partnerships with developing countries.<sup>2</sup> As an instrument designed to promote research in such countries, they include projects in which groups of scientists from two or more partner countries carry out long-term, transdisciplinary, collaborative research on problems that are important to all the partners (KFPE, 1998). In order to achieve their objectives, they build a common set of criteria which entail a combination of results-oriented research activities and capacity-building components at individual and institutional levels, or both. For example, the guidelines of KPF include the following 11 principles: (1) set agenda together; (2) interact with stakeholders; (3) clarify responsibilities; (4) account to beneficiaries; (5) promote mutual learning; (6) enhance capacities; (7) share data and networks; (8) disseminate results; (9) pool profits and merits; (10) apply results; (11) secure outcomes (Stöckli et al., 2012).

While research partnerships combine contextually embedded and produced knowledge with exchanges between different partners, they encapsulate large parts of the aforementioned pragmatic approach (Chandler, 2015). But in addition to it, research partnerships control for structural aspects shaping the communication of scientists. With regard to conflict affected areas, research partnerships provide an interesting framework with the potential to include both local knowledge and contextual sensitivity. However, researchers engaged in research partnerships face two types of challenges when working in conflict contexts.

First, research partnerships have a structural impact on the environment in which they operate. Beginning from the very outset of the research, the choice of partners has the potential to empower the academic institutions involved. As Northern partners typically contribute a significantly larger portion of the financial resources to the partnership, Northern researchers end up having an impact on the structural conditions of their partners in the Global South: they get empowered compared to their environment, but they also enter some kind of dependency towards their Northern partners. In politically sensitive contexts, external researchers may not even have a real choice of partners in the local context. A variety of partners may not exist or securing research permits may be dependent on cooperation with certain scientific institutions. Thus, doing research under such conditions equals a strengthening of existing (power) structures.

Second, several of the research partnership criteria listed above require particular attention within conflict affected areas. For instance, the definition of the research interest should be sensitive to the context (criteria 1). This is also relevant with regard to accounting to beneficiaries (criteria 4), disseminating results (criteria 8), and using these results (criteria 11). In particular, transdisciplinary research aims for the research results to have an impact on the operational context. In this respect, expectations may diverge: research can just contribute to policy effectiveness as measured against agreed upon objectives. In the realm of peace research, this kind of enquiry is referred to as ‘problem-solving’ research (Cox, 1981). But research results may also question policy practice more fundamentally. Although such knowledge might contribute to policy effectiveness and legitimacy over the long term, policy actors dealing with a variety of immediate concerns may not perceive this contribution over the short term and rather see it as challenging their sphere of competence and even their sovereignty.

This means that research partnerships have to adapt to the context in which they operate: on the one side there is the ‘donor’ public in the North which consists of research funding institutions, selected state (peacebuilding) agencies, and possibly also political bodies such as NGOs or parliamentary committees. There is, on the other side, the ‘recipient’ public in the South which is composed of local research partners, national and local governments, and, possibly, stakeholders such as NGOs or other civil society entities. While the general differentiation between a ‘Northern’ and a ‘Southern’ public makes sense in regard to the different functions the respective publics take within peace research and peacebuilding, in reality many more collectives and beliefs have to be taken into account. This is especially relevant in the South, where different political cultures and traditions and therefore also different types of actors may have to be addressed.

Research partnerships will be more efficient the better they fit into the different contexts in which they operate. Ideally, this would be achieved through a balanced weight of Northern and Southern partners in the partnership – an objective which is very difficult to meet. But a significant step forward can already be achieved by applying conflict sensitivity also to research partnerships. Indeed, partnership-related issues form an integral part of the guidelines described above.

## CONCLUSIONS

As an abstract objective, peace enjoys almost universal support. However, views about what it should consist of and how it could best be achieved vary considerably. These debates are not just about the adequacy of technical approaches and solutions but also about political preferences. Even

though peacebuilding has developed into an evidence-based policy field, the science-policy interaction remains largely opaque and power sensitive. In that sense, peace research is better described as critical research than as a problem-solving exercise. But the inclusion of power dimensions into research should not be limited to self-reflection. It can be operationalized by means of a thorough assessment of the relationship between research(ers) and the conflict context, i.e. through the application of conflict sensitivity, and by means of well-governed research partnerships. Both of these allow research programs to control for potential resource asymmetries and the implicit political connotations of research activities.

These practices equal a ‘political sensitivity’ check or a socio-political positionality assessment. Conflict sensitivity can complement interpretative research methodologies by adding a lens that focuses on the socio-political level at which the research is designed, funded, and implemented. On the meta-level, this provides an additional filter for analysis that responds not only to conflict contexts but also to the entire North-South research environment. It supports the whole research ecosystem from the formulation of research questions, over the implementation of research, to the interpretation and dissemination of research results. It could also generate information that has previously gone unconsidered. This is applicable to the political contexts in both the North and the South, as well as to the interactions of researchers with both environments.

Peace research and the ‘knowledge for peace’ it seeks to produce are embedded in particular contexts and as such also subject to existing power dynamics. Best practices as the ones described will not eliminate these influences. But they can enhance awareness and make visible different (structural) biases resulting from them. If this occurs throughout the whole research cycle, it will not only improve the quality of research itself but will also ease the interaction between research and practice.

Peace research is not just about the generation of evidence. It aims at having some impact. This impact depends on the way evidence is produced and how it evolves into knowledge. For all this, sensitivity to the context and related power dimensions is crucial.

## NOTES

1. Accessed 17 April 2020 at <https://naturwissenschaften.ch/organisations/kfpe/csresearch>
2. See Chapter 4 by Jones et al. for another discussion on research partnerships with developing countries, in the context of the research project that has generated this edited book.

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## 4. Producing knowledge on and for transitional justice: reflections on a collaborative research project<sup>1</sup>

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### INTRODUCTION

For me, what we really have to grapple with is the asymmetries where you say you are in a partnership, like a research partnership but you are from different contexts, say, you're from a country which is totally broken, a country torn apart by war [and] on the other end you have partners from the best country in the world, actually for us we call it heaven, where everything is there – [it is] peaceful, rich, intelligent, precise. I mean that is the divide. Even how the rules of the game are set, reflects that stability. If you are setting deliverables, the timeline and so on, they reflect that precision, that certainty. But then you have some partners [whose] context is characterized by uncertainty, fluidity, and you don't know what tomorrow brings you. So the rule of the game for us is flexibility, sometimes survival. So the ground rules simply do not reflect our reality.

This is an extract from a conversation we held as a research team at our final project workshop. The team consists of two South Sudanese researchers who conduct research in and on South Sudan, one Cameroonian researcher working on Côte d'Ivoire, one Ivorian researcher working on Côte d'Ivoire, one German researcher based in Switzerland conducting research on the African Union and one British academic based in the UK, Switzerland and France who conducts research in various country contexts on the subject of transitional justice, and who is also the project lead. By the end of the project we felt perhaps closer to each other than in the beginning – we had built trust and friendships, but we had also gone through the hiccups and less comfortable moments of partnerships in practice. In the following discussion we refer to the Global North and Global South as markers of our positionality and the varying access to resources and power it might stand in for. This is not to imply, however, that

within those ‘regions’ we are not also vastly different, as individuals, citizens and researchers. Importantly, it is in no way meant to imply a congruence of the experiences of Northern or Southern partners, for, as our colleague Leben has put it, Côte d’Ivoire and South Sudan – our two African partner contexts – ‘are geographically close but actually far away. We might come from the same region, say South, but in reality are distant from each other [...]’.

The discussion which follows is an attempt at a reflexive, thoughtful, honest and difficult exchange about the politics of knowledge of our own knowledge production. As the quote which begins the chapter illustrates, the research team is diverse: we have uneven access to research resources, we have different contexts of security in which we do our work, and we make assumptions about the differences between the places which we come from and the effect this has on our roles in the project. Our commonalities, however, should not be forgotten in this diversity. Our common desire to work together, to be respected and valued by other members of the team and the transitional justice scholarly and expert communities, and to contribute to how we know (and do) transitional justice, served as a vital glue during the four years of collaboration (2016 to 2020) and permeate the reflections that we present here.

Our project is called ‘Knowledge for Peace. Understanding Research, Policy and Practice Synergies’. It is funded by the Swiss National Science Foundation and the Swiss Development Cooperation and is headed by swisspeace, a Swiss peace research institution. It is implemented jointly by swisspeace, the University of Juba and the Centre Suisse de Recherches Scientifiques en Côte d’Ivoire [Swiss Centre for Scientific Research] in Abidjan. During this four-year project our research team conducted empirical research on the politics of knowledge in transitional justice contexts and the field of transitional justice itself. Being concerned with the practices and politics of knowledge in our day-to-day research work, and funded within a framework that encourages the implementation of the project under the Swiss Commission for Research Partnerships with Developing Countries (KFPE) Guiding Principles for Transnational Research Partnerships, we sought to take seriously the necessity of taking into account the knowledge politics within our own research project.

With this in mind, and while planning our contributions which can be found in the other chapters of this edited book, we decided that it would be remiss to avoid turning our gaze on ourselves. Therefore, at our final project dialogue workshop in Kampala in May 2019, we held an unstructured conversation between the team on the subject of our own politics of knowledge. Except for one researcher, the whole team was represented. The absence of one team member from Côte d’Ivoire is illustrative of some of the practical challenges we have encountered during our project, as he had been denied a visa despite submitting the required paperwork on time. In this final session we sat together, recorder in place, to discuss the questions of power and partnership



that shaped our research project, how we perceived our different roles and positionalities in it, and how we felt about the process of this collaborative project. The timing, we realized, was crucial as we might not have let ‘our guards’ down in the earlier stages of the project. The conversation took different turns, taking us from questions of ‘outsider-ness’ and ‘insider-ness’ in our research contexts, to the practical (near-) impossibilities and severe dangers of conducting research in the places that are the focus of our project, to the emotional demands of working with each other, and the requirements of trust and understanding that need to be balanced with the desire to be treated equally in these transnational research settings.

As the conversation unfolded it was clear that we had tried to take a collaborative approach, but that power structures, research management demands and personal and professional constraints that exist outside of and beyond our project have found their way into our interactions and day-to-day work as researchers. This chapter is an attempt at representing and reflecting on this conversation and thus our joint research process, which we considered a partnership but which we experienced in fundamentally different ways. In the framework of the demand and desire to create (the conditions for) more ethical research encounters, we reflect on our particular research project as one such encounter. We proceed by first providing a broad arc for our conversation by discussing the politics of knowledge and the tensions in the epistemic landscape that is transitional justice. We then zoom into the debates on research partnerships, both at the policy level and in academic debates, highlighting in particular the questions of positionality that have been identified in shaping these partnerships. The review of the literature concludes with a discussion of the emotional and ethical aspects of doing research partnerships. These strands of debate reflect the key themes that we, as a research team, identified during our discussion as driving, shaping, and complicating our relations: the multiplicities and tensions inherent in layers of positionality that we inhabit and the emotional and ethical implications of our work and conduct as research partners. Through these key themes the chapter works its way through the idea of the ‘research partnership’, not as an ideal or as it is planned on paper and in project management scenarios, but as it plays out in the realities of project implementation. The final section takes our empirical reflections back to the broader discussions about the politics and practice of research partnerships and the epistemic tensions that shape the field of transitional justice.

## TRANSITIONAL JUSTICE RESEARCH: FROM WESTERN-CENTRISM TO NORTH-SOUTH PARTNERSHIPS?

Dominant genealogies of the field now known as transitional justice have traced its roots back to the international legal practices that emerged through the Nuremberg and Tokyo trials after the end of World War II and the transition processes in Latin America and Eastern Europe in the late 1980s and early 1990s (Teitel, 2003). Tied to this placing of transitional justice's origins in the moments of 'Western triumphalism' (Maddison and Shepherd, 2014: 260) is the observation that dominant transitional justice knowledge is produced largely in the Global North, at Northern universities, through international organizations like the New York-based International Center for Transitional Justice (ICTJ), or by the United Nations (UN). The international transitional justice norm and many of the internationally sanctioned practices are, as a consequence, seen by critical scholarship as largely Western in nature both epistemologically and normatively (Sharp, 2018: ix-x).

The idea of and the term 'transitional justice' started to gain traction following the end of the Cold War as part of the 'post-cold war ascendancy of particular, culturally laden narratives about history, society, governmentality and justice' (Kagoro, 2012: 10). From a set of conferences,<sup>2</sup> and other similar encounters between practitioners and policy-makers on the one side and Western academics on the other, emerged a range of books and articles that have come to define the field. These include Orentlicher's 1991 'Settling Accounts', Kritz's three *Transitional Justice* volumes from 1995, Hayner's 'Fifteen Truth Commissions' from 1994 and Minow's 1998 *Between Vengeance and Forgiveness*, among others. Many of these built strongly on practice experience gained in the Global South. For example, the foregrounding of the Western expert over the non-Western expertise on which his/her expertise has been built is seen in Hayner's 1994 article on 'Fifteen Truth Commissions' of which only one, that of Germany, was based in the Global North. All others, i.e. the entire set of experiences based on which Hayner wrote her authoritative account of truth commissions, were based in the Global South. These examples exemplify a much broader pattern that persists in transitional justice scholarship whereby much research is conducted in, with and by the Global South, but it is published by Northern institutions and academics and renders their voices authoritative.

Kagoro has referred to this discrepancy between the visible, Western voice and the actual origins of the knowledge as transitional justice's 'knowledge imperialism' (2012: 12). As a consequence of these patterns of unequal access and representation the fast-developing field of transitional justice (Bell, 2008)

has, in its mere 30 years of existence, established both its dominant paradigms and undergone a legitimacy crisis, based on critiques of its modes of action, key actors, underlying power structures and normative assumptions. Lawther and Moffett (2017: 1) have thus described transitional justice as a 'self-conscious area of practice'. One strand of critique iterates the power imbalances between the Global North and the Global South in both the theory and practice of transitional justice.

The North-South gap has also been the subject of a workshop recently organized at Berkeley Law under the title 'North-South Dialogue: Bridging the Gap in Transitional Justice' (Fletcher and Weinstein, 2018a). The discussions in this workshop provide useful insights into the tensions that mark research in the field of transitional justice. Fletcher and Weinstein summarize the sentiment as follows: 'Those who are working in or with communities in which transitional justice interventions are contemplated or implemented – the Global South – are frustrated at how they are treated by international researchers, funders and policy makers' (Fletcher and Weinstein, 2018b: 3). This frustration speaks to various facets of the unequal encounter as it characterizes transitional justice research, including the invisibility of scholars from the Global South, the extractive nature of the research process, and the absence of organizational and funding structures that allow Southern scholars to take the lead in international research and engagement processes (*ibid.*). The extractive nature of research is perceived in particularly stark terms, as can be seen in this statement from Chris Dolan, who describes transitional justice as one field where 'the suffering of some creates opportunities for others' (Chris Dolan, referenced in Fletcher and Weinstein 2018a: 39):

For the purposes of provoking, I would suggest that the major transitional justice factories are located in the Global North, while much of the raw materials – as in so many other areas – are produced in the Global South. Transitional justice industrialists (sorry, I mean self-designated 'experts') go to do 'fieldwork' and harvest crops from seeds they imported and planted on a previous visit. Worse still, some of those seeds are genetically modified so that they only germinate when fertilized from the Global North. The 'value-added' is expected only to happen in the Global North, which sees itself as enjoying a monopoly on 'international expertise', while the Global South fills in the void in its 'local knowledge'.

One response to this has been the attempt to frame an African research agenda for transitional justice that:

is generally framed in terms of documenting local achievements. There is a preoccupation with demonstrating that local knowledge – meaning local culture, local intelligence, local experience – should be acknowledged and celebrated. This acknowledgement is not just a strategy for better information gathering. It is part of what is locally understood as the very purpose of transitional justice – rebuild-

ing African capacity in the wake of colonial destruction and correcting the global imbalance of knowledge and national dignity. (Hugo van der Merwe, referenced in Fletcher and Weinstein 2018a: 88)

Partly in response to some of these challenges, North-South research partnerships and collaborative knowledge production have recently become a priority for transitional justice and connected fields. Large funders of internationally oriented research now include more equal collaborations between Global North and Global South partners as conditions of funding. For example, international development money in the UK is now partly channelled through the Global Challenges Research Fund. This £1.5 billion fund is part of the UK's Official Development Assistance and requires that 'due diligence' is followed when taking part in research partnerships with overseas organizations. This means that while Global South partners are required to be on the team for the funds to be awarded, and collaboration between the partners is expected from the design stage of the project and throughout, there is an explicit concern that:

The risks relating to funding going overseas are much greater than for funding going to UK Research Organisations that undergo stringent audit checks. Due diligence provides a way to mitigate the risks, share good practice and have assurance that Research Organisations have the capacity and expertise to carry out the research or training.<sup>3</sup>

Similar concern for the nature and ethics of North-South partnerships is voiced by the Swiss Commission for Research Partnerships with Developing Countries which defines 11 principles to take into account: set the agenda together; interact with stakeholders; clarify responsibilities; account to beneficiaries; promote mutual learning; enhance capacities; share data and networks; disseminate results; pool profits and merits; apply results; and secure outcomes.<sup>4</sup> These principles are designed to reflect a particular approach to knowledge production: 'Transboundary and intercultural research in partnership is a continuous process of sound knowledge generation, building mutual trust, mutual learning and shared ownership.'<sup>5</sup>

These examples of the principles of research partnerships are certainly a step towards more equitable knowledge production. The principles themselves are worthy in the ambition to share resources, acknowledge global research capacities, and for researchers in the Global North and the Global South to benefit equally from the outputs of the research. However, the way in which such partnerships play out in practice can undermine the principles themselves. Our own experiences as researchers grappling with grant submissions systems which are in English only, and require excellent internet connections, with grant awards that leave auditing and reporting in the hands of the Global North partners, and the difficulty in securing overhead costs for Global South

partners, are some of the small and yet significant ways in which inequalities persist and fundamentally affect the nature of the partnership itself.

Other scholars have been reflecting on their first-hand experiences of such partnerships and the inequalities in knowledge production in transitional justice and beyond. The (Silent) Voices Blog was started in order to reflect

on ethical issues in fieldwork in conflict and post-conflict settings, and on the place and vulnerability of the researcher in such settings. The ideas conveyed in these blog posts serve as an indictment of the violence that persists in the process of academic knowledge production. They argue that this process is, among other things, responsible for the dehumanization and the erasure of researchers from the Global South.<sup>6</sup>

In a 2019 post, Ansoms et al. (2019) write:

Many researchers based in the Global North who do fieldwork in the Global South engage research assistants based in our areas of research, close to or in the field. At best, their contribution is mentioned in a footnote of our articles or reports. At worst, they are kept completely invisible, this despite their own agency and crucial role in the research cycle. Recent debates in development and conflict studies have challenged the often institutionalised practices, mechanisms and requirements that keep research collaborators and assistants based in the areas of research silent and invisible. Yet, many of these debates are often limited to discussions between ‘lead researchers from the North’.

The mechanisms for designing, enacting and acknowledging the co-production of data are incredibly important and a regular stumbling block for North-South research partnerships. Datta (2019) has referred to genuine research partnerships as a ‘pipe dream’. Reflecting specifically on the GCRF funds mentioned above, Datta lists a series of substantial challenges: Southern partners cannot afford to say no to requests from Northern partners who often have an instrumental reason for needing to include them; Southern partners rarely have a say in setting the parameters of the project in the proposal stage due to time pressures; reviewers of grant proposals rarely care how the UK partners will approach partnership per se; and UK partners often feel that Southern partners are in need of capacity building but do not acknowledge their own capacity weaknesses. The concluding statement of Datta’s blog piece is damning: ‘In sum, I think we need to be honest about the type of relationship that UK researchers have with their Southern counterparts. And in many cases, partnership is not the word I would use to describe them’ (Datta, 2019). Indeed, in reflections on the overlooked value of South-South collaborations, van der Merwe et al. point towards resource flows and citation patterns to argue that international collaborations ‘hold the danger of simply reinforcing existing imbalances in knowledge development’ (2013: 2). The very fact of the gap in knowledge on South-South research partnerships indicates a structural

problem in the politics of knowledge production. This is even more pertinent in the field of transitional justice, where the Global South partners are likely to be based in the case study countries where victimization and marginalization, due to large-scale violations of human rights, are both the subject of the research and the context in which research takes place. Thus, while some funding and policy guidance has emerged that is aimed at creating more equal and sustainable North-South research partnerships in peacebuilding and transitional justice, the practice of these partnerships has not been sufficiently critically interrogated.

It is thus with these debates and tensions in mind that we aim in this chapter to make our own contribution to the literature on research partnerships, through a reflexive account of a conversation between our project team members. In conceptualizing this research project, the project partners had set out to ensure that ‘KPFPE principles will be applied throughout the research process’ (Knowledge for Peace project proposal, scientific part) which involves, *inter alia*, setting the agenda together, promoting mutual learning, enhancing capacities, sharing data and networks, disseminating results, and pooling profits and merits (Swiss Academy of Science, 2014). Wanting to go beyond the basic requirements outlined in the KPFPE we had set out for a more collaborative approach throughout the process. At our final team workshop it became clear that, at best, this had been only partially successful. We therefore held a group conversation with the explicit purpose of discussing the politics of our knowledge production and why a more collaborative process had faltered at times during the project. The conversation was planned but not structured, and the insights which it generated were not always predictable or even comfortable. For the purposes of this chapter we have gathered together the conversation points into three themes: positionality, emotion, and ethics. These themes make sense according to the spontaneous flow of our conversation and the issues that we had wanted to raise with each other. The conversation was between us as a team, but what became clear during the meeting, and as we reflected on the interview transcript, was that it was much more than this. It was also a conversation we were having with ourselves as individuals, posing questions about who we are and why we do what we do. It was also a conversation between the team and the broader communities in which we are embedded, posing questions and expressing frustrations about the factors which we see constraining our role and contributions to knowledge production on and for transitional justice. The following sections spell out some of the challenges, dynamics of power and positionality, and ethical and emotional concerns we have faced in trying to turn the ideal of a collaborative, ethical research partnership into reality – an endeavour we believe has succeeded only to a limited extent, but which could be more successful given different conditions and approaches that we elaborate in our concluding remarks.

## POSITIONALITY

[...] Positionality they call it: the unique identity coordinates of your particular constellation of markers. Marked – that is an apt phrase. Skin marked visibly by privilege, minds marked less obviously by memories of prejudice and exploitation. (Bourke et al., 2009: 97)

There is a multiplicity of identities and experiences each of us inhabits – some more visible than others – not only in our private and professional lives, but also, and specifically so, in our role as researchers who work in and on societies in transition. These identities shape our actions and interactions in the research process. They shape the questions we ask, who we ask these questions to and how we interpret their answers. But they also shape who we are able (or not) to gain access to for our research, how the research process affects us as emotive beings, and what is expected of us in this research process be it by our research subjects, collaborators or partners. While all of us are professionals in the field of transitional justice, this relates to varying forms of theoretical and practical expertise, perceived levels of power, influence and voice, to name but a few factors. In this section we will discuss three aspects of our positionality that have marked our (inter-)actions in and throughout this research project: our positionalities vis-à-vis the context we work on; our relations to each other; and our positionality vis-à-vis the broader field of transitional justice.

Our positionalities vis-à-vis our research contexts are marked at the most obvious level by whether we are ‘insiders’ or ‘outsiders’ to these contexts. As Ulrike reflected:

one of the things I have struggled with, is always being a stranger in a context and [feeling] like you never really get it, so when I came in and started working on Mozambique, it was one of the reasons I shifted my focus. Besides the intellectual reasons, the feeling that the context is really inaccessible to me [...] and [the question of] whether that delegitimizes anything I can put out there anyways.

These concerns with positionality which had a direct effect on the way the research focus shifted during the project had not been outlined as potential challenges in the research proposal, and instead the proposal had focused on the anticipated difficulties with data collection in Mozambique. However, this sentiment also perpetuates

a positivist notion of knowledge in which the ‘insider’ interviewer is seen to have a closer, more direct, and hence in some way ‘truer’ access to knowledge, knowledge which is seen to pre-exist the research process and which is simply awaiting to be discovered by those with the appropriate cultural resources and skills. (Herod, 1999: 314)

Crucially, inaccessibility is also observable when the researcher is an insider – due often to security, bureaucratic, and other reasons. Narratives from colleagues from South Sudan show that even when the researcher is from the country or even the local indigenous ethnic group, this does not prevent them from experiencing insecurity. This insecurity and the related inability to access key informants and data also drives changes in the research focus. In the case of Cote d'Ivoire, the team had to shift the initial focus from topics on judiciary procedures or debates on transitional justice institutions (e.g. Dialogue, Truth and Reconciliation Commission) that are very politicized and polarized topics to issues that, even though they are still very sensitive, generate less tension – such as social cohesion and reparation. The shift was the consequence of difficulties and insecurity in investigating the politics of transitional justice in a context of distrust between people.

This differs from another challenge expressed by team members, which relates to being insiders to both the context they are researching and, in some ways, to the subject of our research – transitional justice – through their engagement with ongoing transitional justice processes through consultancy work, public commentary or through the fact that they live in (supposedly) transitioning societies. They are thus also insiders to the idea and reality of societies in transition, with all the potential but also risk, uncertainty and insecurity associated with that.

However, those of us who are insiders in their contexts are also simultaneously outsiders. They are insiders as they are nationals of the same country, and perhaps even members of the same ethnic group their research focuses on, but they are rendered outsiders by their ability to leave, at least temporarily, the site of violence and suffering with which they engage professionally. The South Sudanese members of the team have moved part of their families out of South Sudan into more secure living situations, and during the project entered mobile and even liminal spaces of being in, but also escaping from, the fieldwork sites. Of course, this does not mean that they, as individuals and community members, have not suffered. They have suffered and lost, rebuilt and seen re-destroyed their and their families' lives. This suffering is not always visible to outsiders or even project partners – as Bourke et al. (2009: 97) put it, their 'minds [are] marked less obviously by memories of prejudice and exploitation', but they are marked nonetheless. However, besides being members of transitioning and conflicting societies, they also have professional lives that allow them to mitigate some of the effects of that violence, by withdrawing themselves temporarily. Like outsiders, they get to leave. These 'notions of difference' can contribute greatly to experiences in the field, for 'in the context of the field, the researcher is continuously challenged with the implications of what her/his body represents – difference and privilege' (ibid.: 95). This experience indicates not only the unstable nature of the insider-outsider binary and



its dependence on time, space and context (Henry et al., 2009: 468) but also the need for a more complex understanding of ‘researcher’ as a positionality marker (Bourke et al., 2009) that operates with and under ‘degrees of outsider-ness’ (Herod, 1999: 326).

The second aspect of our positionalities is our relations with each other. Three insights seem key to this particular dynamic of our collaboration. The first one is trust and the realization that starting to collaborate at the point of setting the research agenda (i.e. developing a proposal) jointly is important but not enough. According to Gilbert Fokou,

[c]oncerning our project [...] we reached here because of trust that was constructed between institutions and between people, even before the project. If we had to start the collaboration from scratch it would be difficult to reach a certain level of competence and trust. I think this is something important for setting up a team for collaborative research.

If our institutions or the individuals involved in this process had started collaborating only with the development of the research proposal, much of what we jointly and individually achieved during the project would simply not have been possible. Both the Centre Suisse de Recherches Scientifiques en Côte d’Ivoire and the University of Juba had been long-term partners of swisspeace (staff). These longer-term relationships which enable trust and understanding, not just good planning, were seen by our team as a vital foundation for the collaboration that took place over many years and many miles of distance.

The second insight concerns the power relations that permeate our research practices. One team member highlighted that

the research idea came from the North and this is also generally how knowledge is channelled. I think there is a need now in Africa to take another way round [...] to have a more balanced way of really co-producing knowledge so that everyone feels more comfortable [...] that people feel this is an idea we have produced [together]. (Gilbert Fokou)

This is but one indication of how our research process – in all its stages – is infused with power (Vanner, 2015). There is power in the development of research ideas, the ability to obtain funding, the hierarchies of project management, the requirements of adhering to the deadlines and project outputs as defined in the stability and certainty of the context of stable countries who fund research globally, and power in the communication of research results. This chimes with the broader debates in the literature on research partnerships and the more informal reflections expressed in blogs like *The (Silent) Voices*. The origin of ideas is important not only for being able to demonstrate and track collaboration but also for the feelings of partners that they have indeed

been part of the vision. In the case of our project, the idea came from Briony, a Swiss-based member of the team, who, despite collaboration with some of the members of the team who were to become project partners, was the one who submitted the proposal and became the project lead. The moment of the inception of the project set up the structures which conditioned the collaboration to come. While we had never discussed this previously, it is noteworthy that this issue was something of importance for the Ivoirian colleagues and they wished to raise it during our conversation.

Thirdly, and this relates to power dynamics but also goes beyond them, is the question of knowledge transfer that was raised by Leben:

I think the other element is what is knowledge transfer? [...] I have to be honest that I come from a non-transitional justice background, so by being part of this I learnt a lot. And what we did is develop [the project] for Kuyang to do a PhD and now focus on transitional justice coming from a legal background. So that is the transfer of knowledge that we hope will become stable [...] she will [probably] be the first person in South Sudan grounded in this. So from Briony to her it is direct knowledge transfer [...] we wanted someone grounded in these theories and practices and she will be the first.

While Briony did not perceive herself to be entering our debates and interactions from the perspective of a transitional justice expert, but rather saw herself as an academic with the related, very specific academic skillset, she was perceived by Leben as a conveyor of knowledge in this particular field. Interesting here is also the way that participation in this research process, and the PhD degree it would culminate in, is read as an inference of expert status – one that is built on the acquired fluency in global transitional justice debates. This is reflective of the observation that one will only be considered an authoritative voice in transitional justice debates with the right type and level of degree, reinforcing the perception of transitional justice as both ‘an expert concept’ (Gilbert Fokou) and an expert practice.

This brings us to the third overall aspect of positionality that shaped and was shaped by this research project: our positionality vis-à-vis the field of transitional justice. As we saw above, Briony had a transitional justice ‘expert’ status conferred on her by partners, who were hoping to learn from participation in the project and to contribute to this new field in South Sudan scholarship. In fact, it is noteworthy that none of the Global South partners was comfortable describing themselves as transitional justice ‘experts’ and rather saw themselves as lawyers, sociologists or political scientists more generally.

The varied ways the team members saw their expertise come through in the conversations. As Kuyang reflected:

I think that then when I look at the range of expertise that came together to deliver the same output I ask myself who am I? Whatever it is we are doing now it is an opportunity to share our grappling with initial ideas and concepts. As a lawyer working in the development field on access to justice issues, have I moved somewhere new? What will I do afterwards? What professorship will I do? [...] On the issue of the knowledge production itself, I think in my work I am constantly trying to say is it a new field, an old field? But it is new in South Sudan.

The inbuilt inequality between us all in terms of who was considered, and considered themselves, to be a transitional justice ‘expert’ often determined how we would comment on each other’s work, and how meetings and agendas would be set. This was further reinforced by the roles decided upon at the proposal stage, i.e. who would lead the project and hold the budget. As is so often the case with North-South partnerships, one area where the relationships of ‘expertise’ were reversed is that of knowledge of the field. Returning to Kuyang’s reflections, her self-doubt regarding the newness of the field of transitional justice was not reflected when she spoke about her empirical work in South Sudan: ‘There is very little scholarship coming from South Sudan, but now the few of us who want to do this we have to put our work to be reviewed by another who does not understand my context. I will accept the review, but do they understand my context?’

These three aspects of our positionality vis-à-vis our contexts, each other and the field we seek to speak to through our research create not only challenging instances for the aspirational endeavour of creating ethical North-South research partnerships, but they also call for us to rethink positionality as an assemblage of differences (Bettez, 2015: 937), that changes not only depending on the time, and the place and the people involved, but also on the entry point of the analysis. It involves the relations within the research team and between the team members and their lived professional and personal environments. A layered thinking about positionality thus seems to be a more useful analytic for moving forward not only our understanding of the concept of positionality, but also our grasp of how positionalities affect research collaboration that, firstly, manoeuvres North-South knowledge and power relations, and that, secondly, and additionally, operates in vastly different, at times highly uncertain and insecure, contexts. Reflexivity, understood as an awareness of and reflection on ‘the relationship between facts, theories, methods and the researcher’ (Nouwen, 2014), remains rare in transitional justice but seems to offer itself as a useful entry point for critical epistemic and methodological enquiries into transitional justice theory and practice and as a lens that shapes our thinking

in planning, implementing and evaluating collaborative, North-South research partnerships in the field.

## EMOTION

And who talks about the emotions of research? I have gone to locations where I have cried. Who am I? At the end of the day I am a person? [cries] Yeah I am a researcher but I break down because I am a human. As I console them who consoles me? (Kuyang Logo)

Our conversation was at times emotional, and we all displayed varying degrees of distress, anger, confusion, guilt and awkwardness as we tried to carefully navigate our experiences of working together, and our experiences of working on the subject of transitional justice. It has been acknowledged by other scholars that transitional justice research requires a substantial amount of emotional labour (Simić, 2016), fitting with a more general ‘emotional turn’ which has challenged objectivity and detachment in the social sciences (Blakely, 2007: 60–1) and has seen the development of emotional methodologies in geography (Bondi, 2005), anthropology (Beatty, 2005) and sociology (Blackman, 2007). This body of work importantly sees emotion as a conduit to knowledge, as Lupton (1998: 1) expresses:

Our concepts of our emotions are often integral to our wider conception of ourselves, used to give meaning and provide explanation for our lives, for why we respond to life events, other people, material artefacts and places in certain ways, why we might tend to follow patterns of behaviour throughout our lives.

With this in mind we reflect on the times when we expressed emotion, and what this tells us about the way we experienced and managed our research partnerships in the day-to-day life of the project. As we found, this was partly about expressing feelings and partly about the unsaid, what we chose not to share with each other until we had the opportunity and trust to do so.

In the day-to-day of the project we were focused on discussing the planned outputs, timetable, upcoming events, and while we were able to build friendships on the few occasions that we were in the same place we did not plan ongoing dialogues about how we felt in the context of our individual work or the research partnership. It was only in holding the conversation at our final project workshop that we realized the importance of talking about ourselves as part of the knowledge production, and not just about the project as something ‘out there’ which was somehow independent from us. We all agreed that our ability to undertake the project successfully was as much dependent on the

friendships which underpinned it and emerged during it, as it was the mechanics of project design, fieldwork and writing. Kuyang commented:

The only thing that keeps me going for me it is the friendships and the understanding. Just look at the way we are managing the money? I told Prof. Leben that if we did not take the money out of the university this whole thing would have collapsed. When we do a dialogue workshop like this you don't know what it means, to be able to pull it off.

In this quote Kuyang alludes to alterations in the financial procedures to allow the research funds in South Sudan to be transparently protected – flexibility which is not allowed by all funders who often require institution-to-institution administrative relationships regardless of the potentially shifting institutional contexts for Global South partners. During the timeframe of our project the University of Juba has been under substantial pressure and there had been a number of personnel changes.<sup>7</sup> Less static funding arrangements are then necessary to enable excellent scholars in all parts of the globe to be equal partners and to manage their own budgets. Importantly, Leben added:

And yet we don't want to be judged by different standards, we want to be judged by everybody's standards. So, if you've got partners who don't have that consideration that trust in you, that patience, then you are in trouble.

This is a view shared by the Western partners: 'What you say about relationships is key because you only have good communication with good relationships' (Briony Jones) and communication is a prerequisite for balancing the need to treat all partners equally and accommodating the challenges of specific contexts. Research collaborations then cannot only be built on 'expectations of the exchange of expertise' (Levy Paluck, 2009: 50) but they also carry, implicitly and explicitly, an expectation of the exchange of trust. However, the different conditions for accessing resources and the tendency to apply different measures of success not only has practical implications and consequences, as Leben elaborates:

So the ground rules simply do not reflect our reality. And this, this may be about power but it's also about psychology of people, about people's emotions. You know, I've been in a [collaboration] where even good friends [were] telling me that somebody from my country cannot be accepted for publication [...] So then what are the implications? The implications can take so many directions. But how do people respond in this asymmetry of positions, or circumstances? You could be judged by different yardsticks or you could feel you have to prove yourself more than other people because of the different circumstances you come from and this can really have different consequences for how projects go, how partnerships go. So if you are with partners who are not understanding, not, I don't know whether I can use the word kind [...] For example, if a partner sends me an email two or

three times in a day and I don't reply – maybe he doesn't know that I hadn't had internet for a whole week, and it is very easy to pass a judgement 'you know, that guy is very lazy'. These different contexts of your resources become very crucial [...]. (Leben Moro)

His account at once speaks to the perceived and self-imposed pressure to 'prove themselves more than other people' and the paternalism, arrogance and detachment that partners are at times met with when encountering problems in implementing research projects and partnerships. Both positionalities and contexts then not only have practical implications for how research partnerships can be implemented but they also shape the relations among partners in potentially unforeseen ways. The flipside to this is the ethical struggle experienced by researchers in the West, as expressed by Briony who says that she has 'always been reluctant to have a different approach to partners regardless of their context because I've been wary of seeming patronizing. I don't want to go into it with an assumption, I want to know that from [the partners].' In Briony's view this makes these open conversations, which we sought actively only at the end of the project, an important part of the entire life cycle of a research process. The interpersonal aspects of research partnerships, which are all too clear in our conversation and indeed are well known by all researchers who participate in them, are however glaringly absent from funder guidelines or published principles on research partnerships.

The emotions of the partnerships thus refer to the friendships, trust and ways of communicating which enable the partnership to operate. There is also, of course, the issue of the emotional labour referred to earlier. Transitional justice research concerns human rights violations, the conducting of fieldwork and analysis of data, and attempts to write about and name that which easily defies understanding bears an emotional cost for those who undertake the research. This emotional cost will play out differently for those of the team who are physically and emotionally closer to the field contexts:

Even in this meeting here there were interesting things being discussed. But maybe people didn't know they were also talking about us. Maybe some of us have witnessed atrocities. There are people that have been shot near me, we have been put in a firing line. So we got lined up to be shot. Then we come to produce [an] ID. And we were lucky because I belong to a different tribe. So when we are discussing issues of recording atrocities the images come back, very quickly actually. So when the images come back you have to sit there, sometimes you have to be a bit blank, you don't know what they are talking about. So we struggle a lot with issues of trauma, and our own ways of dealing with trauma. We have academic discussion, write articles but we always have to struggle. (Leben Moro)

Leben here refers to the open part of our final dialogue workshop which took place the day before our reflective team discussion. The dialogue brought

together South Sudanese scholars, activists and practitioners of transitional justice and the content of the discussion touched directly upon acts of violence that had also been experienced by our South Sudanese members of the team. Following this, the two Swiss-based members of the team (Ulrike and Briony) wondered whether they had assumed that the 'local' team would find engaging with the materials easier because they were from the region, or whether they had taken this aspect into account in the way the workshop had been planned and executed. With the intention of demonstrating respect for their research partners, Ulrike and Briony had stepped back from the logistics and indeed emotions of the process of planning the dialogue workshop on South Sudan, inadvertently also stepping back from any responsibility to demonstrate care for the emotional labour of Leben and Kuyang. Ulrike posed the question to them: 'So is not doing these kinds of projects an option? Or not working on these issues? Or including psychological counselling?' and Kuyang responded:

In all of this, again, who am I? We have ambitions and that's why we are doing it [...] like we wanted to be something at a certain point and how are we going to follow these ambitions? I had been looking for a PhD that suits a woman where you can be [a] mother, wife, all these things. So why do we keep going back to these contexts? We have to, at the end of the day, meet our dreams.

She continues, 'If you include psychological counselling, for whom? In a society where everyone is traumatized?', 'Who heals whom? Who would understand me?'

This honest and challenging account from Kuyang at once questions the possibility of ever 'helping' as a Global North partner, while showing clearly how important such considerations are. In reflecting on hearing this, Ulrike and Briony also posed themselves the question of whether they had inadvertently added to the trauma of the partners in the way that they spoke of violence, and whether or not their expectation that the field would somehow be made 'legible' to them by the Southern partners adequately took into account these affective aspects. In quoting Lévi-Strauss, Nouwen writes that fieldwork is the 'mother and nursemaid of doubt' (2014: 234), not only in the sense of drawing into doubt our understanding of the research object, but much more fundamentally in terms of one's own position, legitimacy and person. Kuyang's repeated questioning of who she was, of who could offer comfort, and the discomfort and self-doubt of the Swiss-based partners was part of a calling into question of our legitimacy in the context of the research partnership with each other. We realized that we had made demands of each other, had made assumptions about each other, and had partially shielded or kept from each other our emotional experiences.

## ETHICS

With transition here we do not necessarily mean to imply the idea of a linear transition from war to peace, but rather a messy embodiment of the conflict curve, in which conflict increases and decreases in intensity, incomplete transitions lead to new or renewed conflict, and fragile peace can lead to long-term peace and stability or to more conflict and even war. This idea of fluctuation, uncertainty, insecurity, etc., also marks their research environment. [...] the rules of the game are set they reflect [the] stability [of a country like Switzerland]. If you are setting deliverables, the timeline and so on they reflect that precision, that certainty. (Leben Moro)

Where can I conform to those research ethics in South Sudan? Can I conform to them in Juba? How far does my methodology move in contexts where everything is burnt and people are looking around to see if they can speak or not speak? (Kuyang Logo)

These introductory quotes summarize some of the ethical discussions and concerns we have been grappling with as a research team. In the course of our conversation it became clear that these have to do with not only questions of conducting research in line with ethical and methodological standards, but also the ideals of ethical research partnerships that we had hoped to strive for. Furthermore, it showed that these questions of ethical research partnerships not only play out in the dynamics of our North-South partnership but equally challenging questions are having to be negotiated by our Southern team members and their research subjects based on the different roles and positionalities they inhabit. Here we will briefly discuss the ethics of administrative and methodological requirements set in the Global North in practice, and the ethical dimensions in our North-South and researcher-researched relations.

The first set of challenges focuses on the requirements of research ethics, which, as Leben has pointed out, are being developed and promoted by researchers and research financing institutions such as donors or governmental and non-governmental grant-making institutions. While there are obvious and good reasons for these ethical standards and the enforcement mechanisms that are in place to safeguard and monitor them, they can make research in (post-)conflict locations considerably more difficult. Consider for example the requirement to share data among partners which is given by the Swiss National Science Foundation as a condition for its grants and which the KPFE principles – designed specifically to ‘promote [...] increased, effective and equitable research cooperation with low and middle income countries’ – also support. However, neither of these guidelines accounts for what this means in the context of sharing the primary data that has been collected in an insecure environment. How can the practical, ethical and potential security challenges associated with this for researchers in the specific context be adequately



accounted for and addressed? Often these challenges are interlinked and cannot be overcome merely through practically oriented solutions:

and where we are talking about sharing our data is that going to be a lot of work for me? Because when we are going into a context that is very tough I am writing handwritten notes and I can understand them but for me to put it up I need to clean it up. Do I have the luxury to record, do I have the luxury to use my computer? I have my recorder and it is always tucked under because we are checked manually [at the airport]. (Kuyang Logo)

A second example includes the need to use one's multiple professional identities, for example as a researcher, consultant and academic, to gain (safe) access to specific field locations. While the highest standard of transparency is maintained with respondents, what does the need to frame one's work and the intention of travel in one way and not another mean for Southern researchers' relationships with their governments? This speaks to the relationship between the researcher, the research context and the researched – under-explored especially in its emotive effects on the researcher in contexts of insider positionality. Additionally, there are the ethics negotiations between the Southern partners and their research subjects (through differing roles), and they are often shaped by Northern ethics processes which cannot cope with certain fieldwork 'realities'. Mertus elaborates that while do-no-harm principles for research have been fairly well established,

less acknowledged, but equally important, is the responsibility of researchers to anticipate and counteract the potential harm to oneself. The types of harm that may await researchers include not only the kind of harm to physical security that gun fire, landmines and natural disasters invoke, but also the physical and psychological damage inflicted by detention and imprisonment, sexual harassment and other mistreatments designed to derail the possibility of working in the area. Additional critical concerns result from the severe stress of working with traumatized populations, living under watch of an authoritarian state, travelling in highly militarized zones, and exposing oneself to continual danger. (Mertus, 2009: 166)

While some of these questions ought to be addressed through ethics committees and a thorough planning of the research process in the conceptualization phase, it seems that the ethics processes created from the context of stability, predictability and planning that mark many contexts in the Global North might be inadequate for dealing with the realities of doing research in (post-) conflict and transitional societies. Furthermore, certainty of the ability to implement a project and concerns for institutional reputation have occasionally been reported to drive ethics committee decisions more than the 'duty of care toward and, integrity of the researcher and their research participant[s]' (Hemming, 2009: 21).

To what extent, then, can the field of transitional justice look to other fields such as migration studies (Clark-Kazak, 2019), peacebuilding and so forth to adapt its methodologies and ethics processes to account exactly for this state of transition, and thus uncertainty, fluctuation and insecurity that is mentioned in the introductory quote to this section, and which are presumed to be significant characteristics of transitional societies? Considering the dominance of the Global North in transitional justice research, that the rules of the scientific game are written in the North and that much of the funding comes from there, how can we, in practice, ensure that the methodologies and ethics processes that shape the field's scholarship take seriously the social, political and security realities that are at the heart of the contexts and processes we study?

The second ethics-related concern our conversation raised relates to the ethics of the partnership itself. This plays out firstly, and to varying degrees, in the partnership relations between the research partners. This aspect is particularly important as research ethics debates tend to focus on the relationship of the researcher to the researched and to a much lesser degree on the relationships and well-being within research teams (Levy Paluck, 2009) or the questions of 'how collaboration might affect research methods and ethics' (ibid.: 40). In our case the debate around this quickly turned to the tension between formal requirements such as deadlines and outputs which at times are driven by the demands of Northern research partners, and the question of 'how much pressure does [this] put on the person?' (Kuyang Logo) when specific project outputs require processes that put Southern partners at physical risk. This in turn brought us to questions of mutual understanding and the limits of this understanding considering the vastly different life-worlds within which our lives, including our professional lives, take place: 'When we do a dialogue workshop like this you don't know what it means, to be able to pull it off', '[so] does Briony understand this? Does Ulrike understand it? Does Gilbert understand it?' (Kuyang Logo). While everyone on our team was aware of these different possibilities of understanding one another, and despite what we believe were good intentions by all partners to bridge these divides, the ethical challenges and dilemmas raised through these debates remained unresolved.

## CONCLUSION

The challenges we have discussed indicate the multiple positionalities at play in North-South partnerships and transitional justice research more generally. They also speak to the emotional labour involved in researching human rights abuses and their aftermath, especially in transitional, and thus fluctuating and often insecure, contexts. Lastly, we have discussed the ethics of doing North-South research partnerships both in terms of the (im)possibility of existing ethics procedures to account adequately for the challenges of transitional

contexts, and in terms of the negotiations of ethical and emotional relations between and among research team members.

North-South research partnerships have been envisaged, by transitional justice scholars, donors and policy-makers, as one means to overcome the disparities and inequalities in access to resources but also in the voice and influence differently located researchers hold in the field. ‘Celebrated for enhancing knowledge transfer between academics and higher education institutions in the two geographic regions’ (Mago, 2017: 163) these types of partnership are seen as one way of addressing the North-South research divide. The reflections presented above, however, indicate that while there might be a two-directional knowledge transfer taking place, there are a broad range of factors and challenges that might well be standing in the way of truly collaborative knowledge production, which goes beyond knowledge transfer and which could provide redress for transitional justice’s research divides.

These challenges bring forward a number of broader concerns that the funders, planners and implementers of research projects need to grapple with if they want to ensure that these partnerships do indeed have a positive impact. These revolve around the need to acknowledge and account for, both conceptually and in practice, the vastly different circumstances and contexts within which we work while also treating everyone equally if we do not want to fall into patronizing and presumptive gestures that will only contribute to feelings of marginalization.

What, then, do our discussions on positionality, emotions and ethics contribute to our understanding of research partnerships and the epistemic worlds that shape transitional justice? It seems that addressing the challenges outlined above will be critical if North-South research partnerships are really to be a means of overcoming the North-South research divide in the field of transitional justice. On the one side, the partnership project succeeded at overcoming the extractive nature that marks many transitional justice studies by having research teams based in different countries that were also the subject of our research, and by ensuring that we all own our research outputs individually or collectively. However, the current conceptualization of North-South partnerships as conduits of knowledge transfer and collaborative knowledge production seems to fall short when viewed from an empirical standpoint. On the other side, the partnership project did not succeed in overcoming the many dynamics and practical obstacles which cause frustration for Southern partners and which are caused by restrictive structures as much as by difficult interactions. The case of our project has, despite all good intentions, shown that the idea of a partnership is not sufficient if it cannot be implemented. Research into other North-South partnerships, their epistemic, emotional and practical implications, challenges and inequalities, is required to flesh out further the positive and negative impacts these have on addressing the knowledge production gap

in the field. Importantly, North-South partnerships also have the potential to produce South-South encounters and partnerships. As Leben states, a project like this one ‘made it possible for us in the South to meet, talk, [and] discuss’. Thus, while they might be funded and led by Northern partners, projects of this type also have the potential to foster South-South partnerships and networks.

Lastly, speaking to the politics of knowledge and expertise in transitional justice – itself considered as an ‘expert concept’ (Gilbert Fokou) – a research project like the one discussed here is ultimately one way of participating in and inserting oneself into this expert world that is transitional justice. As Gilbert has expressed, ‘if you are in the UN system or NGOs or civil society that are dealing with the concept, manipulating the concept’, you are considered an expert. If (collaborative) research projects – by way of awarding (PhD) degrees, teaching collaboration skills, allowing access to expert discourses, networks and spaces – are entry tickets into the professionalized marketplace of ideas that is transitional justice, it is all the more important that they are designed in such a way that they allow access for all partners, and not only those who are already in privileged positions.

## NOTES

1. The research project from which these reflections emerged was kindly supported by a grant from the Swiss Programme for Research on Global Issues for Development, which is jointly funded by the Swiss Agency for Development and Cooperation (SDC) and the Swiss National Science Foundation (SNSF).
2. Three key conferences were organized between 1988 and 1995 in Wye (USA), Salzburg (Austria) and Cape Town (South Africa) to bring together ‘international lawyers, political actors, human rights activists and numerous global observers’ (Mouralis, 2013: 91) to share and exchange experiences. They were organized by the Aspen Institute and were followed by the ‘Project of Justice in Times of Transition’, run originally by the University of Harvard’s Kennedy School of Government, the Law School and the Weatherhead Center for International Affairs. The conferences and project proved an important milestone in the development of the field of transitional justice (Mouralis, 2013).
3. ‘Due Diligence Guidance’, accessed 12 February 2020 at <https://www.ukri.org/files/funding/due-diligence-guidance-for-ukros-pdf/>
4. Guide accessed 12 February 2020 at [https://naturalsciences.ch/uuid/564b67b9-c39d-5184-9a94-e0b129244761?r=20190807115818\\_1565139307\\_8ef687bc-7b14-5a4f-ad9e-bf494cddc1d7](https://naturalsciences.ch/uuid/564b67b9-c39d-5184-9a94-e0b129244761?r=20190807115818_1565139307_8ef687bc-7b14-5a4f-ad9e-bf494cddc1d7). For a further discussion of these principles, see also Chapter 3 by Goetschel in this book.
5. Guide accessed 12 February 2020 at [https://naturalsciences.ch/uuid/564b67b9-c39d-5184-9a94-e0b129244761?r=20190807115818\\_1565139307\\_8ef687bc-7b14-5a4f-ad9e-bf494cddc1d7](https://naturalsciences.ch/uuid/564b67b9-c39d-5184-9a94-e0b129244761?r=20190807115818_1565139307_8ef687bc-7b14-5a4f-ad9e-bf494cddc1d7)
6. The (Silent) Voices Blog, accessed 26 March 2020 at <https://www.gicnetwork.be/silent-voices-blog-bukavu-series-eng/>

7. See for example <https://www.hrw.org/news/2020/02/12/south-sudan-academic-suspended-over-opinion-piece> and <https://www.universityworldnews.com/post.php?story=20190317100035147>, accessed 20 March 2020.

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## PART II

# The interlinked politics of knowledge production and agenda setting



# 5. Knowledge asymmetry and transitional justice in Côte d'Ivoire<sup>1</sup>

**Serge-Alain Yao N'Da and Gilbert Fokou**

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## INTRODUCTION

In Côte d'Ivoire, socio-political history is generally marked by violence erupting before, during and after elections. From the introduction of multi-party politics in the 1990s to the latest presidential elections of October 2020, all democratic procedures for the nomination of elected officials have been tainted with violence, with the exception of the presidential election of 2015 which was uncontested and had a relatively low turnout (Bouquet and Kassi-Djodjo, 2016). This includes verbal, physical and armed violence between the supporters or leaders of the various political parties. This brutalization of the Ivorian political field originates in the acceptance by the social body of the use of force (acts, speech, physical elimination, war) as a means of mobilization in the political game of defending interests and defeating opponents (Vidal, 2003).

In this fragile and volatile political situation, the explosion of violence in the aftermath of the second round of presidential elections of 28 November 2010 was unprecedented (Banégas, 2011). The final results were disputed by the two main protagonists (incumbent Laurent Gbagbo and declared winner Alassane Ouattara), despite the certification of the voting process and results by the Special Representative of the Secretary-General of the United Nations (UN), Choi Young-Jin,<sup>2</sup> plunging Côte d'Ivoire into an armed civil war. The role of international actors in certifying elections in Côte d'Ivoire has been cited as one of the factors leading to an environment hostile to the freedom, transparency and credibility of elections (Bekoe, 2017; Thérroux-Bénoni, 2012). For four months, tensions between the two camps degenerated into armed fighting between the national Security and Defence Forces (FDS) loyal to Laurent Gbagbo and the Republican Forces of Côte d'Ivoire (FRCI), composed of former 'Forces Nouvelles' rebels,<sup>3</sup> who supported his rival Alassane Ouattara (Zounmenou and Lamin, 2011). The arrest of Laurent Gbagbo and his wife Simone Gbagbo in April 2011, by pro-Ouattara forces that were con-

roversially assisted by UN peacekeepers and French forces (Yebouet, 2011), marked the end of the conflict (Simonen, 2012).

During this process which led Alassane Ouattara to power, the post-election violence was tragic for many Ivoirians. Official figures indicate more than 3,000 deaths, with an additional hundreds of thousands of internally displaced persons, 187,266 Ivoirians seeking refuge abroad, serious human rights violations and large-scale material damage having been recorded (Amnesty International, 2013; UNGA, 2011). In addition, extensive and violent looting took place, roadblocks were set up and a vengeful public discourse was introduced (Koné, 2012). Through these channels, young militiamen and supporters of both sides committed abuses, intimidation, summary executions, sexual violence and other sorts of humiliation and mass crimes in different neighbourhoods of Abidjan and other towns, as well as among ethnic groups deemed close to one candidate or another. The magnitude of this discharge of violence in the social body was not only a response to the disputed elections, but rather should be understood as the culmination of political instability that has been present in Côte d'Ivoire since the early 1990s (Akindès, 2011).

Beyond this violence and the humanitarian crisis, the post-electoral crisis of 2010–11 had various consequences, particularly at the security and social level. The fighting between the FRCI and the FDS has, among other things, opened the door to the movement of small arms and light weapons and increased the climate of insecurity among the population. FRCI troops for example, were made of heterogeneous, disorganized and undisciplined groups of soldiers from the former rebellion; the ex-FDS members who joined before, during and after the offensive on Abidjan; and the unskilled youth enrolled during their progression (Fofana, 2011; Yebouet, 2011).

Between communities, the profound social divisions of the past have been further amplified (Charbonneau, 2013). After the death in 1993 of the post-independence leader and 'father of the nation', Félix Houphouët-Boigny, social diversity, one of the pillars of the houphouëtist political engineering, had been dismantled (Akindès, 2011). His successor, Henri Konan Bédié, developed the concept of *ivoirité*<sup>4</sup> with intellectuals of his party. Launched in 1994, as a 'simple' cultural ideology of Ivoirian authenticity, *ivoirité* came to be an instrument of struggle for political power (Babo, 2012). Its intrusion into the political debate awakened latent problems of citizenship (Ivoirian versus foreigner) and community division (north versus south) within Ivoirian society (Bredeloup, 2003; Dozon, 2000). This ideology promoted, and continues to promote, a social and communal divide between the Ivoirian people which has not been addressed by successive political leaders.

It is in this fragile situation that the most recent electoral crisis arose, further accentuating the social divides and polarization of Ivoirian society. The existence of two main 'blocs' increases resentment between people (Kouamé et al.,

2015). On the one hand, there are the supporters of Laurent Gbagbo who do not consider that they were defeated in the 2010 presidential elections. For them, the 'takeover' of Alassane Ouattara was illegitimate, because it was achieved through the imposition of the international community. On the other hand, Alassane Ouattara's supporters demanded justice and reparation for the frustrations, abuses and damages to physical integrity that they suffered during the decade of governance of the Ivorian Popular Front (FPI), the party of Laurent Gbagbo (2000–11). This opposition has often been instrumentalized by the elite as a North-South or Christian-Muslim divide (Straus, 2011). The disintegration of social ties has thus affected social cohesion to such an extent that the Ivorian crisis has also been a crisis of trust between populations, political actors and state institutions (Ngoran, 2012; Queyraud, 2013).

Faced with this deleterious post-conflict context, the new authorities under Alassane Ouattara have put in place a set of actions to restore justice, peace and social cohesion. The consolidation of peace and the reconstruction of the social fabric are among the main political orientations of the new regime. During his inauguration on 21 May 2011, the new President, Alassane Ouattara, announced as his priorities: state reconstruction, national reconciliation, and economic recovery. In practical ways, the appropriation of this political agenda has resulted in the activation of transitional justice mechanisms and the promotion of social cohesion. Consisting of several judicial and non-judicial mechanisms, transitional justice refers to a series of responses to human rights abuses in the context of a political transition to democracy (Arthur, 2009). As a sub-domain of peacebuilding, it is perceived by many as an automatic response to the fragile conflict-exit context (Subotić, 2012). As such, this concept has risen to prominence as a policy response to violence with a certain collective understanding (Hourquebie, 2009, 2014) even though its meaning and definition are not unanimously accepted (Lefranc, 2008, 2009). Transitional justice principles are based on four main 'pillars': the right to justice or the trial of suspected criminals in national, international or hybrid jurisdictions; the right to truth or truth commissions; the right to reparation with financial and symbolic compensation of the victims; and the guarantee of non-recurrence involving demobilization programmes, security and administrative reforms (Kora and Lauvau, 2014). All these actions were applied during the Ivorian experience of exit from crisis, with a particular emphasis on national reconciliation.

By making national reconciliation a political priority, several actors have sought to take ownership of the concept, each with their own understanding and knowledge of this type of process. Very quickly, a heterogenous set of national and international institutions has been involved in the implementation of this crisis-exit process to participate in the efforts of Ivorian post-conflict reconstruction. These include technical and financial partners and donors

(United States Agency for International Development (USAID), United Nations Development Programme (UNDP), European Union (EU), United Nations Operation in Côte d'Ivoire (UNOCI)), international non-governmental organizations (including Search For Common Ground (SFCG), the International Center for Transitional Justice (ICTJ), Interpeace, International Rescue Committee (IRC), Care International). These also include civil society organizations and victims' associations (Action pour la Promotion des Droits de l'Homme (APDH), Mouvement Ivoirien des Droits de l'Homme (MIDH), Confédération des Organisations des Victimes des Crises Ivoiriennes (COVICI), Observatoire Ivoirien des Droits de l'Homme (OIDH)). However, despite this willingness to rebuild a lasting peace among the Ivoirian population, the Côte d'Ivoire process of national reconciliation and social cohesion seems to be lagging behind the other priorities announced by the Ivoirian authorities (Akindès, 2017; Banégas, 2012; Charbonneau, 2012; Faujas, 2013; Gaulme, 2012).

Given this context, and the challenge posed by the lack of progress in repairing social cohesion in Côte d'Ivoire, this chapter focuses specifically on the plethora of actors involved in the 'peace market'. Moreover, the main interest is in their multiple methodologies, expertise and sources of knowledge in seeking to define and generate an Ivoirian 'social cohesion' model. Discussions will revolve around aspects such as competition in the 'knowledge market' on social cohesion, hierarchies between non-Ivoirian and Ivoirian actors, and examining various frameworks of reference for action. These all point to a significant asymmetry of knowledge with relevance for policy and practice.

The analysis presented here is based on a review of press articles and qualitative data collected through semi-structured interviews. In August and September 2018, newspaper articles related to transitional justice and social cohesion were collected for the period from 2012–17 and analysed to identify the different actors around social cohesion and consolidation of peace problematics, their actions and their discourses. Notes and administrative documents, politicians' speeches, various decrees and regulations were also considered. In addition to this literature, field data was collected from January to April 2018 and from October 2018 to February 2019 in Abidjan, the economic capital of Côte d'Ivoire, but also in the West of Côte d'Ivoire, mainly in the towns of Duékoué, Guiglo and Man. Duékoué was one of the epicentres of violence during the decade of instability which preceded the post-election crisis of 2010–11. Thus, unsurprisingly, the western region of Côte d'Ivoire has been the main area for the implementation of numerous humanitarian interventions, as well as training in capacity building around peace and social cohesion. The field research process consisted of conducting 30 semi-structured interviews with key informants involving governmental institutional actors (ministry,

prefecture and municipalities), senior staff of international and local NGOs, associations of victims, and youth associations.

As a first step, the chapter will discuss the diversity of actors and interventions while highlighting the dominant characteristics of experts and expertise in this context. The chapter will then turn to the relationships between non-local 'experts' and local practitioners before making some concluding remarks on the relevance of this asymmetry of knowledge for future social cohesion in Côte d'Ivoire.

## FALSE START FOR TRANSITIONAL JUSTICE IN CÔTE D'IVOIRE

The Ivoirian process of exit from crisis followed the liberal ideological continuum put forward by UN agencies and other international institutions in post-conflict reconstruction contexts (Boutros-Ghali, 1992; United Nations, 2000). This continuum is a tripartite approach to peace comprising the mechanisms of peacemaking, peacekeeping and peacebuilding with the underlying assumption of addressing the root causes of the conflict by improving economic aspects, human rights and democracy (Collier, 2006). By making this choice, the government authorities have sent strong signals to the international community and to the Ivoirian society of their determination to write a new page in the history of Côte d'Ivoire. In this section, we will see that the implementation of transitional justice in Côte d'Ivoire in this context of liberal peace has provided little room for negotiation among the various stakeholders. We will mainly focus on the political agenda for the implementation of judicial mechanisms as well as non-judicial processes through the Dialogue, Truth and Reconciliation Commission (Commission Dialogue, Verité et Réconciliation – CDVR).

### Setting the Transitional Justice Agenda

The transitional justice process in Côte d'Ivoire followed an approach focusing on the 'four pillars' of the UN with a national, state-sanctioned framework, and did not include any traditional mechanisms such as the *gacaca*<sup>5</sup> courts that have been implemented in Rwanda (Rosoux and Mugabe, 2008) or special and hybrid courts such as the Special Court for Sierra Leone (Rodella, 2003). Ordinance No. 2011-85 of 13 May 2011, adopted by the President of the Republic establishing the CDVR, marked the beginning of the formalization of transitional justice in Côte d'Ivoire. Subsequently, with a view to strengthening the fight against impunity, the Ivoirian Head of State set up a national investigative structure: the Special Investigation Unit (Cellule Speciale d'Enquête – CSE) was established in June 2011 to initiate judicial investigations

and proceedings on the crimes committed during the post-electoral crisis. The following month, the presidential decree No. 2011-176 of 20 July 2011 commissioned the National Commission of Inquiry (Commission Nationale d'Enquête – CNE) to conduct non-judicial investigations of violations of human rights and international humanitarian law.

In the space of three months and even before his investiture ceremony as President of the Republic, Alassane Ouattara had already developed a roadmap to lead the post-war process. What is noteworthy is that neither national consultations, nor public debates, open to a wide range of social actors, such as media, victims or opposition parties, were conducted. This lack of inclusion and participation in determining the process of peace-seeking and national reconciliation is surprising considering the context of social division in the country. The choice of a particular version of transitional justice as the way to exit from crisis was thus determined in a 'top-down' manner by the public authorities and their international partners (Gaulme, 2012). At a workshop on transitional justice in Côte d'Ivoire, a senior international NGO leader who took part in the implementation of the Ivoirian process recognized this when saying 'it is inside a room of the Golf hotel<sup>6</sup> with the collaboration of international actors that the first draft of the document for the exit from crisis was elaborated'.<sup>7</sup> The nature and speed of the choices made around transitional justice ensured the influx of capital from institutions such as the International Monetary Fund (Charbonneau, 2013; Ricard, 2017). However, they also ensured exclusion of the general population from dialogue and decision-making on the nature of transitional justice needed in Côte d'Ivoire.

### **International and National Judicial Proceedings**

Since the setting of a clear agenda by the Ivoirian state, a series of challenges and distortions have been noted, resulting in partial achievement of the stated transitional justice aims. Relying on a statement of recognition of the International Criminal Court<sup>8</sup> (ICC) by Côte d'Ivoire, the country being at that time not yet a state party to the Rome Statute, the ICC initiated investigations on the situation in Côte d'Ivoire on 3 October 2011. Three cases concerning Laurent and Simone Gbagbo and Charles Blé Goudé were brought before the Court. Laurent Gbagbo was transferred to the ICC on 30 November 2011, and was followed in March 2014 by Charles Blé Goudé, Minister of Youth in the government formed by Gbagbo after the presidential election of November 2010. These two cases were joined on 11 March 2015. As for the former first lady, President Alassane Ouattara refused the transfer of Simone Gbagbo to The Hague. On 15 January 2019, after three years of trial, Laurent Gbagbo and Charles Blé Goudé were acquitted of all charges of crimes against humanity allegedly committed in Côte d'Ivoire in 2010 and 2011.

In addition to the activities of the ICC, trials and judgments for the perpetrators of the crimes of the post-electoral crisis have taken place in the national courts. Of the 79 accused, mainly Gbagbo supporters, about 15 people were acquitted, while several executives of the former regime were convicted. While domestic trials were still underway, during his National Day address of 6 August 2018, Alassane Ouattara announced the signing of Ordinance No. 2018-669 granting amnesty for crimes related to the post-electoral crisis of 2010–11. Some 800 detainees and persons in exile (including a few of his supporters) who had been indicted (CNE, 2012) saw their sentences erased and prosecutions stopped.

The refusal of the Ivoirian authorities to transfer the wife of the former president to the ICC based on the subsidiarity principle, according to which the Ivoirian courts are now able to judge crimes against humanity, and her subsequent trial in Côte d'Ivoire, have highlighted the limits of the Ivoirian judiciary system. In March 2017, Simone Gbagbo was acquitted of the alleged crimes committed during the post-electoral crisis after the trial qualified as irregular. Moreover, the findings of the investigative reports of the national judicial and non-judicial bodies established by the government authorities clearly identified perpetrators of crimes in both camps (CNE, 2012). However, by repeatedly adopting amnesty measures, hailed<sup>9</sup> by some and denounced by other national and international human rights NGOs and victims' associations, various Ivoirian authorities have, since the eruption of violence in 2002, contributed to obstructing the judicial avenues for redress. As a reminder, during the decade 2000–10, two amnesty laws, No. 2003-309 of 8 August 2003 and No. 2007-457 of 12 April 2007, had already been passed by Laurent Gbagbo without having a real impact on national reconciliation. In the end, faced with the image of an intransigent government with the mantra 'réconciliation d'accord, mais justice d'abord [justice before reconciliation]',<sup>10</sup> Alassane Ouattara opted for opportunistic decisions according to political contexts. The 2018 amnesty decision was taken with the 2020 elections in mind, and without prior approval of the Ivoirian parliament. It is also worth noting that accusations of victor's justice from both national and international quarters (Malewa, 2015) are reinforced by such acts, as well as the boundaries placed around the reach of the ICC into Ivoirian affairs.

### **Truth Seeking, Reconciliation and Reparations for the Victims**

The search for truth and reparations for the victims in the Ivoirian process was as interwoven as it had been in South Africa. The CDVR was established in July 2011. Its aim was to work independently to reconcile and strengthen social cohesion among all the communities living in Côte d'Ivoire. However, after three years, the work carried out by the CDVR seemed to have failed

to achieve the desired effect of laying the foundations for a genuine process of national reconciliation (Lopes, 2015). The appointment of Charles Konan Banny, politician and former Prime Minister, as the President of the CDVR was problematic. Many actors wanted to see this responsibility vested in the hands of neutral and consensual personalities from civil society or religious leaders.<sup>11</sup> Charles Konan Banny was on the side of the ruling party but had ambitions to participate in the 2015 presidential elections as an opposition candidate. Even though he withdrew from the race before the contest, the climate of suspicion created by these presidential ambitions has contributed to instilling mistrust between the government and some actors in the reconciliation process. This ambiguous position has weakened the conduct of the truth-seeking process.

Following the CDVR, a National Commission for Reconciliation and Compensation for Victims (CONARIV) was set up in March 2015. This body was to finalize the work of the CDVR by consolidating the database of victims in Côte d'Ivoire as a basis for a compensation programme. In April 2016, after one year of activity, CONARIV presented its progress report. Of the 874,056 files submitted to the verification unit, more than 64 per cent have been rejected. This rejection has been the object of protest by some victims' associations (COVICI, 2017, 2018). According to these victims' associations, CONARIV did not take into account certain categories of persons (amputees, quadriplegic and vulnerable as a result of war experiences) in their selection criteria. The contestability of the consolidated list of war victims has thus challenged the credibility of the work conducted by that institution.

In addition, in the realization of its mission CONARIV worked in collaboration with the National Social Cohesion Programme (Programme National de Cohésion Sociale, PNCS). Created in 2012, the objective of this programme is to promote social cohesion and national reconciliation through rehabilitation and community dialogue. With the extension of its mandate until 2020, the PNCS has inherited the work of other committees and is currently the sole institution in charge of the issues of national reconciliation and social cohesion. However, it is yet to start the main compensation phase of its work. In addition to the lack of visibility of the PNCS activities, according to Piccolino (2017), the social cohesion process masks a series of ambiguities. On the one hand, the actions and speeches undertaken around social cohesion, such as the building of peace at the local level, have not been supported by actions of peace at the national level (between political elites). On the other hand, in this vein, the programming of the process of social cohesion has not looked at the resolution of the real issues that paralyse reconciliation such as dialogue with the opposition, responsibility of political leaders from all camps combined in successive crises, and restoring the confidence of all parties in the electoral game, among other issues (Piccolino, 2017).



Despite this set of difficulties and the doubt about the reliability of their results, various institutions put in place since 2011 have, to some extent, produced knowledge that can serve as a memory of past events and foster social cohesion. Nevertheless, looking more closely, the recommendations stemming from these non-judicial mechanisms have not been fully implemented. Moreover, the dissemination of the CDVR report was limited and was not disclosed to the public until recently, meaning that the list of victims of CONARIV handed over to the PNCS remains only in the hands of the public administration. Since the process is driven by the political and administrative elite, its dynamism depends largely on the Ivoirian public authorities and their development partners. These elements reflect a lack of political will, leading to the belief that the implementation of these instruments was an extraversion strategy (Ricard, 2017) in order to satisfy the 'trickle-down' economic vision of President Alassane Ouattara (Akindès, 2017). As soon as he came to power, President Alassane Ouattara, who is an economist and former technocrat of the Central Bank of West African States (BCEAO) and the Deputy Managing Director of the International Monetary Fund (IMF), showed his ambitious vision to transform Côte d'Ivoire into 'an emerging country by 2020'. This 'vision of emergence', which envisages a socially inclusive economic model (IMF, 2013), has structured Ivoirian political and social discourse while leaving political issues, a primary source of conflict, in the background. The purpose of this political orientation was therefore to lay the foundations for national reconstruction and peacebuilding through economic development.

## POWER GAMES AND KNOWLEDGE ASYMMETRY AROUND THE TRANSITIONAL JUSTICE PROCESS IN CÔTE D'IVOIRE

From setting its political agenda to its implementation, the Ivoirian transitional justice process has benefited from the assistance of external actors. Public actions in favour of transitional justice have been supported by other non-state actors as illustrated by the two following citations:

At the very beginning, UNOCI provided technical assistance and expertise to the CDVR, as the concept [transitional justice] was quite new and unclear. That is not all, UNOCI has also provided financial support for the success of the process. One million and five hundred thousand US dollars have been made available under the United Nations Peacebuilding Fund [...] but, it is the CDVR that is ahead, and we are in support.<sup>12</sup>

[...] I believe that UNOCI has been a very important partner for us with whom we have had training workshops, and other trainings. Training first for ourselves, as actors, because war is not something we can foresee and therefore when you have to go to into the reparation process, there is no reference, there is no model and

sometimes you have to fumble. And I think that UNOCI has been a great help for us in training.<sup>13</sup>

External actors which are supporting the Ivorian transitional justice agenda are both technical and financial partners or donors such as the United Nations system, USAID, the EU and the chanceries (Germany, France, Japan) and international NGOs (Interpeace, SFCG, ICTJ, IRC, Care), as well as regional (WANEP) and local organizations (APDH, OIDH, COVICI, Bonne Action). Activities of these practitioners included caravans and awareness-raising tours for peace, radio broadcasts, training sessions, installation of peace committees within local communities, infrastructure rehabilitation programmes (e.g. Presidential Emergency Programme, Infrastructure Renaissance Project of Côte d'Ivoire), and the production of surveys and study reports. In the same way as has been said of the humanitarian field, post-conflict reconstruction processes are becoming a 'peace market' (Montelos, 2009) with clearly demarcated roles for different types of actors: material, financial, experience and knowledge supply from NGOs and international institutions; demands for peace, cohesion and reconciliation by political elites; and programme implementation by local NGOs.<sup>14</sup> Recognizing the existence of such a market does not imply that there is a static set of relations between these types of actors. Indeed, there are negotiations, confrontations, resistances, imbalances in defining and redefining the asymmetry of knowledge. The next section of this chapter will therefore look at how power games between transitional justice stakeholders have been shaped in and through asymmetrical knowledge relations.

### **Power Struggles between International Actors and Local NGOs**

Before 2011, the military-political crisis of 2002 had already attracted a range of humanitarian NGOs that had been growing in number in the period immediately following the 2010 elections due to the deteriorating humanitarian situation (Adou, 2016). As a result, most of these early NGO interventions responded primarily to the emergency situation. Then, as the post-conflict socio-political climate of 2011 'subsided', the interveners and the actions of the emergency gave way to another wave of NGOs, those specializing in peace.<sup>15</sup> This wave of international NGOs has entered this fragile socio-political context, sometimes based on the express request of the state. The evolution of the socio-political landscape and the arrival of new players have redistributed the cards of the political game causing an imbalance of power between various stakeholders. This imbalance of power has been reflected in terms of unequal access to material resources such as the financing of activities, the operational means of human capacity, logistical skills, offices, and computer and technical

tools necessary for the implementation of a transitional process. This new context of multiple actors has also influenced the production of knowledge around peace in the sense that newcomers, with post-conflict experience from other contexts, have positioned themselves as the main producers of discourse and knowledge on and for the Ivoirian post-conflict case.

At the end of the conflict, the Ivoirian economy and administrative infrastructure were almost non-existent. In addition, with the inclusion of transitional justice into the broader peacebuilding strategy, the vast majority of local administrators and practitioners were 'novices' in these priority topics, in comparison to other, newer stakeholders such as SFCG, Interpeace or Care International. Indeed, external actors have, to their credit, rich experience in post-conflict context management, while local actors for the most part were in their first post-conflict experience. Prior to 2011, actors such as UNOCI and UN agencies with some donors such as the World Bank had implemented and financed important projects such as the Post-Conflict Assistance Project (PAPC) resulting from the recommendations of the Ouagadougou Agreement signed in March 2007.

After the post-election crisis, UNOCI, UN agencies and international actors continued to provide financial support and implemented awareness-raising projects on social cohesion and peace in some towns and villages of Côte d'Ivoire. As a local NGO Manager in Duékoué said during our interview in January 2019: 'many NGOs have started some activities here in Duékoué. However, the social cohesion side was much developed by UNOCI and a few other organizations. These were mainly USAID and NGO Verbatims.'<sup>16</sup> Apart from the creation of the national bodies, the vast majority of interventions such as peace awareness, the rehabilitation of administrative and community infrastructures, the establishment of a peace committee and community dialogue sessions, and the publication of study reports were conducted and carried out by international NGOs in collaboration with local actors. In such a situation, the state and the local actors were therefore in a relationship of negotiation with the international actors to set up a process for which they did not control all the levers.

Furthermore, the lack of funding and operational materials for local NGOs such as office space, field vehicles or computers meant that external actors were those driving the interventions. This is clearly articulated by the above-mentioned manager of a local NGO in Duékoué:

what the NGOs do not have is only the financial means (...) so when they [INGOs] provide funds, instead of referring to the [local] actors, they have their own vision. For example, when they arrive, their plan may be to provide support to pregnant women and not to the whole population. Women's pregnancy might not even be a major issue in the community. That is why they often fail when they come here.

They have financial means, but they do not refer to the right people. As far as we are concerned, we have not received any funding yet, but we are doing our best.<sup>17</sup>

This uneven distribution of resources between actors has therefore contributed to high levels of field deployment by international actors who implement activities based on their frameworks of reference, experiences and practices learned from other contexts. Furthermore, in many situations, these activities have not addressed the structural drivers of the conflict. For example, in the Guémond region of Western Côte d'Ivoire, one of the epicentres of the post-electoral crisis with several hundreds of killings (Carrefour, Nahibly camp), it is recognized that the land issue is one of the driving factors to the outbreak of violence (Chauveau and Bobo, 2003; Chauveau et al., 2012), and that it continues to be at the heart of political and socioeconomic relations (Koné et al., 2017). However, the many activities implemented by external interveners with support from local actors have not addressed this problem. Our investigations in this region indicate that several actions for post-conflict reconstruction have been conducted, but few have focused exclusively on the issue of rural land tenure. This sensitive issue was mentioned on an ad hoc basis during community outreach activities or during training sessions for peace and social cohesion. As a leader of a local NGO pointed out during a discussion:

I can give you an example concerning [the] land issue. What we missed in this area is truth and openness. There is a need to appease everyone. There are many people here who no longer have any right on the land they used in the past to generate resources for their family needs. They lost everything during the crisis [many local communities had temporarily fled to neighbouring Liberia to escape violence during the post-election crisis in 2011], but they know the new landlords. The authorities just have to decide. The real owner who worked the land is well known. We shouldn't ask him to give up and say that he is no longer the owner of the land. Where will he go after unfairly losing everything? There should be a way to appease everybody. If the land is five hectares, the authorities can share among those who claim ownership of the land. This will bring people closer as they will have to work on the same land. It is not good that one of the two protagonists gets everything when the other has nothing. After that you want to gather both of them in the same room for a training on social cohesion or peace. This can never work when everyone knows that something is missing. People should tell the truth and if there is an issue, we decide in order to allow the other to survive and appease everyone. Land issue is a reality here in Duékoué. It is the basis of many things, many crises and a lot of twists and turns. Land is the main problem here, any other issue is not really important.<sup>18</sup>

The lack of financial resources makes local actors dependent on the orientations of donors and other actors and the quasi-exclusivity of operational resources, particularly those of financing, in the hands of international practi-

tioners is one of the key factors in determining their dominant positioning in this competitive arena.

### **Knowledge Asymmetry between Actors**

In the Ivoirian context, the lack of a common framework of reference between the various transitional justice actors, particularly among those involved in the process of national reconciliation and social cohesion, has contributed to the legitimization of knowledge produced outside of Côte d'Ivoire. The knowledge and know-how, the theoretical skills and the experience held by those actors external to Côte d'Ivoire, have structured the dependency/interdependence relationship between stakeholders. In practice, the Ministry of Solidarity and Social Cohesion has been in charge of coordinating the multiplicity of actions and stakeholders. This coordination has been realized through the organization of training workshops with local actors, international NGOs and donors, national and international conferences and press releases, among other activities. However, this coordination has been complicated by the fact that no reference document (e.g. a matrix or guide), which would, for example, define a single official list of victims (Fokou and N'Da, 2018), has yet been developed to guide all these actions, and the production of a national policy document is still ongoing at the time of writing. At a workshop organized by PNCS in collaboration with the Human Rights Division of UNOCI, its Director<sup>19</sup> described this situation:

I invite all the actors working for social cohesion, to bring together their different efforts in order to define in a participatory way the strategic lines of action for reconciliation and social cohesion in Côte d'Ivoire. The standardization of national life today requires a more strategic approach to all the issues related to national reconciliation and social cohesion in terms of the design, planning and implementation of actions in the field for greater efficiency. Spontaneous and disparate actions must gradually disappear in order to make room for those who are developing and are taking part in a thoughtful and concerted framework, with a more forward-looking perspective.<sup>20</sup>

As mentioned above, several actions have been carried out by various stakeholders in an environment devoid of a regulatory framework. In the field, this lack of regulation has fostered the acceptance of the expertise of international NGOs. Indeed, in this context of a lack of a common framework of conduct, international actors have relied on theoretical frameworks and experience gained during similar processes in other countries, contexts defined as success stories (Jones, 2015), to conduct their programmes while local actors have not always had the ability to challenge this type of external know-how. In addition, the 'transfer of knowledge' from international NGOs to local actors has

been a characteristic of the asymmetry of knowledge. In the implementation of the programmes, local actors are reduced to the task of executing projects designed by others. They receive a support package including financial accompaniment, equipment and training modules to carry out their missions. These training modules, which address various themes around peace, inter-community dialogue, reconciliation and social cohesion, are designed by USAID, UNICEF, NRC and others, with the objective of being appropriated by local actors and then transmitted to a target population. However, on closer examination, these training spaces or 'knowledge transfer' processes in the form of capacity-building workshops have legitimized the expertise of these international institutions. A concrete example of this knowledge asymmetry is in the experience of a local NGO manager on the implementation of a 'bridging class' construction project<sup>21</sup> (*classes passerelles*, in French) conducted by an international NGO with the support of the Ivoirian authorities. A bridging class is a sort of second-chance school to enable children who have been out of school or affected by age limitations to rectify their situation by reintegrating them into the formal education system. As the manager of a local NGO describes:

An international organization called ICI is currently implementing a 'bridging class' project. During the implementation we have been involved (...) I went to Abidjan for the training. The project document required a validation. When we went to validate the document, we found something else. The Ivoirian government had appointed people who came to introduce to us Malians and Guineans who have their own programs in their local languages (...) I agree that they have the experience, but in their home countries. We told them that things are different here. For what happened finally (...) they are currently implementing a 'bridging class' project in Dahoua [locality situated at about 20 km from Duékoué]. School directors have recruited worthless students in their classes, and they call them 'bridging class pupils' (...) This is not what we have been doing here. He had to search for out-of-school children who are 10 or 11 years old.<sup>22</sup>

This example from the education sector highlights how the voices of local actors can be marginalized or neglected by international organizations, whose experts leave little room for integrating the experiences of local actors in the construction of post-conflict projects or development programmes in ways that can acknowledge the value of their experience.

## REVISED SYNERGIES BETWEEN THE DIFFERENT ACTORS

The synergy of actions between actors is a major challenge in post-conflict processes. In the Ivoirian experience, this continuous interaction work is an important element in the sense that the synergy of actions builds bridges

between different categories of actors to reduce the gap between them and ultimately facilitate peacebuilding. This section focuses on the coordination of the actions of stakeholders in the Ivoirian transitional justice process. On the one hand, it will examine the knowledge production of some stakeholders and, on the other hand, the level of collaboration between these stakeholders.

### **Producing Knowledge for Reconciliation and Social Cohesion**

From 2011 to the present day, seven national institutions, with different mandates, were created to address issues related to the post-electoral crisis. In 2011, there was first a ministry in charge of ex-combatants and war victims, which was dissolved in November 2012. In the same year, three other entities were established: the Special Investigation Unit (CSE), the CDVR and the CNE. Then, the PNCS was set up in 2012 and CONARIV in 2015. Lastly, there was the Ministry of Social Cohesion and Compensation for War Victims (MCSIV) established in 2016. However, during the establishment of the first Government of the 3rd Republic in January 2017, the MCSIV was dissolved and its responsibilities were entrusted to the Ministry of Women, the Protection of Children, and Solidarity (MFPEs), then since July 2018 to the Ministry of Solidarity, Social Cohesion and the Fight against Poverty (MSCSLP).

Based on research conducted throughout the country, three of these institutions produced and disseminated reports relevant to the social cohesion and transitional justice debates. The first document was that of the CNE, which was responsible for highlighting the post-election crimes of the period from 31 October 2010 to 15 May 2011. After a year of investigation, the Commission submitted its report to the Head of State on 8 August 2012. The second report was produced by the CDVR. Following the extension of its mandate by one additional year, it submitted its final report, which took into account the violations perpetrated in Côte d'Ivoire since the 1990s, to the Head of State on 15 December 2014. The third document, which contains the conclusions of the work of CONARIV, includes a single consolidated list of victims to receive reparation and recommendations on how this should be undertaken. The latter was handed over to President Alassane Ouattara on 19 April 2016.

However, with the exception of the CNE investigation report, the other documents have been highly criticized (COVICI, 2018; Lopes, 2015). The report produced by the CNE was praised by national and international observers as it was one of the first documents from a national institution that clearly established responsibility for violations committed by both camps. During an interview, an official of an international NGO in Abidjan recognized that:

This report was appreciated by all. This is the very first report emanating from a state institution acknowledging that the violations were committed by both camps

in the conflict. It also questioned the role of the dozos [traditional hunters], the FRCI, the *Forces Nouvelles*, etc., who also committed crimes (...) It is also a report that is available, with clear figures, that can be found at the National Commission of Inquiry (...) so this has provided satisfaction. In fact, they listened to us, they made a good report that was praised elsewhere.<sup>23</sup>

The conclusions of the other two reports were disputed. The late release of the CDVR report was one of the elements of this debate. It was made public two years after being handed over to the Head of State. In addition, its content failed to meet expectations. The recent research work of Piccolino (2017) on the process of social cohesion in Côte d'Ivoire expresses that dissatisfaction:

In the end, CDVR succeeded in interviewing 70,000 people – victims, perpetrators and witnesses. The majority of its work had little impact however. As a result of the quarrels between Charles Konan Banny and the Government, and the latter's reservation in relation to the CDVR conclusions, the Commission's hearings have for example not been retransmitted by State television. Similarly, the final report, submitted to the President on 15 December 2014, was made public only two years later. The passages concerning the opinions of the voters of Gbagbo on the 2010 elections and the responsibilities of Ouattara in the crisis were considered unacceptable by the Government and redacted from the published version. (Piccolino, 2017: 54)<sup>24</sup>

Like the CDVR, controversies have emerged around the management and publication of the CONARIV report. The COVICI produced a report to denounce the poor economic management and slowness of CONARIV, while questioning the consolidated list of victims developed by this institution. This list rejected about 64 per cent of the requests for reparations because of the inability of the Commission to contact certain victims, the lack of evidence for certain files, duplicates and poorly informed forms. However, for victims' associations, the rejection criteria are questionable. Furthermore, the MFPES considered that the list inherited from CONARIV was difficult to use (COVICI, 2018).

These differentiated appraisals around the documents produced by these national institutions undermine the credibility of the knowledge that has been generated. In a process of dealing with the past, the construction of a collective memory of past events unanimously recognized by all social actors is an important prerequisite for turning the page and promoting non-repetition of the conflict (Yazami, 2007). This requires first of all the clear and precise identification of all perpetrators of violence (including instigators and executioners) regardless of whether they belong to the victorious side or not, and then the opening of legal proceedings against them to fight against impunity and promote justice. It is in this sense that the CNE report has fully played its role. Secondly, the other equally indispensable part concerns the question of caring for the victims of the conflict (Rondeau, 2016). Multi-scale compensation (financial compensation, symbolic compensation, request for a public apology,



rehabilitation or construction of community infrastructure, etc.) for victims is a key element in this type of operation to contribute to healing and reconciliation while curbing the rise of resentments. However, as we have seen, neither the CDVR and CONARIV, nor even the current ministry in charge of these issues, have really found solutions. This has been the case since the outbreak of the military-political crisis in 2002, when the reparation processes stalled.

It is the 'top-down' approach to these compensation processes that raises both the problems of its application and knowledge production. Indeed, the bearers of this agenda are political actors who share responsibility for the abuses committed either through their speeches (Fofana, 2011) or by supporters claiming to be of their political persuasion, which leaves little room for the victims' voice in such a socio-political situation. To date, a large majority of political actors, as protagonists in these conflicts, have not yet publicly apologized to war victims. Another element is the definition of the status of victim and the method of compensation. From the ministry to victims' associations, the criteria for identifying a war victim are not identical. A consistent gap exists between the list of the CNE, CONARIV and those in the hands of victims' associations. Similarly, the process of compensation is unclear, because there has yet to be a clearly defined model and process put forward by the Ivoirian government which would enable war victims to receive compensation. A lack of knowledge in the sense of a shared understanding and definitions of key terminology across government institutions has stalled, and it was indeed stalled by the political process and has thus negatively affected the implementation of the reparation programme. In addition, the adoption of a top-down approach in the victim compensation process makes it difficult or even impossible to take into account the knowledge produced by non-state actors. The knowledge produced by victims' associations has little legitimacy and thus impact vis-à-vis those of public administrations. However, these associations have identified the victims of war in the first place and therefore have lists that are in many cases different from the official lists, thus creating disputes. Here, the vertical approach adopted leads to misunderstandings between stakeholders.

### **Weak Collaboration between Reconciliation Actors and Social Cohesion Programmes**

Abidjan, the economic capital of Côte d'Ivoire, and the western region of Côte d'Ivoire have been the focus of many humanitarian interventions and capacity-building trainings around peace and social cohesion. As elaborated above, these two localities paid a heavy price during the decade of instability, during and after the post-election violence of 2010 (Amnesty International, 2013). Similarly, in these regions, international and local NGOs have carried out several projects and field surveys. Their aim was to support the actions of

the Ivoirian authorities. For example, Interpeace, an international NGO based in Geneva and active in Côte d'Ivoire since 2013, under the invitation of the President of the CDVR, conducted participatory research on the dynamics of conflicts in the West and then in Abidjan. This study was based on a participatory action-research method. At the end of the investigations, a film was produced, a study report issued, and a results dissemination workshop organized in July 2015. In a similar way, another NGO – WANEP-Côte d'Ivoire – spent two years from 2014–16 carrying out a conflict management programme in four towns in western Côte d'Ivoire (Danané, Touleupleu, Bloléquin and Taï). According to the project leader, nearly 13 social conflicts were managed through population awareness sessions and dialogue sessions between conflicting parties.<sup>25</sup> At the end of this programme, a stocktaking workshop was held, and the study report produced was distributed both to the local administrative and security authorities (*préfets*, *sous-préfets*, security forces, and others) and to the national authorities (Ministry of Interior, MFPES) through its National Secretariat based in Abidjan.

It is worth noting that those two and many other organizations have carried out their activities, projects and research programmes in the same area and with various procedures. In the Ivoirian case, practitioners have multiplied this type of action sometimes without real coordination between them. However, some implementing actors have noted this lack of collaboration among different stakeholders in the social cohesion process:

From a Ministry of National Reconciliation, we later moved to a transversal entity, integrating the notion of social cohesion and reconciliation in the framework of transitional justice. From a [truth] commission, emerged a National Commission for Compensation of Victims, that also produced a report. In the meantime, the [truth] commission functioned in tandem with the PNCS but without close transversal links between both institutions (...) The mistake that was made, in my opinion, is that these two institutions did not talk to each other. These two institutions had no collaboration platform while they had the same target and in the same country.<sup>26</sup>

This point of view illustrates the context in which national public organizations have worked, thus showing the communication deficit between them. Another view on this was articulated by the official of another international NGO:

There are NGOs working in the construction of the public service. This is because the partners, the actors, the funders believe that not everything can go through the state. We have to go through other civil society organizations and involve NGOs. But unfortunately, the problem is that many NGOs do not report to the state. The other thing is that when they conduct activities, there is no continuity and, in that case, there is no consistency.<sup>27</sup>

The main ideas emanating from these remarks are: the lack of coordination between civil society organizations and state entities; the lack of sustainability of NGO actions over a long period; and the failure to take into account the knowledge produced by civil society in the decision-making of political actors. It is noticeable that collaboration between NGOs themselves on the one hand, and between public institutions on the other hand, and finally between NGOs and public institutions, has been insufficient to support the circulation of knowledge around the Ivoirian post-conflict reconstruction process. Each actor was guided by their own action logics without always taking into account the other actors and the environment in which they were working. The asymmetry between the actors in the reconstruction process therefore was spread across multiple levels. This has helped to maintain the gap between these different actors in the process of emerging from the crisis.

## CONCLUSION

This chapter focused on knowledge production around the Ivoirian transitional justice process by focusing on the asymmetrical relations between stakeholders and the resulting asymmetries of knowledge. The elements mobilized for our reflection were the relations between local and international actors and the production of knowledge generated by them in this reconstruction process. Our attention was mainly drawn to the progress of national reconciliation between the Ivoirian populations. Despite the commitment of the Ivoirian authorities and their development partners to addressing the root causes of the conflict, this major national reconciliation project has reached a deadlock and is struggling to produce the expected results, a decade later.

By first looking at the Ivoirian experience of transitional justice in general, we showed that the politicization of the transitional justice process from its conception has had a negative impact on its implementation. The political decision to make a particular version of transitional justice the main post-conflict mechanism was taken without any national consultation with the wider Ivoirian society – as if the aspirations of people who have experienced the violence of the conflict and its consequences did not matter. Moreover, the distortions observed as a result of the choices made by the political actors themselves in the implementation of certain political decisions have undermined the efforts and hopes for the success of such a process. The Ivoirian government's refusal to extradite Simone Gbagbo to the ICC and the 2018 Amnesty Law are illustrative examples. The failure of opportunistic political decision-making from above demonstrates the imperative need to socially co-construct the processes of post-conflict transformation and peacebuilding. In other words, crisis-exit and peacebuilding processes must engage with and involve all social actors (victims, civil society, political actors, etc.) at all

stages through national consultation, from the onset and the establishment of a monitoring committee, during the implementation of the process, and in the implementation of the recommendations.

The analysis of the relationships between international actors (donors, international institutions, NGOs, as well as the UN system) and local actors highlighted that the implementation of transitional justice has evolved into a competitive arena where operational and financial resources were mainly held by international practitioners. As for local actors, they were reduced to the role of implementer for projects designed by others. This situation has fostered dependency/interdependency relationships dominated by international actors. In addition to technical and financial skills, the comparison between experiences and knowledge imported from similar but external contexts and those from local experiences has led to an asymmetry of knowledge between stakeholders in this process. In such transitional justice contexts, external actors should therefore rethink their theoretical and methodological approaches by integrating the reference frameworks and ways of working of local actors to rebalance the skills involved.

Finally, the synergy of actions between these different practitioners still needs to be improved by strengthening the credibility of the knowledge produced, especially by organizations created specifically to shed light on the past and provide historical facts and shape memory. This requires greater collaboration between these different stakeholders in the Ivorian crisis recovery process. This leads us to say that understanding the production of knowledge on peace, particularly on the theoretical and methodological foundations mobilized by the various stakeholders, is a research axis to be explored in order to promote the integration of local realities and knowledge into post-conflict reconstruction processes, which will ultimately contribute to the success of peacebuilding processes. Admittedly, the positive results of such processes will only be realized over a long period of time. Nevertheless, the new wave of violence accompanying the October 2020 presidential elections in Côte d'Ivoire sounded as a negative score in the measurement of success of the ongoing reconciliation process. If the root causes have not been addressed in depth, if local realities have not been fully taken into account, what should we expect?

## NOTES

1. The research for this article was kindly supported by a grant of the Swiss Program for Research on Global Issues for Development which is jointly funded by the Swiss Agency for Development and Cooperation (SDC) and the Swiss National Science Foundation (SNSF).
2. 'Statement on the Certification of the Result of the Second Round of the Presidential Election Held on 28 November 2010', United Nations Operation in Côte d'Ivoire, accessed 31 March 2020 at <https://reliefweb.int/report/c%3%B4te>

- divoire/c%3%B4te-divoire-statement-second-round-presidential-election-held-28-november-2010
3. The Armed Forces of the Forces Nouvelles (FAFN) are composed of northern army units that mutinied in September 2002 after a failed military coup against Laurent Gbagbo. Those rebellious northern soldiers called themselves the Mouvement Patriotique de Côte d'Ivoire (MPCI) that established its headquarters in the central town of Bouake and imposed its control over the northern half of the country until 2011.
  4. The *ivoirité* is the Ivoirian version of modern nationalism (Akindès, 2004).
  5. *Gacaca* means 'grass' in Kinyarwanda, and by extension 'justice on the grass'.
  6. Hotel du Golf is a luxury hotel located in Abidjan-Cocody. This hotel hosted Alassane Ouattara and his allies during the post-electoral crisis and was the headquarters of the resistance (from December 2010 to April 2011).
  7. Remarks gathered at the international workshop on transitional justice in Côte d'Ivoire, organised at Centre Suisse de Recherches Scientifiques en Côte d'Ivoire (CSRS), Abidjan-Adiopodoumé Km 17 (23–24 April 2018).
  8. Côte d'Ivoire was not a party to the Rome Statute when, on 18 April 2003, it accepted the jurisdiction of the ICC; on 14 December 2010 and on 3 May 2011, the Presidency of Côte d'Ivoire confirmed the declaration of recognition of the jurisdiction of the Court. On 15 February 2013, Côte d'Ivoire ratified the Rome Statute.
  9. The allied political parties of the RHDP (ruling party) as well as opposition parties (EDS, FPI, among others) welcomed the amnesty measure.
  10. This formula has been used by Ivoirian authorities to mark their preference for justice in the reconciliation process. During a meeting with a delegation from the Congress of Young Patriots (COJEP) created by Charles Blé Goudé on 31 January 2013 in Abidjan Plateau, Hamed Bakayoko, the Minister of Interior, said: 'But if we want to prosper, if we want to improve our society, we cannot go without justice.' 'Hamed Bakayoko', *Le Patriote Politique*, accessed 31 March 2020 at <https://news.abidjan.net/h/450533.html>
  11. Especially in countries such as Togo or South Africa, truth commissions are placed under the direction of religious actors or academics.
  12. Extracted from the speech of the head of the Transitional Justice Unit of the Human Rights Division of UNOCI, press service, 2014.
  13. Unpublished speech extract, head of governmental institution, April 2018.
  14. Interview with two local NGO managers in Duékoué, January 2019.
  15. Arrival of Interpeace, ICTJ in 2012.
  16. Interview with NGO leader, Duékoué, January 2019.
  17. Interview with NGO leader, Duékoué, January 2019.
  18. Interview with head of NGO, Duékoué, January 2018.
  19. Mariétou Koné, Director of the PNCS, now Minister for Social Cohesion, Solidarity and the Fight against Poverty.
  20. SCRP, 9 December 2014. 'Réconciliation et cohésion sociale', PNCS, accessed 31 March 2020 at [www.pnccs.ci/page.php?page=info\\_actualite&id\\_activ=186](http://www.pnccs.ci/page.php?page=info_actualite&id_activ=186). See Mariétou Koné, DG PNCS, Abidjan, December 2014.
  21. The bridge class project is an NGO-led educational programme that merges two classes (EC and CM) to enable children whose school age has been delayed by socio-political crises to be reintegrated into the Ivoirian education system.
  22. Interview with local NGO manager, Duékoué, January 2019.
  23. Interview with head of INGO, Abidjan, April 2018.

24. This is reflected in a comparison between a confidential summary of the CDVR report obtained by the author of this article and the published report. 'Rapport Final', CDVR, accessed 31 March 2020 at [http://www.gouv.ci/doc/presse/1477497207RAPPORT%20FINAL\\_CDVR.pdf](http://www.gouv.ci/doc/presse/1477497207RAPPORT%20FINAL_CDVR.pdf)
25. Interview with the program manager, WANEP-Côte d'Ivoire, January 2018.
26. Interview with head of INGO, Abidjan, April 2018.
27. Interview with head of INGO, Abidjan, January 2018.

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## 6. Power struggles and the politics of knowledge production in the Burundian transitional justice process

**Wendy Lambourne**

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### INTRODUCTION

Burundi's transitional justice experience has been one of political struggle for control over the production and dissemination of knowledge. This is a struggle that has splintered efforts over time and undermined the pursuit of a clear and coherent program endorsed by all the major stakeholders. This power struggle has manifested as one between local, national and international actors representing policymakers, practitioners, funding agencies, civil society advocates and research scholars involved in both the formal and informal sectors of dealing with the past and building peace for the future. The way that transitional justice has been understood and negotiated by the different actors has had a profound influence on the mechanisms and programs that have been pursued and the impact these have had.

This chapter will trace the historical stages in approaches to transitional justice in Burundi, starting with the terms of the Arusha Peace Agreement and moving through to the latest manifestation of the Truth and Reconciliation Commission (TRC) which began operations towards the end of 2018. It will examine the United Nations (UN) mandate in implementing the peace agreement in relation to transitional justice and how it has come into tension with domestic politics and local elite power. This analysis is located within the context of the UN's significant role in setting international transitional justice norms and practices. The chapter will also consider attempts by the UN to influence the transitional justice discourse and practice of local civil society, while local and international civil society actors have been operating as human rights advocates and developing their own programs to support transitional justice through reintegration and reconciliation, trauma healing and peacebuilding in local communities as well as at the political level. And finally, the chapter will discuss the Burundian government's ultimate assertion

of control over the formal transitional justice process including the production of knowledge about how, when and by whom truth, justice and reconciliation are being defined and pursued in post-civil war Burundi.

The chapter concludes by arguing for a more explicit accounting for the influence of knowledge producers on the process and outcomes of transitional justice and, in particular, a recognition of the need to coordinate efforts with transparency and mutual engagement between actors at different levels in order to better manage expectations and support a potentially transformative transition. An examination of the politics of knowledge production thus provides a unique perspective on the design of transitional justice mechanisms and how to interpret their transformative potential.

## TRANSITIONAL JUSTICE NORMS AND PRACTICES

The UN has outlined four key pillars of transitional justice comprising prosecutions, truth-telling, reparations, and institutional reform. These four pillars are derived directly from the ‘principles against impunity’ proposed by Louis Joinet and considered by the UN Commission on Human Rights in 1997: the right to justice, the right to know, the right to reparation and the guarantee of non-recurrence (swisspeace, 2016). The UN Secretary-General added a fifth key pillar in his Guidance Note published in 2010: national consultations (UN, 2010). However, despite the expectation that the UN is therefore going to respond to the views of affected populations through ‘national consultations,’ this is not how things have played out in practice in Burundi, as will be discussed in this chapter.

Both of these documents reflect a normative practice that is grounded in international law and human rights discourse which, I have argued elsewhere, ignores other perspectives that could be more conducive to addressing the overall transitional justice goals of reconciliation, conflict transformation and peacebuilding (Lambourne, 2014a). The international norms and practices of transitional justice have prioritized particular interpretations of ‘justice’ and ‘truth’ that fail to take into account the multiple justice and truth needs of those affected by the violence in local communities that have been represented in alternative models put forward by transitional justice scholars.

In practice, the UN has emphasized prosecutions as the pre-eminent key pillar designed to combat impunity, based on what international legal scholar Diane Orentlicher (2007) characterizes as the ‘duty to prosecute.’ As a result, when negotiating transitional justice as part of a peace process in settings such as Burundi, the UN has called for the creation of a tribunal or use of existing courts to prosecute those accused of mass human rights violations, over and above the pursuit of truth and/or reparations. Truth commissions may be seen by the UN and other international actors as an acceptable interim

alternative to prosecutions because they can satisfy the ‘right to know’ in the form of truth-seeking, and can also potentially address the ‘right to reparation.’ However, because truth commissions cannot provide the ‘right to justice’ in the form of prosecutions, they are regarded as inferior and insufficient in themselves (swisspeace, 2016).

The right to justice is therefore narrowly interpreted in the context of international transitional justice to refer to punitive, retributive and, sometimes, reparative justice. Restorative justice, forgiveness and reconciliation, by contrast, are rejected as inadequate goals and outcomes of transitional justice even though they are often part of traditional, informal mechanisms or included as part of truth and reconciliation commissions. Similarly, the purpose of truth recovery as articulated in the UN’s guiding principles on transitional justice appears to be limited to a factual/forensic truth while failing to recognize the potential value in pursuing the more personal/narrative, social/dialogical and healing/restorative truths identified as also important by the South African Truth and Reconciliation Commission (Boraine, 2006).

Transitional justice scholars have proposed alternative models of transitional justice illustrating the lack of consensus over what constitute the key pillars and how they should be defined. In particular, some scholars place more emphasis on accountability rather than the narrower focus on prosecutions. Stephan Parmentier (2003), for example, proposed Truth, Accountability, Reparations and Reconciliation (TARR) as the four key components of his model of transitional justice. Based on his experience with the South African TRC, Alex Boraine proposed a model of transitional justice that also includes accountability rather than prosecutions, and reconciliation rather than national consultations as the fifth pillar (Boraine, 2006: 26–31). Boraine also emphasizes the importance of including the four types of truth defined by the South African TRC (*ibid.*: 28–9). My model proposes the concept of transformative justice and includes: accountability, comprising both restorative and retributive justice, rather than just prosecutions; knowledge and acknowledgment as a category including the four types of truth, as a form of psychosocial justice; socioeconomic justice for the future rather than just reparations for the past; political justice and structural transformation (instead of institutional reform); relationship transformation which incorporates reconciliation; as well as procedural, symbolic and ritual aspects; and principles of local ownership and capacity building (Lambourne, 2014b). My model was developed as a result of field research interviews conducted in four countries recovering after mass violence – an inductive approach combined with an application of peacebuilding and conflict transformation theories.<sup>1</sup> By contrast, the assumption that prosecutions and rebuilding the rule of law are essential components of transitional justice reflects a human rights approach, which can sometimes be antithetical to peacebuilding. I therefore argue that the assumptions of the

UN's legalistic human rights approach deserve interrogation and potential adaptation rather than automatic application without regard for local context (Sriram, 2009).

While alternative models and local traditional or informal approaches are promoted by transitional justice scholars and some practitioners, the UN appears not to take such alternatives seriously, especially when it seems that this would be supporting impunity for political leaders. The 'justice cascade' and the 'duty to prosecute' prevail as a global norm (Orentlicher, 2007; Sikkink, 2011). There is little recognition that other, more creative options might prove to be more appropriate in different cultural and conflict settings. This is not to suggest that local affected populations might not prioritize prosecutions, but rather that their multiple transitional justice needs are not being addressed by assuming that they do. The politics of a knowledge production lens applied to this analysis illuminates the implications for whose needs and priorities are being addressed in the pursuit of transitional justice.

The international normative focus on prosecutions has often come into conflict with the political priorities of government leaders and local elites, and may fail to take into account local civil society perspectives and needs in relation to transitional justice as part of a peacebuilding process. Local affected communities may not be offered the opportunity by the UN – or national governments – to develop alternative mechanisms tailored to meet their particular goals and priorities, especially since the permanent International Criminal Court (ICC) has come into being. Compared with earlier international and hybrid criminal tribunals, the ICC's policy on outreach incorporates the most progressive and comprehensive approach to local ownership and participation (ICC, 2006), yet in practice this promise has not been fulfilled (Goetz, 2008). Local affected populations are not directly represented in the decisions of a national government, the ICC Prosecutor or the UN Security Council to refer a case or initiate investigations, nor have they been able to influence the design or conduct of the transitional justice process controlled by the ICC. Similarly, despite the development of innovative processes of victim participation through the institution of civil parties to the Extraordinary Chambers in the Courts of Cambodia, victims have reported their dissatisfaction with their preferences not being taken into account in the design of the reparations program (Williams et al., 2018).

In this chapter I use the Burundian experience as an example to illustrate how the UN's approach to transitional justice has limited the opportunity for local civil society to develop and apply its own culturally relevant approach to transitional justice (Sriram, 2009: 123). Civil society work on trauma healing, reconciliation and peacebuilding at the micro-level in local communities was not recognized by the UN as contributing to transitional justice and peacebuilding at the macro-level. The national government, meanwhile, has rejected

prosecutions, thereby alienating the UN, and its subsequent pursuit of a truth and reconciliation commission at a time of political crisis has limited UN or other international involvement and has marginalized, if not silenced, human rights civil society advocates who are under threat or in exile.

I consider the impact of these competing transitional justice norms and discourses on the production of knowledge about transitional justice in Burundi and its various material manifestations. Before analyzing further the significance and impact of this battle for control over discourse and practice, this chapter will first review the violence and civil war context of the Burundian transitional justice process. It will then examine the dynamics of negotiations about transitional justice priorities and mechanisms, including the conduct and outcome of national consultations; the work of the transitional justice reflection group (Groupe de Réflexion sur la Justice Transitionnelle or GRJT); the UN's civil society support mechanism, FONAREC (Forum National des Relais Communautaire en Justice de Transition, or Forum of Community Facilitators in Transitional Justice); the Quaker Burundi model of transitional justice developed in response to a scholar/practitioner workshop; and the TRC established and implemented by the national government with support from selected civil society actors.

The data for this analysis have been drawn from field research and interviews conducted during multiple visits to Burundi between 2012 and 2018 with members of local civil society in the capital, Bujumbura, the regional town of Gitega and in two other rural provinces, and my observations during a workshop on transitional justice that I ran for the Quaker Peace Network in Burundi in July 2013 and the presentation of the Quaker transitional justice model to a public forum in June 2014.<sup>2</sup> I have also met with and interviewed staff of the UN mission's Transitional Justice Unit (TJU), international donors, the Burundian government and international non-governmental organizations, and Burundians in exile in Rwanda since the political crisis of April 2015.

## CYCLES OF VIOLENCE AND CIVIL WAR IN BURUNDI

Engaging in telling the story of conflict in Burundi is itself an act of knowledge production, depending on when the story starts and whose narratives are privileged in the telling. There is general agreement that Burundi has experienced cycles of political and inter-ethnic violence for more than 40 years, starting soon after gaining independence from Belgium in 1962, and including a civil war during which approximately 300,000 people died and many more were wounded, internally displaced or became refugees. The last of the rebel groups joined the ceasefire in 2008 following the signing of the Arusha Peace and Reconciliation Agreement which had signaled the official ending of the war eight years earlier (Vandeginste, 2012).<sup>3</sup> Violent coups had become a political

strategy, with factional splits in the Hutu rebel movement and divisions among the Tutsi elite fueling the conflict (Lemarchand, 1996).

Beyond and beneath these broad, surface-level observations lies a contested history filled with memories of pain and struggle that continue to haunt the political landscape and influence the construction of reality for ordinary Burundians. Accusations of genocide have been made in both directions, focusing on the crisis of 1972 when 200,000 Hutu were massacred by the Tutsi army in response to a violent uprising against Tutsi rule, and the revenge killing of 50,000 Tutsi following the murder of the Hutu president in 1993 which marked the onset of the civil war (Watt, 2016). In the absence of any acknowledgment from either group for the mass atrocities and continuing violence, both Hutu and Tutsi have observed that: ‘Everyone in Burundi is a victim, no-one is a perpetrator.’<sup>4</sup> These competing narratives and realities experienced by the majority Hutu and minority Tutsi ethnic groups, and reflected in the internal political divisions that cut across ethnic identities, have overshadowed those of the marginalized Twa ethnic group who have remained virtually voiceless in the conflict and subsequent transitional justice and peacebuilding efforts.<sup>5</sup>

The Arusha Peace Agreement ushered in, in the election in 2005, a power-sharing government for the first time in Burundian history, with a Hutu president and Tutsi vice-president in rotating roles (Watt, 2016: 77). However, this power-sharing arrangement eventually broke down, to be taken over by political party allegiances associated to varying degrees with ethnic identities, and the eventual emergence of the dominant ruling party of Hutu President Pierre Nkurunziza. In April 2015, Nkurunziza confirmed his intention to stand for a third term in office, which triggered the onset of non-violent protests, the use of force in response and a return to inter-ethnic tensions and violence as a political strategy (Lambourne, 2018).

## TRANSITIONAL JUSTICE IN BURUNDI: FROM UN TO GOVERNMENT CONTROL

The 2000 Arusha Agreement provided a framework for transitional justice in Burundi, including the establishment of a Truth and Reconciliation Commission (Commission de la Verité et Réconciliation, or CVR) in order to investigate the crimes committed in Burundi, promote reconciliation, and clarify and rewrite the country’s history (Taylor, 2013a). It also stipulated that the transitional government would request the UN Security Council to set up an international judicial commission of inquiry, which would be followed by a request for an international criminal tribunal for Burundi should evidence be found that acts of genocide, crimes against humanity or war crimes had been committed (Vandeginste, 2012). An interim agreement to establish a special chamber within the Burundian court system was replaced by the proposal for

a special tribunal, which was later shelved following the failure of negotiations between the UN and the Burundian government (International Center for Transitional Justice (ICTJ), 2011; Taylor, 2013a; Vandeginste, 2012).

The rebels' preference for a Truth and Reconciliation Commission subsequently prevailed, but not until more than 15 years later as the UN tried to exert its influence over the process – preferring the establishment of a tribunal – and the ruling party in Burundi resisted the establishment of any transitional justice measures, fearing that even a TRC could threaten the safety and power of the ruling elite (Vandeginste, 2012: 3). Legislation for the establishment of the CVR was adopted in December 2004, but implementation was delayed until after the government agreed to national consultations on transitional justice following the recommendation of the Kalomoh Report arising from the UN assessment mission that was submitted in March 2005 (Vandeginste, 2009). The national consultations in Burundi arose because of the insistence of the UN, and the terms of the process were set out in an agreement signed in November 2007 between the Burundian government, local civil society and the UN (ICTJ, 2011). Consistent with the UN's subsequently published guiding principles, these terms included an assurance that the consultations would be independent, balanced and inclusive of women and different categories of victims (ICTJ, 2011; UN, 2010). At this stage, the UN was able to exert some control over the process, but the Burundian government was beginning to exercise its power to shape the outcome.

The consultations did not give respondents the opportunity to express their preference on the type of transitional justice mechanism, but instead asked about specific aspects of each of the four key pillars predefined as constituting a truth and reconciliation commission in order to seek the truth, and a special tribunal to achieve prosecutions, along with reparations and institutional reform (Government of Burundi and UN, 2010). The consultations also asked about the period of inquiry to be covered by transitional justice, and about what Burundians thought would assist in building reconciliation and a sustainable peace. Other than these two more open questions, it is clear that the UN was able to impose not only its predefined four pillars but also the types of transitional justice mechanisms available to Burundians.

The results of the national consultations were released in a joint report by the Government of Burundi and the UN in April 2010 and were interpreted as revealing majority support for the establishment of a TRC, even though the consultations did not really provide any alternative. The international human rights NGO Impunity Watch, meanwhile, noted that the consultations also revealed a preference for a mixed national and international composition that would maximize the potential for an independent TRC with a mandate to investigate the full range of crimes from independence in 1962 until the end of the civil war in 2008, as well as provision for reparations (Boloquy

et al., 2013). The government was able to ignore the public preference for a mixed truth commission, however, and instead, following the 2010 elections, established a technical committee to elaborate the law for the creation of the TRC and present it to parliament. On 18 October 2011, the committee, which was composed of seven members appointed by the government, released its report – known as the Kavakure Report after the head of the committee, Minister Laurent Kavakure. Kavakure was then special adviser to the president after having served previously as ambassador to Belgium and foreign affairs minister. His key role on the technical committee suggests that the report's recommendations for the planned CVR would not be independent of government power and interests. By this stage, the balance of power had clearly shifted to the Government of Burundi exercising its sovereignty as it emerged from a peace process dominated by the UN.

On the other hand, as one of my informants explained, it seems that civil society through the GRJT did have some influence in relation to the drafting of the Kavakure Report.<sup>6</sup> The GRJT was formed in 2008 and was convened originally by a local Burundian NGO, Centre d'Alerte et Prévention de Conflits (CENAP), and later by international NGOs, including Impunity Watch and Global Rights.<sup>7</sup> The aim of the group was to enable information exchange and to strengthen civil society involvement in the transitional justice process. Along with the UN and other local civil society groups, the GRJT commented on the Kavakure Report and its members made submissions to the government regarding subsequent versions of the draft law for the establishment of the CVR, but with minimal, if any, impact.<sup>8</sup>

The president announced that a TRC would be launched by the 50th anniversary of independence on 1 July 2012 (Vandeginste, 2012), and several draft versions of a law with guiding principles for the proposed CVR were presented to parliament by the technical committee. The UN and international and local civil society through the GRJT actively opposed the draft law on various grounds, including that it failed to comply with international standards and best practices for truth commissions, and that it did not reflect the wishes of the population as expressed in the national consultations (Impunity Watch, 2013). The third draft of the law, which was presented to parliament in December 2012, showed that civil society lobbying had made no impact, and furthermore included 'a number of revisions to the original version of the draft law that mark[ed] a clear regression in the protection of the rights of victims in Burundi' (Impunity Watch, 2013: 3). It included amendments that provided for pardon in exchange for confessions (conditional amnesty) and gave the Burundian government the sole authority to nominate and select the commissioners instead of opening the process to public participation (Boloquy et al., 2013). This development was not surprising given that the government included a number of former rebel leaders who could be accused of genocide,



war crimes and crimes against humanity through the CVR, and who thus had a vested interest in maximizing their control of the commission (Boloquy et al., 2013). In the end there was an open nomination process, but the selection of commissioners from those nominated was made by the government in a non-transparent process.<sup>9</sup>

By contrast, 53 percent of respondents in the national consultations rejected political involvement in the appointment of the commissioners, fueled by mistrust of their political leaders, and 77 percent preferred to see a hybrid commission comprising both foreign and Burundian commissioners as a means to counter political influence and potential corruption (Boloquy et al., 2013). Approximately 88 percent of respondents indicated that civil society should be involved in selecting the commissioners, while an overwhelming majority (93 percent) of respondents believed that the commissioners should include members of civil society, compared with 73 percent who thought they should include representatives from the government (Government of Burundi and UN, 2010). Under the guise of state sovereignty, the Burundian government indicated that it would exclude international commissioners and declined to allow an international presence during the nomination process (Impunity Watch, 2013). Concern was expressed by both local and international NGOs about the implications of the lack of international involvement in the CVR for witness protection, especially in the context of government intimidation and extrajudicial killings. The draft legislation was also seen as inadequate in terms of accounting for gender sensitivity and witness protection more generally (Impunity Watch, 2013). These and other changes in the draft law signaled the government's intention to retain political control over the mandate and functioning of the CVR, going against most of the advice of the UN and the preferences of civil society and the general population.<sup>10</sup>

The law to establish the CVR was finally passed and promulgated by the president in May 2014, and operations commenced in March 2016 after the results of a much-criticized nomination process for the commissioners were announced in December 2014. Some Burundian local civil society representatives did not stand because of their objections to the process, while others nominated themselves in the hope that if they were selected they could make a positive difference to the work of the commission.<sup>11</sup> Of the 11 selected commissioners, six were religious leaders, two were representatives of the ruling party, two were representatives of opposition political parties,<sup>12</sup> and one was a senator and member of the minority Batwa ethnic group – all religious or political party representatives, and no representatives of civil society who might be considered neutral, professional or likely to criticize the ruling party (Impunity Watch, 2014).<sup>13</sup> Four were women, as required by the legislation, six were Hutu and four were Tutsi. The commissioners were chosen by the

government from a group of 33 pre-selected candidates from a total of 725 nominations.

The ruling party of the Burundian government thus continued to assert its control over the transitional justice process, delaying the creation of the CVR until a time when there was no freedom of speech or security for those who give testimony or criticize the government (Forum pour le Renforcement de la Société Civile (FORSC), 2016). The UN, meanwhile, maintained a mandate in its political missions to support transitional justice through the TJU of the UN Office in Burundi (BNUB) which replaced the UN Integrated Office in Burundi (BINUB) and ran from January 2011 until the end of 2014.<sup>14</sup> Impotent to affect the Burundian government's policies and facing the threat of expulsion from the country, the TJU turned its attention to supporting civil society engagement in transitional justice in addition to its existing project on witness protection, preparing for the eventual creation of the CVR.<sup>15</sup> However, despite significant investment, the TJU's efforts were not effective in targeting the needs of civil society. Civil society representatives interviewed in Burundi in 2012 and 2013 revealed their disappointment with the UN's approach: they reported a lack of support for transitional justice-related programs in local communities from the BNUB/TJU because of constraints in the type of funding available (Lambourne, 2018). They also expressed surprise about the TJU's approach to creating the FONAREC/JT independently of existing civil society groups working on transitional justice in Burundi, which led to its eventual disbandment because of a lack of sustainability (Lambourne, 2014a). As discussed further below, FONAREC/JT was a flawed creation in a number of ways, including its failure to build on the existing capacity, experience and involvement of CSOs in transitional justice, and its focus on transmitting knowledge about the key pillars of transitional justice as defined by the UN rather than on an authentic engagement in understanding local civil society perspectives and priorities (Lambourne, 2014a). In this way, the UN could be seen as trying to reassert its control over knowledge production in relation to transitional justice in Burundi.<sup>16</sup>

Despite the continuing presence of BNUB, the influence of the UN over transitional justice in Burundi was gradually reduced, from the release of the Kalomoh Report on the UN assessment mission and the passing of UN Security Council Resolution 1606 in 2005 endorsing the report's recommendations (Annan, 2005; UN Security Council Resolution 1606, 2005), with the last flurry of impact appearing to be the conduct of the national consultations in 2009 and release of the ensuing report in 2010. Local and international civil society actors in Burundi were asking why the UN did not do more to ensure that the CVR was established in a timely fashion, while the victims and perpetrators going back to 1962 were still alive, and, furthermore, why the

government was allowed to ignore the results of the national consultations in terms of the proposed CVR mandate.<sup>17</sup>

Local civil society actors were also questioning their own lack of influence over the transitional justice process, despite evidence that in other areas civil society had been successful in influencing government policy especially when it engaged in media campaigns.<sup>18</sup> Vandeginste (2012: 362) maintained that ‘societal pressure from below has not been very significant,’ at least in terms of its impact on government decision-making in relation to transitional justice, despite extensive civil society lobbying efforts through the GRJT. In addition to the national consultations, several international and local civil society initiatives reported on research revealing further insights into the needs, expectations and priorities of victims and others in the Burundian population (Boloquy et al., 2013; Taylor, 2013a). As with the national consultations, the government appeared to be ignoring the existing efforts at civil society participation in the design and implementation of transitional justice processes in Burundi. Essentially, the design and implementation of the CVR has been in the hands of the Burundian government, which has shown itself unlikely to support a robust investigation through a truth commission, far less prosecutions through the establishment of a special tribunal. The power dynamics had firmly settled with the government controlling the production of knowledge in relation to transitional justice in Burundi through the CVR, with the efforts of both the UN and international and local civil society failing to make any significant impact on the process or outcomes.

## THE UN AND CIVIL SOCIETY TRAINING IN TRANSITIONAL JUSTICE

Having found itself no longer able to influence the Burundian government directly, the UN turned its attention to influencing civil society under the guise of transitional justice outreach. Through FONAREC/JT, the UN invested considerable resources in training community facilitators in its model of transitional justice with its four key pillars and emphasis on prosecutions, rather than using the opportunity to extend consultations to gather information in order to contribute to the design of transitional justice processes and a model more appropriate for the Burundian context. This mirrors the preference for training over meaningful consultations that is discussed in Chapter 7 by Njeru and Masiya. My interviews with FONAREC local facilitators in Bujumbura and Gitega revealed that training had been provided by UN ‘experts’ on transitional justice in a way that did not consider the opinions and input from those who participated in the program, in direct contradiction to the fifth pillar of national consultations calling for ‘meaningful public participation,’ ‘allowing states to craft an appropriate context-specific transitional justice programme’

and helping ‘victims and other members of civil society to develop local ownership of the resulting programme’ (UN, 2010).

My analysis of the FONAREC ‘Guide for Community Facilitators during Transitional Justice’ revealed that it was ‘an information document rather than a consultation of the population’ as ‘that consultation had already been carried out during the national consultation’ (FONAREC/JT, 2012; Lambourne, 2014a). Crucially, the FONAREC/JT guide for training community facilitators was firmly grounded in the four pillars of transitional justice from the UN Secretary-General’s 2010 Guidance Note (UN, 2010).<sup>19</sup> As such, it focused on prosecutions rather than the broader concept of accountability, and it did not include reconciliation or healing except as a subset of reparations, along with memorialization. The FONAREC guide listed under each pillar ‘key messages to memorize,’ reflecting an extremely prescriptive attitude towards training which confirmed the UN and international experts as the only source of knowledge about transitional justice. Transitional justice was introduced as an alien concept unrelated to existing Burundian concepts and processes, and failed to foster any meaningful sense of local ownership or participation in the transitional justice process (FONAREC/JT, 2012).<sup>20</sup> The guide maintained that ‘since transitional justice is something new which is not known by the Burundian population, FONAREC/JT deems it necessary to organize training, information, sensitization and social mobilization activities in order to build the capacities of the Burundian population so that it can participate in that process’ (ibid.: 5). The FONAREC community facilitators were empowered with information to help them ‘to better understand the basic notions related to transitional justice,’ but it seems they were not invited to contribute their own ideas about transitional justice (ibid.). On the other hand, the FONAREC guide did suggest that community facilitators were expected to collect views and hear concerns of victims in relation to the transitional justice process (ibid.: 10). But it seems this part of the program was never implemented.<sup>21</sup>

The FONAREC/JT process focused on training community facilitators at all levels of Burundian society throughout the country in the UN model of transitional justice, which, if successfully implemented, would have given the UN significant control over knowledge production in relation to transitional justice within the Burundian general population. While empowerment with information is important and the FONAREC process did contribute to some kind of capacity building, it was insufficient, if not counter-productive, as a means of promoting local ownership and participation in the production of knowledge for and about transitional justice in Burundi.<sup>22</sup>

## QUAKER PEACE NETWORK BURUNDI ALTERNATIVE MODEL OF TRANSITIONAL JUSTICE

As discussed, when the UN TJU in Burundi pursued its engagement with local communities, it did so by training civil society leaders in its predefined key pillars of transitional justice, thereby imposing a restricted view of what transitional justice could entail. By contrast, the Quaker Peace Network (QPN) in Burundi challenged the UN model by proposing an alternative and culturally adapted version of the UN's five key pillars of transitional justice: accountability, truth telling, positive relations, leadership development, and community empowerment.<sup>23</sup> The QPN Burundi Model of Transitional Justice was developed following a workshop initiated by QPN Burundi and Trauma Healing and Reconciliation Services (THARS) which I facilitated in mid-2013 which focused on a more elicitive rather than prescriptive approach to training. The workshop enabled the participants to learn about a variety of models of transitional justice proposed by international scholars and practitioners, in addition to the UN model, and to explore their own ideas about what they saw as the core concepts of transitional justice including truth, justice and reconciliation. Interestingly, the participants took what they saw as a more realistic stance by rejecting reparations as part of their model 'in recognition of the extreme poverty [in Burundi] which made it unlikely that meaningful reparations could be forthcoming' (Lambourne, 2018). In developing their model, the participants drew on their experiences working on community-based trauma healing and reconciliation in the context of transitional justice and peacebuilding in Burundi (Lambourne and Niyonzima, 2016).

The QPN Burundi group subsequently took the initiative to meet again in December 2013 to further consult with others inside and outside QPN in order to develop the model, and in June 2014 launched the model publicly in Bujumbura with a view to promoting a more effective approach to transitional justice consistent with supporting national cohesion, peace and development in their country. The public launch of the QPN Burundi model created some controversy and much lively debate among civil society actors and representatives of the government and UN because of its apparent downplaying of the call for an end to impunity emphasized by the UN and other civil society members of the GRJT. Religious leaders who were calling for forgiveness and reconciliation had already been labeled by human rights and transitional justice actors as being aligned with the government and a culture of impunity.<sup>24</sup> As a result, the UN responded with scepticism about the motivations of any faith-based actors, including QPN Burundi, and assumed that calls for reconciliation must mean lack of accountability. Meetings of QPN civil society leaders with the UN TJU failed to make any impression on the UN's attitude to transitional justice

priorities in Burundi, despite assurances that they were not trying to replace the UN model, but rather to propose a complementary model that could be more effective in the cultural, socioeconomic and political context of Burundi.

The efforts of the QPN Burundi network suggest an attempt to produce an alternative source of knowledge about transitional justice in Burundi, which seemed to be gaining some traction despite the controversial reception. However, since the political crisis of April 2015, the activities and influence of civil society in Burundi have been severely curtailed, and the QPN model has not been pursued except through the community programs of individual QPN member organizations.<sup>25</sup>

## CONCLUSION: IMPLICATIONS OF THE CONTROL OF KNOWLEDGE PRODUCTION FOR TRANSITIONAL JUSTICE

The case study of Burundi illustrates how political leaders can exercise their sovereignty and control over the production of knowledge about transitional justice in such a way as to favour particular mechanisms and approaches as a means of controlling the production of knowledge about the past through transitional justice. The ruling party led by then President Pierre Nkurunziza has ensured that a culture of impunity and division prevails, where prosecutions have been removed as an option despite the terms of the Arusha Peace Agreement, and the CVR has been established to pursue a domestic political agenda without international involvement and active civil society participation.

The politics of knowledge production in relation to transitional justice in Burundi have thus been directly determined by who was controlling the conversation about transitional justice, its means and potential mechanisms. The design of transitional justice in Burundi was initially controlled by the UN through the implementation of the terms of the peace agreement and imposition of its model of transitional justice with its emphasis on the duty to prosecute. As argued in this chapter, the UN's influence over knowledge production about transitional justice was maintained through the conduct of national consultations, the TJU and its creation of FONAREC/JT. However, the assertion of state sovereignty and control over the design and implementation of transitional justice by the Government of Burundi through the politics of knowledge production gradually usurped the power of the UN as well as international and local civil society to control the discourse and practice of transitional justice in the country. This chapter has argued that the government manipulated the results of the national consultations to legitimize their predefined political agenda to control the national narrative about the past through the creation of the CVR instead of the pursuit of prosecutions. It has shown how the government ignored the wishes of the population as expressed

in the national consultations in the process of designing the CVR to support this political agenda, and how civil society initiatives including the GRJT and QPN Burundi model for transitional justice have had limited impact on the transitional justice process as it has unfolded in the country.

In Burundi, the idea of promoting dialogue, participation and local ownership of transitional justice has not been fulfilled, except in the sense that the national government has been maintaining tight control over ownership of the internationally mandated, national transitional justice process. The national government ignored the recommendations arising from the national consultations, as it made changes to the legislation for establishing the CVR, so the standard mechanism promoted by the UN and agreed to by the government was looking less and less like something that was addressing the needs and priorities of the local affected communities.

It seems that respect for state sovereignty leaves the UN no choice but to regard national ownership as local ownership, which goes some way to explaining the tensions evident in the UN Guidance Note between the principles of local ownership and national consultations. This respect for state sovereignty creates a significant gap in principles of democratization and participation when the government is not open to the views of civil society and local communities. The UN guiding principle that calls for the ‘centrality of victims in the design and implementation of transitional justice processes and mechanisms’ is reduced to empty rhetoric if the government maintains firm control over the transitional justice discourse and practice that is disconnected from the ideas and priorities of local affected communities (UN, 2010).

As argued by Kora Andrieu (2010), there is a danger in the international community’s ‘technocratic, one-size-fits-all approach’ to transitional justice in the context of fragile, newly created post-conflict governments where excessive legalism or focus on supporting national processes can seem ‘distant and remote to those who actually need it.’ This was the criticism leveled against the early ad hoc international and hybrid tribunals set up by the UN, but it has continued to be a factor in the era of the ICC despite research, policies and mandates advocating a more localized approach. The fact that Burundi has until now had no tribunal, and that its truth commission has been set up during a period of political instability and without regard for the results of national consultations, is a function of the national ownership afforded by the UN, rather than the expressed wishes of the population for both accountability and a genuine process of truth-telling.

The Burundi experience highlights the tensions inherent in relationships between local communities, national governments and international organizations in the design and implementation of peacebuilding as well as transitional justice where the liberal democratic model is being imposed without consideration for local cultural alternatives. On the other hand, accountability or

prosecutions should not be denied merely on the grounds of rejecting Western institutions of international law; as my research and that of others has revealed, retributive justice is a legitimate demand of victims and others who have experienced mass atrocity crimes (Sriram, 2009: 122–3).

In other cases in sub-Saharan Africa and further afield, political leaders have been seen to exercise their power to shape the production of knowledge in relation to transitional justice in different ways, with varying levels of influence from the international community and civil society. In Rwanda, for example, President Paul Kagame and his government have used their political power to shape the national narrative and memory of genocide in order to build a new ideology of unity and reconciliation, replacing the divisions of the past and making use of the community-based *gacaca* justice system to combine accountability with reconciliation and to override the potentially divisive influence of the International Criminal Tribunal for Rwanda and domestic prosecutions. In the former Yugoslavia, by contrast, national political power has been used to reinforce a continuing narrative of enmity and irreconcilable division through control of the media, education and history teaching, commemorative activities and a focus on prosecutions, where inter-ethnic tensions have remained unaddressed, if not reinforced, by the political division into separate states and the role of the international community in the Dayton Peace Accord and creation of the International Criminal Tribunal for the former Yugoslavia. In Cambodia, meanwhile, the Hun Sen government ensured that a culture of impunity was able to prevail for more than 30 years following the internationally brokered Paris Peace Agreement, and has continued to exercise its control over the functioning of the hybrid domestic-international tribunal finally established to prosecute the crimes of the surviving former Khmer Rouge leaders. The collective and moral reparations ordered by the Extraordinary Chambers in the Courts of Cambodia, as implemented by local and international civil society partners, have gone some way towards the construction of competing narratives of the past as have the community-level psychosocial interventions in Burundi.

In Burundi, there is not only privileging of the national government through the ruling party, followed by the UN and other external actors, including both governmental and non-governmental levels, there is also a bias towards who within local civil society is empowered to control the transitional justice discourse and practice in the country. In the current political climate that has prevailed since the establishment of the CVR, it is supporters of the ruling party and Hutus more generally who remain with a more influential voice in civil society while opposition supporters and many Tutsi human rights activists have been silenced along with the most marginalized, the Twa. As discussed, the mechanisms for civil society participation in the CVR, and the election of the original commissioners, have shown a clear priority for supporters of the



ruling party, in many cases meaning that they are Hutu and not Tutsi. The subsequent appointment of new commissioners in 2018 showed more openness to including civil society representatives and a potential shift in approach, but the mandate remained under tight government control with its almost exclusive focus on uncovering the truth and mass graves from the 1972 ‘genocide against the Hutu’ while ignoring calls for a more ‘inclusive and impartial approach’ looking at other significant periods and massacres where the Tutsi have been the primary victims (OHCHR, 2020). As a result, both the processes and outcomes of the CVR, and the knowledge it will produce and reproduce about mass human rights violations in the country historically and currently, are being controlled by a particular political elite and ethnic majority. The focus on the CVR, and the form that its work has taken, are a direct result of the power of the political leaders of the ruling party who have thus been able to control the production of knowledge in the face of protest and alternative goals and methods being sought by the UN, international civil society and transitional justice actors, and significant sections of local civil society in Burundi.

As a result, the transformative potential of transitional justice in Burundi, such as could be achieved through implementation of the QPN model, for example, is not being realized. The transformation of relationships between leaders and civil society, between the different ethnic groups and between those supporting different political parties has been pursued by civil society actors such as THARS through community psychosocial programs including the Alternatives to Violence Project (AVP) (Lambourne and Niyonzima, 2016). This chapter has shown how national and international actors have ignored the transformative potential of these alternative discourses and methods and have instead sought to impose, with varying degrees of success, their own political agendas and constructions of transitional justice. Examining these developments through the lens of knowledge production politics can thus help to illuminate the conflicting dynamics of transitional justice limiting its contribution to societal transformation and peacebuilding after mass violence.

## NOTES

1. Field research interviews were conducted in Rwanda (1998 and 2005), Cambodia (1999 and 2009), Timor Leste (2004) and Sierra Leone (2006).
2. I visited Burundi in May, June and December 2012, July 2013, June and December 2014, April 2015, August 2016, November 2017 and December 2018. Local and international NGOs consulted for this research included THARS, MiPAREC, CENAP, FORSC, AFSC, AMEPCI, La Benevolencija Grands Lacs, RCN Justice et Democratie, Search for Common Ground, Global Rights and Impunity Watch, as well as members of QPN Burundi and FONAREC community facilitators in Bujumbura and Gitega. The workshop I conducted was held at the THARS

- Training Center in Gitega from 9–11 July 2013 and the model was presented at a public launch in Bujumbura in June 2014.
3. The fighting continued until December 2008 when the last of the rebel groups, Palipehutu-FNL, finally agreed to disarm, but only after reassurances that they would not be arrested and prosecuted.
  4. Interviews conducted by the author in Burundi between 2013 and 2015.
  5. The work of THARS discussed later in this chapter includes a deliberate effort to include the Twa in community-level psychosocial programs designed to support healing and reconciliation as part of transitional justice and peacebuilding.
  6. Interview conducted in Bujumbura, August 2016.
  7. See Lambourne (2018) for a detailed review of the GRJT and the role of civil society in attempting to influence the transitional justice process in Burundi.
  8. See Boloquy et al. (2013) and Taylor (2013a) for an analysis of the draft law and the potential for the proposed TRC to meet the needs of the local population.
  9. Interviews conducted in Bujumbura, June and December 2014.
  10. For an analysis of how the Burundian government was appearing to comply with international obligations in relation to transitional justice while failing to genuinely commit to their implementation, see Taylor (2013b).
  11. Interviews conducted in Bujumbura, June 2014.
  12. Allegedly ‘nyakuri’ and not genuine opposition parties. Interviews conducted in Bujumbura and Sydney, July–August 2016.
  13. Meetings with local civil society members in Bujumbura, August 2016, and in Sydney since the establishment of the CVR in early 2016, considering the political nature of the appointment of commissioners and confirming the perception that none of those appointed genuinely represented civil society. This perception represented the perspective that religious leaders had been co-opted to a partisan political agenda.
  14. UN Security Council resolution 2137 of 13 February 2014, which extended the mandate of BNUB to the end of 2014, included the following in relation to transitional justice: ‘15. Calls upon the Government of Burundi to work with international partners and BNUB for the establishment of transitional justice mechanisms, including a credible and consensual Truth and Reconciliation Commission to help foster an effective reconciliation of all Burundians and durable peace in Burundi, in accordance with the results of the work of the Technical Committee, the 2009 national consultations, Security Council resolution 1606 (2005) as well as the Arusha agreement of 28 August 2000.’
  15. Note that in October 2016 the UN High Commissioner for Human Rights, whose mandate included transitional justice, was expelled by the Burundian government.
  16. For a discussion of such dynamics in the context of Zimbabwe, see Chapter 7 by Njeru and Masiya in this book.
  17. Interviews with local and international NGO representatives conducted in Bujumbura, December 2012 and July 2013. For an analysis of the role of the UN, see also Taylor (2013b).
  18. Interview with representative of local civil society media organization, Bujumbura, July 2013.
  19. This training in a fixed model of four pillars contradicts the UN’s third guiding principle which ‘eschews one-size-fits all formulas and the imposition of foreign models’ and calls for the ‘identification, support for and empowerment of domestic reform constituencies to develop and implement their own transitional justice and rule of law agenda.’

20. Interviews with FONAREC community facilitators and TJU Coordinator.
21. Interview with TJU Coordinator.
22. Interview with TJU Coordinator.
23. QPN Burundi comprises local Quaker-based civil society organizations working on trauma healing, reconciliation, peacebuilding and community development in Burundi. See Lambourne (2018) for more details on the QPN model.
24. By contrast, QPN Burundi and Quaker NGO leaders were generally perceived as politically neutral and have worked either independently or cooperatively under the banner of the GRJT.
25. Interviews conducted in Burundi in 2016 and 2018.

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## 7. The politics of knowledge in the emergence of the transitional justice industry in Zimbabwe: the case of the ‘Taking Transitional Justice to the People Programme’, 2009–10

**Shastri Njeru and Tyanai Masiya**

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### INTRODUCTION

This chapter reviews the Zimbabwe Human Rights NGO Forum’s (the Forum<sup>1</sup>) ‘Taking Transitional Justice to the People Programme’. The Forum is a coalition of 22 human rights organizations in Zimbabwe providing legal and psychosocial support to victims of organized violence and torture. It has existed since 1998. In 2009 the Forum began the Taking Transitional Justice to the People Programme to motivate participation of the general population in addressing human rights violations and bringing closure to the egregious past in Zimbabwe. It was an outreach programme – the first of its kind in Zimbabwe – seeking to create a movement for transitional justice. The Forum asserts that ‘the programme aimed at taking [the] transitional justice agenda to the victims of past violations and establish[ing] the people’s understanding of and commitment to the [process]’ (Forum, 2010: 13) through discussions among Zimbabweans on the transitional justice options available and their preferences (ibid.: 13).

In this chapter, we demonstrate how transitional justice knowledge production can be commoditized and contested. It has been argued that many knowledge producers from the Global South, given the choice, would prefer not to use knowledge ‘raw materials’ from the Global North in their knowledge industries but rather prefer to promote their own knowledge production and products (Mignolo, 2009, 2013; Salvatore, 2009; Ndlovu-Gatsheni 2013, 2015a, 2015b) as a way of interrupting the ‘coloniality of knowledge production’ (Silova et al., 2017: 25). Consequently, there is a radical and growing movement of serious thought leaders and academic-activists in the Global

South which is promoting non-Eurocentric academia (Kancler, 2016).<sup>2</sup> Indeed, there is no shortage of African knowledge production mantras, such as ‘Made in Africa’ or ‘Making Evaluation Our Own’<sup>3</sup> which, among others, have become banners of intellectual activism on the continent. However, in this knowledge production mill, there is in fact little local content being generated when compared to other knowledge production locations. This is mainly attributed to ‘disparities in terms of learning, teaching, and critical thinking that are most vital for the formation of democratic research communities’ (Raju, 2006: 155).

It is also not uncommon that in the hierarchy of knowledge in the South, ‘theoretical knowledge is often placed higher vis-à-vis academic activists/grassroots activists/practitioners’ knowledge [...] and yet [...] grassroots activists have critiqued theoretical abstractions for contextual irrelevance and inaccessible language, both metaphorically and conceptually’ (ibid.: 155). Further to this, scholars trained in the Global North see the simple and jargon-free work of Global South practitioners and activists as lacking rigour (Chilisa et al., 2016). This attitude undermines the possibilities of dialogue between grassroots activists and the scholarly community. Furthermore, it creates a hegemonic ‘constituency seeking approval of the other in the production of hierarchical knowledge, in this case practical knowledge from proponents of theoretical knowledge because then, no matter how unconsciously, one is still submitting to the dominant knowledge hierarchy’ (Raju, 2006: 155).

It is in this context that transitional justice knowledge production in Zimbabwe remains fractious and contentious. The scholars and practitioners trained in the law schools modelled along neoliberalist lines assert that the law must be considered as the backbone of transitional justice as it alone provides ‘an intransigent, unchanging response to periods of conflict’ (Bowsher, 2016: 63). This notion of dealing with the past has been adopted by an army of human rights activists (fronting transitional justice in Zimbabwe) who hail this brave new world in which the judicial system is used to call governments to order and to acknowledge any atrocities (Laughland, 2004, in Bowsher, 2016: 63).

However, this contrasts with the views of those who believe their thoughts have been shaped by their experience of the realities of a colonial and post-colonial violent past. In these quarters, there is mounting energy for the production of knowledge which they argue is African in value and moulded in the same spirit as the African ‘reinvention’ or ‘renaissance’. This is put forward as the ‘African resistance to the universalization of Euro-American thought and in particular the resistance by local researchers, scholars and policy analysts to the practice dominated by external [researchers] who are oftentimes ignorant of the context and values’ (Chilisa, 2015: 7).<sup>4</sup>

In the context of these debates, this chapter undertakes to dive deep into the dynamics of transitional justice knowledge production in Zimbabwe by ana-

lysing the knowledge production practices associated with the Forum's Taking Transitional Justice to the People Programme (2009–10).

## KNOWLEDGE AND TRANSITIONAL JUSTICE

### Knowledge Production

Knowledge, largely considered a social construct, is produced on the basis of humans' productive powers and evolution; and thus the 'genesis, existence, development and evolution of knowledge must be approached socio-historically' (Ghassib, 2012: 2). Rescher (2003) in *Epistemology: An Introduction to the Theory of Knowledge* defines knowledge through its modes (justified belief, propositional knowledge and inferentially accessible) and concludes that knowledge is a problematic entity. However, it can be seen as a rational enquiry and the search for the truth, as well as 'cognitive progress' where the mind will be able to explore the scientific enquiry (ibid.).

There is a definition of knowledge in *The Concise Oxford Dictionary* (1998: 753):

1. a) awareness or familiarity gained by experience (of a person, fact, or thing), b) a person's range of information.
2. a) a theoretical or practical understanding of a subject, language, etc., b) the sum of what is known.
3. true, justified belief; certain understanding, as opposed to opinion.

The first part of this definition is founded on philosophical empiricism, which views knowledge as that which can 'only be acquired through experience' (ibid.: 753). A group of such empiricists include David Hume, John Locke, Auguste Comte and Thomas Hobbes. According to their understanding, knowledge is lived and experienced, it cannot be abstracted or be theoretical (Rescher, 2003). Knowledge, however, can also be viewed as a 'person's range of information' and this is contradictory to the previous definition of knowledge ('awareness or familiarity gained by experience') (Biggam, 2001). In other words, the acquisition of knowledge is an active process; knowledge cannot be 'given' to anyone, 'as one would give a present, but that the receiver, in order to become knowledgeable, must become involved in the knowledge acquisition process' (ibid.: 3). It takes effort to be knowledgeable. As a consequence, knowledge can be situated, partial, scientific, cultural or religious (Starmans and Friedman, 2012) – that which 'does not reside in the impressions, but in our reflection upon them' (Murphy, 2007: 41).

In its minimalist form, knowledge can be 'understood as familiarity, awareness, or understanding gained through experience or study' (Tamene,



2015: 23) and where we talk of science, we have ‘organised knowledge’ (ibid.: 23). Social man produces knowledge as he produces life and survives (Ghassib, 2012). Technically, the production of knowledge was/is a way of life. Knowledge industries emerge as a way of protecting and advancing that way of life from the antiquity to the present (Santos, 2014). However, there are others who think that the emergence of a ‘knowledge industry’ is a feature of the modern age, the modern economy in particular (Ghassib, 2012: 7). It is no wonder knowledge has constituted the capitalist means of production – land, capital, labour and knowledge! (Mihaela, 2009) Unlike the pre-technology era, this age requires knowledge to continually revolutionize their production and navigate the contours of the information society. This knowledge cannot be based on practical acquaintance, such as that of the hunter-gatherers, blacksmiths, sailors or peasants, but central scientific enterprise that generates new needs (Ghassib, 2012: 8).

For the purposes of this chapter, we settle on the Kurzman (1994: 268) definition of knowledge, which says:

Knowledge is a special kind of belief that people believe is true. To know is to commit oneself to a belief and to commit oneself to the separate belief that the first belief describes an aspect of reality. Thus, there are two aspects to knowledge; I will call them the commitment-factor and the truth-factor.

This definition is eclectic in that it shows knowledge as something gained by all people, not necessarily by a subset of the society which has received a particular form of training. Rather, one needs to hold a particular belief and be committed to it to be regarded as knowledgeable. Thus, it is the members of that society that award you the badge of knowledge, not outsiders. This relational conception of knowledge interlinks with what many on the African continent call Ubuntu,<sup>5</sup> where one exists because of others. It has been succinctly reflected in the phrase ‘I am because of who we all are.’ It has been applied in theology by the likes of Archbishop Desmond Tutu (2000), in politics by the likes of anti-apartheid icon and former South African President Nelson Mandela (1994) and in management by the likes of Professor Lovemore Mbigi (1997). Further, in the field of computer science, Linux has developed a software named Ubuntu which is developed and shared free of charge (Mugumbate and Chereni, 2019).

Taking this definition of knowledge as an object we also wish to reflect briefly on the nature of the knowledge production process in this chapter. These processes are exercises in navigating boundaries, gatekeepers and knowledge brokers. Like marketers, salesmen and retailers, these actors are a permanent feature in the knowledge production chain. This is particularly relevant when we consider the transfer of knowledge as a ‘collective, embod-

ied social construction' (ibid.: 2). Transitional justice is valuable and therefore its knowledge production is also to be guarded. In the context of the Taking Transitional Justice to the People Programme, the value of transitional justice was in its capacity to have traction with the donors who could fund the action at a time when such support was declining in other human rights project areas. Knowledge has a value and those who produce it protect it. Transitional justice knowledge production is subjected to similar gatekeeping processes as other knowledge products.

### **Transitional Justice**

Transitional justice refers to a range of processes – which may be legal or non-legal, Western or traditional, national or quotidian – that a society coming out of a dictatorship, authoritarianism, occupation, repression or civil war may adopt to reckon with the past and address the legacy of past violence (Teitel, 2002). Because of its conceptual roots in the Western knowledge system (Hoogenboom and Vieille, 2010; Vieille, 2012; Sharp, 2014, 2015), and popular use after the Cold War (Lazzarato, 2009), it is often viewed as a neoliberal project which deploys 'an ever expanding range of mechanisms and institutions, including tribunals, truth commissions, memorial projects, reparations and the like to redress past wrongs, vindicate the dignity of victims and provide justice in times of transition' (Buckley-Zistel et al., 2014: 1). The United Nations Development Programme (UNDP) understands transitional justice to be a necessary process to 'foster national healing and break the cycle of violence' (UNDP, 2014: 1). Fletcher and Weinstein see it as the 'idea that in the aftermath of mass violence or periods of repression, societies need to undergo processes to address past harm to ensure a peaceful future' (Fletcher and Weinstein, 2018: 2). They point to transitional justice as 'unabashedly offering itself as a moral project, a ritual cleanse such that a community of interested actors – advocates, funders, policy makers, practitioners, scholars, and victims – is invested in its success' (ibid.: 2).

There is considerable emphasis on transitional justice as a panacea to divided societies. This can be seen in its elevation to being an essential item in a political settlement package, as we have seen in countries as diverse as South Africa, Sierra Leone, Liberia, Rwanda, Kenya, Tunisia, South Sudan and Uganda (ACHPR, 2019). However, the ever-present critiques of current transitional justice mechanisms in the Global South argue that it is 'top-down, formulaic, overly focused on international criminal prosecutions, limited to civil and political rights' (ibid.: 2). Its perceived Eurocentric approach is regarded as its weakness. In addition, most of the interventions to address the past have been state-centric (Robins, 2017) which is essentially top down, overshadowing the daily and localized processes that are organic to the people

affected by conflict (Fletcher and Weinstein, 2015). This has led transitional justice to be viewed by its critics as a project focusing on political expediency, leaving out victims from being central to the enterprise. Where claims of making victims central to the project have been made (Robins, 2011), this has been mainly a rhetorical exercise, with little success in directly increasing the satisfaction of the victims or their advocates (Robins, 2017).

## BACKGROUND TO TRANSITIONAL JUSTICE IN ZIMBABWE

According to the Forum, transitional justice in Zimbabwe has been a continuation, by other means, of the struggle for human rights accountability in which Zimbabweans have been engaged since liberation (Forum, 2010). The brutal colonial edifice had stood firm and strong, continued through the horrors of the Gukurahundi<sup>6</sup> (1980–7) atrocities in the Midlands and Matabeleland regions of Zimbabwe, where more than 20,000 people were killed and many more raped, maimed and displaced (ibid.: 3) at the hands of the national military outfit, the North Korean-trained Fifth Brigade. But the state maintained an official silence on these horrors such that this became a cause for concern (CCJP and LRF, 1997). The attempts to deny their existence and the lack of accountability by the state remain shocking. A commission of inquiry set up by the government to investigate the atrocities, called the Chihambakwe Commission of Inquiry (1984), did not result in a public report (HZT, 2018). It was only years later that the then President of Zimbabwe, Robert Mugabe, made a passing comment on the carnage as a ‘moment of madness’ (Chatham House, 2007). He never officially apologized.

However, it was thanks to the work of the Catholic Commission for Justice and Peace in Zimbabwe and the Legal Resources Foundation (CCJP and LRF, 1997), in *Breaking the Silence, Building True Peace: A Report on the Disturbances in Matabeleland and the Midlands, 1980–1988*, that the extent of the Gukurahundi atrocities was brought to light. This report remains the only published work documenting transcripts from more than 2,000 people interviewed on the atrocities in Zimbabwe after independence, giving *Breaking the Silence* an unchallenged monopoly over this area of knowledge.

Since then there have been a number of initiatives concerned with transitional justice, some of which have addressed the violations of the 1970s war of liberation, but none of which come close to the detail and profile of *Breaking the Silence*. These include a symposium held in Johannesburg in 2003 that was organized by civil society organizations from Zimbabwe and South Africa (Lesizwe, 2004). The symposium explored issues of redress, amnesty and impunity, and made strong recommendations for the establishment of a truth, justice and reconciliation commission (Chitsike, 2012). Subsequent efforts,

particularly by civil society organizations, have been directed mainly towards documenting human rights abuses, offering humanitarian and legal assistance to victims, and advocating for legal, constitutional and institutional reforms (Njeru, 2018). Discussions on transitional justice in Zimbabwe were also high on the agenda during the 2008 talks between the Zimbabwe African National Union-Patriotic Front (ZANU PF) and the two Movement for Democratic Change (MDC) formations (MDC-Tsvangirayi and MDC-Ncube) that were initiated by the Southern African Development Community (SADC) (Chitsike, 2012). These talks led to the signing of the Global Political Agreement (GPA) in September 2008 and culminated in the formation of a unity government in February 2009. The Organ of National Healing, Reconciliation and Integration (ONHRI) was set up to develop a policy framework for national healing (GPA, 2008). This was widely seen as an acknowledgement by the unity government of the need for a transitional phase; justice and redress were expected to follow (*ibid.*).

In 2009, the Forum secured some funding to take forward an 18-month programme on introducing transitional justice to the people. It was an exemplar in the sense that it was the only transitional justice project in Zimbabwe at the time (Njeru, 2018). The Forum had also noticed the lack of a national plan, policy or vision for transitional justice. This would have been impossible to develop during the one-party rule of ZANU PF because party members had too many skeletons in their closets for such a process to take place. The national plan had had to wait until a new constitution was agreed in 2013, which provided for dealing with the past in Section 252 (Constitution of Zimbabwe Amendment Act (No. 20), 2013). There was also massive state resistance to the initiative of transitional justice as exemplified by the level of dilution of its importance in the Constitution (*ibid.*), a state which was complicit in the majority of human rights violations and atrocities recorded in post-colonial Zimbabwe.

The Forum organized its programme under the title 'Taking Transitional Justice to the People'. This was an apt strategy and banner because transitional justice was new both as a concept and as a practice in the country. It was also an opportune moment to reach out to the people and communities, which hitherto were closed to civil society and political parties other than ZANU PF (Zhou, 2009). Thus, as we will discuss in the section which follows, the coming into effect of the GPA in 2009 opened a window of opportunity for transitional justice efforts in Zimbabwe.

## THE GLOBAL POLITICAL AGREEMENT AND THE OPPORTUNITIES FOR TRANSITIONAL JUSTICE

The GPA was a political settlement resulting from political negotiations between MDC and ZANU PF after the 2008 elections that were marred by

allegations of stolen elections, political violence and other human rights violations across the country. These political challenges had accounted for numerous deaths, thousands of displacements, human rights violations and social suffering by many Zimbabweans (Zimbabwe Human Rights NGO Forum, 2008). The Forum reports that it documented 51 political violence-related deaths and more than 10,000 cases of other forms of human rights violations in 2008 alone (Forum, 2009: 51), and millions more were displaced. The finalization of the GPA in 2009 put the government into overdrive to meet the terms of that political settlement: the writing of a new constitution, and national peace and reconciliation.

The GPA presented the best opportunity up until that point for the people of Zimbabwe to discuss their violent past. Closing the accounts of the past was one of the conditions for the consummation of the GPA, but there was a lack of political will even when the ONHRI went about seeking the input of traditional leaders and civil society on finding lasting peace (CCSF, 2012). It was instead the Forum that seized this opportunity and set up its transitional justice programme. The conditions in the country, even though still polarized, allowed for the movement of people, including civil society, into areas that were hitherto 'no go', particularly in the rural parts of the country (Zhou, 2013). During this period, people began to open up about what had happened to them, naming the most responsible perpetrators and discussing what they wanted to see in terms of reparations. The Constitution-making process at the same time took advantage of the climate of deliberations to frame the provisions that would help to address the question of transitional justice.

The ONHRI, as a GPA deliverable, was intended to bring about peace and healing in a divided society. In its quest for a possible peaceful solution, the ONHRI immediately put in place elements of a transitional justice process. ONHRI did not, however, want to brand its work 'transitional justice', and neither did it want to be associated with the concept nor to confront the past in a manner that would encompass retributive elements (CCSF, 2009). Rather it pushed for models that would result in 'mild' restorative outcomes at the community and individual levels (*ibid.*). According to this formulation, the transitional justice models to be considered for Zimbabwe were not supposed to touch on collective responsibility which would involve the government and a number of high-level individuals. The approaches would be restricted to the communities, and would be characterized by localized rituals, reparations and accountability processes which had nothing to do with the state or certain individuals in the state (*ibid.*). The way ONHRI formulated its agenda for dealing with the past was somewhat pragmatic as it avoided provoking the wrath of the ruling ZANU PF and the then President Mugabe. This is especially relevant when we consider that the ONHRI sat in the Office of the President and Cabinet and its core staff were the alleged dreaded Central

Intelligence Organization operatives (CCSF, 2012). Therefore, any working approach which would put ZANU PF on the spot or demand accountability from the party and its, at times violent, members was not going to be part of their transitional justice conceptualization.

According to those in government and ZANU PF in particular, 'peace' was that which let sleeping dogs lie (CCSF, 2012). However, this was insensitive to the suffering of thousands of individuals and groups at the hands of the violent state system that Mugabe himself had presided over, and that he later described as a moment of madness. However, ONHRI still wanted to be a catalyst for a micro-level healing. Its leadership valued the sort of ritualistic processes, organized at individual and familial levels, not as a national project, or one that would hold leaders accountable. However, the way in which the ONHRI framed its work is noteworthy. Some of the key concepts of the transitional justice industry such as justice, reparations or accountability were deliberately left out of their vernacular. ONHRI called its mechanism '*Kusvutidzana fodya/ukukhumisana umlotha*',<sup>7</sup> a practice similar to one the First Nations in the Americas followed through sharing the smoking pipe (ibid.).

ONHRI believed that the Zimbabwean people identified with this mechanism as it was imbued with African practices of addressing the effects of violence at the communal level (ibid.). However, it did not want to be directly pushing for justice, retribution, reparations and accountability; pillars of transitional justice as espoused by the Forum. Thus, *Kusvutidzana fodya/ukukhumisana umlotha* became the government agenda, and Sekai Holland, the Zimbabwean Co-Minister of State for National Healing, Reconciliation and Integration in the Cabinet of President Robert Mugabe and Prime Minister Morgan Tsvangirai, championed this philosophy. She strongly believed that it had historical roots and organic linkages with the African culture in general and Zimbabwean practices in particular (CCSF, 2012). She also (without evidence) assumed that the Zimbabwean people would deliberately buy into this process without resistance or challenges (ibid.). All that was needed was to remind the people of it. However, the *Kusvutidzana fodya/ukukhumisana umlotha* philosophy was a project which died with Holland's loss of her cabinet post in the 2013 elections, a victory for ZANU PF which led to the collapse of the GPA.

## TAKING TRANSITIONAL JUSTICE TO THE PEOPLE PROGRAMME (2009–10)

In 2009 the Forum secured financial support in the form of a grant from the European Union to jump-start its idea of catalysing Zimbabwean communities into transitional justice discussions. The discussions were conducted under the auspices of the Taking Transitional Justice to the People Programme. The aim

of the programme was to take the 'transitional justice agenda to the victims of past violations and establish the people's understanding of and commitment [to]' the transitional justice programme proposed by the Forum (Forum, 2010: 13). This illustrates a key assumption of the Forum: that sustained discussions would naturally follow among ordinary Zimbabweans across the country and that people-driven transitional justice options and mechanisms would emerge, forcing the government to act.

Eighty-four constituencies were identified and targeted for the consultative meetings because they had experienced considerable incidences of violence. The Forum aimed at having 50 participants per meeting, representing various sectors of society. These included women, youth, traditional leaders, representatives of religious groups, political groups, government employees, victims of political violence, perpetrators of political violence, and any other group identified by the participants as relevant. All the meetings were facilitated by persons who were trained in transitional justice mechanisms. The groups of participants in each meeting went on to make recommendations for how to build peace and say 'Never Again!' to human rights violations (Forum, 2010).

At the end of this extensive programme, the Forum came up with numerous recommendations. First, it noted that women had been abused the most and needed to be given the opportunity to tell their stories as women, as opposed to being lumped together with everybody else. Second, though some traditional leaders were turned partisan by the ruling party, there was potential for reform to enable the traditional leaders to serve their communities effectively. Third, that electoral laws were needed to create a culture of peace and tolerance, not only during election time but all the time. Fourth, the government needed to consider ways of rehabilitating the youth and their families preferably making counselling the first step towards healing for youth. Fifth, any mechanism that seeks to achieve healing must provide reasonable compensation (Forum, 2010).

Although these extensive consultations took place to unearth transitional justice challenges in Zimbabwe, adoption of any notable transitional justice process by the state remains distant. Further to this, the Forum commoditized transitional justice and overestimated the Zimbabwean communities' willingness to play their role in participating as victims of political violence, viewing them as 'zealous' and ready to 'explode'<sup>8</sup> into natural discussants of transitional justice and share their suffering.

Moreover, the Forum approached transitional justice work in Zimbabwe with a template, essentially a toolkit grafted from influential knowledge producers in the Global North whose standard operating procedures included a 'package of truth telling, justice, reconciliation, crisis management and stability' (Di Lellio, 2013: 3) as well as reparations. Taken as a whole, its transitional justice programme took the end goal of a liberal democracy as

a given. Some effects of this process can be observed. First, the brand of transitional justice was fixed ‘in contentious and paradigmatically partisan debates on the value, promotion and practice of democracy’ (Mohamed, 2016: 26). This was abused quickly by the ZANU PF government as a poisoned chalice for regime change. Second, it became the ‘handmaiden to the liberal project of homogeneity: creating liberal spaces and liberal citizens in order to colonize the furthest reaches of the globe with a “zone of peace”’ (ibid.: 37). Earlier, in 2008, Zimbabwean civil society in Harare had agreed on a similar template (Forum, 2010), also a scion of neoliberalism, which they promoted at any given opportunity. This approach made little sense to the people who had been exposed to state brutality. They wanted practical solutions to their lingering questions of compensations, reparations and ending impunity, which the Forum had difficulty in satisfying. For example, at a workshop convened by the Forum, civil society groups argued for

several non-negotiable minimum demands for a transitional justice process, which included: no amnesty for crimes against humanity, torture, rape and other sexual crimes and economic crimes such as corruption; no extinguishing of civil claims against the perpetrators or the state; comprehensive reparations for victims of human rights violations; no one should hold an official office who has been responsible for gross human rights violations and corruption; a credible and independent truth-seeking inquiry into the conflicts of the past which holds perpetrators to account and which provides victims the opportunity to tell their story; independent monitoring and reform of the operations and structures of the police, army, paramilitary, security co-ordination, administration of justice, food distribution and other organs of state involved in the implementation of the transition. (Forum, 2010: 12)

The template of principles was referred to as ‘fundamental principles’ of transitional justice and regarded as non-negotiable the following:

Victim centredness;  
 Comprehensive, inclusive, consultative participation of all stakeholders, particularly the victims;  
 Establishment of the truth;  
 Acknowledgement;  
 Justice, compensation and reparations;  
 National healing and reconciliation;  
 Gender sensitive;  
 Transparency and accountability; and  
 Nation building and reintegration. (Forum, 2010: 12)

The Forum’s approach to transitional justice, along with the government’s *Kusvutidzana fodya/ukukhumisana umlotha*, is an attempt at responding to the terrible past in Zimbabwe, characterized by cycles of violence since independence in 1980. However, limited success of these processes can be ascribed to



a number of factors. First, in neither of these two proposed response methods were consultations held with the people affected by the political violence when the intervention models were designed. Citizen participation at the formulation phase is central to the success of any programme (Molokwane and Lukamba, 2018). This lack of co-creation includes a risk of developing elite models of response to violence that systematically excluded women, poor communities and the marginalized for social, political and economic factors at the core of transitional justice. The elite transitional justice agenda has been described as focused on national and international human rights advocacy, while the local is focused on basic needs and political change that empowers them (Robins, 2010). As can be seen in one of the Forum's project objectives, 'training' the communities in transitional justice was considered to be a major output (Forum, 2010). This has the effect of both essentializing the communities and declaring the Forum as the repository of everything 'transitional justice' (Lesizwe, 2004).

Of course, the ONHRI tried to seek out the views of the people regarding the route to take, but it dismissed them (CCSF, 2012) and declared the *Kusvutidzana fodya/ukukhumisana umlotha* as the key strategy despite the limited evidence of popular support. This is typical of many public outreach programmes on transitional justice which the government has carried out, where it has sought views of the people but later disregarded them in the final output.<sup>9</sup> This is also characteristic of the transitional justice 'expert' industry (Madlingozi, 2010) and in the Zimbabwean context there has indeed been a sort of 'transitional justice capture' by the elites who trained the communities. Transitional justice experts in this context missed a vital opportunity vis-à-vis the communities to 'engag[e] them as active citizens, whose capacity to think, to speak, to act, and to revolt is acknowledged and respected' (Madlingozi, 2010: 209).

Subsequently, following an elite-focused transitional justice design, in the Taking Transitional Justice to the People Programme the Forum portrayed itself as part of the international human rights movement, framing the encounter between expert and victim in a way that reproduced 'relations of inferiority and superiority' (ibid.: 213). While this was not necessarily an intention of the programme and its advocates, the Forum's programme outline in the Taking Transitional Justice to the People Programme testifies to this. In its outline, it intended to define transitional justice, not seeking to know what people had gone through or what they wanted. The facilitators spoke and the people listened, creating an asymmetry between those purporting to be knowledgeable in the transitional justice ways of knowing and those who were listening and 'learning'. This was detrimental to the victims as it flattened their agency and promoted trusteeship, i.e. the idea that others must represent or take up the cause on behalf of the victims (ibid.).

Notwithstanding the broader objective of the exercise, the Taking Transitional Justice to the People Programme became a programme of the NGOs, as well as an easy target for the vitriolic attacks of the government and ZANU PF for being part and parcel of a regime change agenda (*The Patriot*, 2019). There was a lack of understanding about transitional justice among the Zimbabwean political elite, who usually left it out of their critical political agendas (Draft Constitution, 2000). The report by the Forum (2009) on Taking Transitional Justice to the People, Volume 1 points to the extent to which Zimbabweans were not familiar with the technical transitional justice concept. Local knowledge production did not help, because there was nothing produced at that time to guide the narratives. The available literature seemed to replicate the Western models.<sup>10</sup> This problem was worsened by the facilitators who were either ignorant of local mechanisms or did not see much value in them.<sup>11</sup> The Forum represented a specific view and claimed to have both the knowledge and courage to push for transitional justice. Other civil society organizations preferred to stand aside in scepticism and some in horror, knowing the extent of the government's vitriol. For the next four to five years, the Forum was the loudest voice<sup>12</sup> on the marketplace of ideas that is transitional justice, while others hushed and ducked, fearing the state. However, the Forum exploited this unique advantage to draw the frame of transitional justice on its own terms and to advocate for it. In its conferences on transitional justice held in Nyanga in 2012 and Johannesburg, South Africa, in 2013, the Forum was clear on what it wanted to see in the nature and content of transitional justice discussions that were to be held. It sought to see in Zimbabwe a process that was legalistic and which would meet the expectations of Western models lock, stock and barrel (Lesizwe, 2004). To maintain control of the transitional justice discourse and knowledge production beyond its doorstep, the Forum also established a civil society platform, the National Transitional Justice Working Group (NTJWG) in 2014<sup>13</sup> where those interested in transitional justice in Zimbabwe could connect and discuss the (neoliberal) agendas outlined in documents such as the 'Declaration of the Civil Society and Justice in Zimbabwe' Symposium in 2003 in Johannesburg, South Africa (Lesizwe, 2004).

Following this consolidated position as a knowledge keeper and generator in the transitional justice landscape of Zimbabwe, the Taking Transitional Justice to the People Programme was organized along the following objectives:

#### 1. Training

The overall purpose of the training component of the project was to create awareness among ordinary Zimbabweans on what transitional justice is about. The specific objectives included training participants on:

- (a) The nature and history of transitional justice

- (b) The aims and objectives of transitional justice mechanisms, and
  - (c) The options and challenges of transitional justice within the Zimbabwean context.
2. Consultation
- (d) The overall purpose of the consultative component of the project is to consult, collect and collate, from the people of Zimbabwe in areas that have historically been affected by politically motivated violence, informed public opinion on the desired transitional justice model to be adopted in the transitional setting.<sup>14</sup>
  - (e) The consultative meetings would be conducted shortly after the conclusion of the training and would draw participants from the training component of the programme.
  - (f) The training was aimed at empowering the participants to effectively take part in the debate on transitional justice.
3. Involvement and participation in the constitution making process
- (g) It was the Forum's belief and hope that the Zimbabwean public would be able to respond and debate on these and other issues more meaningfully for possible inclusion in the proposed new constitution when the public consultation sessions envisaged in the political agreement (Article 6.1.ii) started. It would be prudent to have an enlightened Zimbabwean public to engage such state-centric processes that are most likely going to exclude civil society. (Zimbabwe Human Rights NGO Forum, 2009: 3)

## THE TAKING TRANSITIONAL JUSTICE TO THE PEOPLE PROGRAMME AS KNOWLEDGE PRODUCTION

The organization, including the pedagogy and content, of the Taking Transitional Justice to the People Programme was in itself a reflection of how deep-seated coloniality is in the knowledge system of Zimbabwe. Rounds of meetings were organized across the country where 'participants' were 'engaged' (Zimbabwe Human Rights NGO Forum, 2009: 10) on the concept and construct of transitional justice. There were 'facilitators' (ibid.: 10) who ended up being one-way presenters, since the participants did not have enough prior knowledge of transitional justice to meaningfully engage.<sup>15</sup> The Taking Transitional Justice to the People Programme was essentially organized as a series of lecture presentations and a question-and-answer model, with limited exchanges or participant-centred pedagogy. Our observations in 2009 and 2010 confirmed that the facilitators used the bank method<sup>16</sup> where they 'deposited' 'knowledge' which they would refer to when the need arose, i.e. when

the transitional justice movement had become strong. The lesson delivery was unidirectional – from the all-knowing men and women in suits, delivering their content in English, to the ‘spongy’ communities who were expected to absorb every word said, without question. This was indeed, ‘taking transitional justice to the people’ where the people were viewed as the passive recipients of knowledge. Moreover, there was a time pressure and the lectures sought to cover as much space as possible in the shortest possible time. The approach was supposed to be pre-emptive in view of the fragility of the environment.<sup>17</sup> This meant that there was no time to reinforce the new concepts, relate them to the lived realities, reflect on them against the local and lived experiences and methods, nor even to present alternatives. The Forum teams met with their ‘participants’ over a day and then they would travel, possibly hundreds of kilometres, to the next venue.

The training module for Taking Transitional Justice to the People Programme was developed using core reference material developed by Western scholars, such as Ruti Teitel and Priscilla B. Hayner.<sup>18</sup> There was very little reference to the local context by the developers of the training materials. Thus, the historiography of transitional justice was placed in the contexts of the Second World War, the Nuremberg and Tokyo trials and the horrors of Latin American authoritarianism, omitting the African stories and models of dealing with the past (Mutua, 2015). This resulted in a negation of local contexts and experiences, including the *gacaca* courts system in Rwanda (Molenaar, 2005); despite their imperfections, these could have found resonance with local Zimbabwean experiences. In addition, a lack of inclusion of discussion about African values or Ubuntu further narrowed the range of permissible versions of transitional justice for the participants. We assert that this reveals an implicit construction of the Zimbabwean experience as readable through the lens of the dominant paradigm of transitional justice, and the words of dominant Western scholars. Lack of attention to the specificities of Zimbabwean experiences of violence and healing can be seen in the use of examples from Latin America (Zimbabwe Human Rights NGO Forum, 2009) which, it was thought, would certainly fit, without much revision, in the Zimbabwean context (Lambourne, 2014). This ignored both the scholastic drive in Latin America, Canada and parts of Africa to seek ways ‘to decolonize, indigenize and imagine knowledge theory and practice ... that is inclusive of other worldviews and paradigms that are otherwise missing in the literature’ (Chilisa, 2015: 12) and the ‘African worldviews and paradigms and philosophical assumptions that inform ways of perceiving reality, ways of knowing, value systems and methodologies’ (ibid.: 12). This can be read as a form of epistemic violence of a dominant knowledge system ‘which has no methodology for dealing with the other knowledge system’ (Smith, 1999: 61) and in line with many other current knowledge pro-

duction processes (Zezeza, 2007) which are a 'systematic way through which the West reaffirms its power as a centre of legitimate knowledge' (ibid.: 62).

A review of the pedagogics, methodology and content of the Taking Transitional Justice to the People Programme shows that the Forum at some point elected to rely on 'Eurocentric models and techniques' which often provided 'inadequate assessments, wrong principles and flat [interventions]' (Chilisa, 2015: 13). This can be partly explained by a desire to minimize the risks associated with experimentation in such a fragile context. Thus, the Forum became a strict gatekeeper, brokering for the Northern knowledge producers which were also the market of the produced 'data, regional knowledge, and linguistic expertise' (Streicher and Amir-Moazami, 2016). As a result of these blind spots, the Taking Transitional Justice to the People Programme did not confront the telling questions that could be at the core of the coloniality debate as far as transitional justice knowledge production is concerned, such as the determination of who sets the agenda, the contents of such an agenda, the temporality, the actors, methods, interpretation of findings, etc.

At the time of the Taking Transitional Justice to the People Programme there were no possibilities of finding spaces for African voices or culturally relevant approaches in the transitional justice debate. A review of scholarship that impacted the thinking in Zimbabwe at the time shows that in the design of its project the Forum chose scholarship from outside of the continent (Chitsike, 2012). In fact, the culturally rooted debate was never started because those expected to lead or defend it were 'black masks-white minds'<sup>19</sup> elites, firmly grounded in Western worldviews who cared less about the contributions of indigenous knowledge systems in transitional justice than just reading about it in Western literature. The bank method used in the Taking Transitional Justice to the People Programme did not, in any way, foster a restructuring of power relations in the globally constructed transitional justice knowledge production, such that the ordinary communities can actively participate in the construction of what needed to be dealt with, when it will be dealt with, by whom and with what methodologies. It was the usual unidirectional method – knowledge flowing from the university trained, knowing elites to the community members whose supposed ignorance was conditioned and worsened by years of brutalization by the ZANU PF regime. Thus, the Taking Transitional Justice to the People Programme assumed a 'missionary' responsibility of bringing the 'word' to the 'people' of Joseph Conrad's 'Dark Continent'.<sup>20</sup> To this end we assert that the project did not make an authentic call for Afro-centric approaches, to the values that are 'culturally relevant and indigenized [transitional justice] processes and methodologies predominantly informed by African worldviews and paradigms' (Chilisa, 2015: 14).

To its credit, the Forum appeared to realize this challenge later and conducted the Transitional Justice National Survey in 2011, which was used to take the

pulse of the nation on the issue of transitional justice. It is the outcomes of this survey which were instrumentalized during the constitution-making process to drive the advocacy for the inclusion<sup>21</sup> of dealing with the past provisions in the new Constitution that came into being in 2013. So, in essence, the Taking Transitional Justice to the People Programme is akin to putting the cart before the horse and it is not surprising that the product borrowed its spirit from the aforementioned Western models. Explaining this phenomenon Bowsher (2016: 45) says that the

purpose of transitional justice might be better understood in the larger context of global forms of neoliberal governance, constituted as a set of knowledges, strategies and practices made by institutions like the UN, IMF, the World Bank as well as credit ratings agencies, NGOs, national governments and so on. It is a case of relating transitional justice to contemporary neoliberalism, which should itself be understood as a globalised project of governing.

A further review of the Taking Transitional Justice to the People Programme demonstrates how it did not attempt to build the capacity of African policy analysts, researchers and activists to enable them to carry out their own work on transitional justice; nor did it attempt to adapt the borrowed models, tools, instruments, strategies and theories to ensure their relevance to the local conditions and the development of novel practice, theory and methodologies emanating from local cultures, indigenous knowledge systems and African philosophies and paradigms. Naturally there was no enthusiasm for blending what was in their toolkit with the local ways such as storytelling, memorialization and traditional reparations, because none of the members of the Forum who fronted the programme had had experience with such models. In addition, there was very little reference to lessons learnt from the regional models such as *gacaca* of Rwanda or *mato oput* of Uganda (Allen and MacDonald, 2013) perhaps because they are too often viewed as ‘customary, vague, informal, community-based, grass-roots, indigenous’ and ‘other kinds of justice provisions’ (ibid.: 2).

In its design, most of the facilitators of the Taking Transitional Justice to the People Programme were lawyers trained in the adversarial justice system, which sees the perpetrator as a violator of international humanitarian law needing to be punished. In the delivery of their transitional justice content, these facilitators made very little reference to the ‘participant families, history, clan or totem or their deep knowledge of indigenous knowledge’ (Muwanga-Zake, 2009: 418) and instead made more reference to cases that stood before the justice system, and various tribunals. In the Ubuntu framework, there is mutuality and sharing of the physical and spiritual elements between the living and the dead. Each depends on the other and humans are a totality of the spiritual and living forces.

These qualities could not be regarded as present in the Taking Transitional Justice to the People Programme since it was essentially uprooted from the tenets of Ubuntu. For instance, while presentations were code-switching from English to Shona and back in some instances, this resulted in the loss of important nuances from the African languages and communications which convey rich meaning, such as gestures, glances, thoughts, values, riddles, emotions and attitudes. As a result, the process did not result in a fairness – a balanced representation of the multiple voices of all stakeholders – where the ‘elderly, women, spiritual leaders, victims and perpetrators of violence, traditional leaders’ (Chilisa, 2015: 24), uneducated and other people were able to be heard.

Finally, the Taking Transitional Justice to the People Programme did not directly address gender-specific concerns in a way which would bring ‘gender inequality, discrimination, and gender-based violence into the public eye’ (Muddell and Hawkins, 2018: 6). This worked in perpetuation of what women in Zimbabwe experience daily such as insufficient ‘representation or opportunities for participation within accountability, acknowledgment, and reform measures’ (ibid.: 7). This has led to serious flaws in the programme. Besides ignoring women’s stories in the programme design, shortcomings such as ‘underreporting of certain violations; policies and procedures that make it difficult for women to participate in transitional justice processes or access benefits’ (ibid.: 7) became rife. The Taking Transitional Justice to the People Programme findings reflect only a partial understanding of the full impact of violations on women and under-representation of sexual and gender-based crimes in the social narratives. This is a design challenge at the core of the programme and results from a ‘lack of sufficient knowledge and understanding to implement processes in ways that encourage women’s participation and adequately address both gender-based violations and the gendered consequences of human rights violations’ (ibid.: 7). The Forum had neither a strong engagement with women nor a ‘solid understanding of how and when violations have affected men and women differently’ (ibid.: 7) and that is why the Taking Transitional Justice to the People Programme did not successfully contribute to a strong knowledge base for all Zimbabweans to pave their way forward.

## CONCLUSION

There is a temptation to view the Forum constructing and executing its Taking Transitional Justice to the People Programme in an exclusionary way, tendering a universalist, ‘one shoe fits all’ framework which marginalized alternative processes. This crucifies the Forum for a matter which is not entirely of its own doing or under its control. This view tends to overshadow the decades of hard work in the documentation of human rights violations and advocacy. Of course,

if the Forum was exclusionary, it is because it was responsible for a process that reproduced hegemonies of knowledge production. There was need for the Forum to borrow from the West in its formulation of transitional justice, but in doing so it was, we argue, obligated to remain cognizant in its design that the Western models of transitional justice ‘entailed normalizing a form of rationality and historicism that located Europe as the only sovereign subject of history, modernity, and universal reason’ (Streicher and Amir-Moazami, 2016: 3). In light of the Taking Transitional Justice to the People Programme, there was a need to emphasize practices that engage with other ways of knowing, other forms of social life and religious practices without replicating the North as their theoretical skeleton. Following Walter Mignolo’s formulation of the decolonization option, to undo and overcome the colonial and imperial aspect by turning to local experiences and needs in knowledge production that are uncoupled from the colonial matrix and power (Mignolo, 2013) would benefit the construction of a comprehensive transitional justice programme in Zimbabwe.

## NOTES

1. The Zimbabwe Human Rights NGO Forum was set up in 1998 after ‘spontaneous food riots in major cities’ (Forum, 2010: 5) when the hungry working class went on a rampage in the streets and high-density suburbs, looting shops (ibid.: 5). The police and the army reacted with brutal force against the rioters and eight people were killed, many others were wounded, arrested and tortured (ibid.: 5). This led to the formation of the Zimbabwe Human Rights NGO Forum with a mandate to respond to the human rights crisis that had been created by the brutal response to the rioters. The Forum became an umbrella platform of Zimbabwean civil society organizations that sought collective action to reduce the violations of human rights and push for accountability in Zimbabwe. Since 1998, the Forum plus a number of its partners and member organizations have been working towards creating a climate of accountability for human rights abuse in Zimbabwe (Forum, 2011). The Forum collected information on and documented human rights abuses through a monthly report called Monthly Political Violence Report (MPVR) which served as an authoritative source of information on the state of human rights in Zimbabwe before 2009 (Forum, 2010). Based on this past, the Forum became the only trusted entity, even among its members, which could bear the lifting of the transitional justice banner at that auspicious time in Zimbabwe. After a civil society workshop in Harare in 2008, the Forum was ‘mandated to lead the full implementation of resolutions’ (Forum, 2011: 8) of a ‘commitment to a victim-centered, inclusive, comprehensive, and consultative process to achieve transitional justice’ (ibid.: 8). Thus, the Taking Transitional Justice to the People outreach programme was the Forum’s first community-based work outside the court action and international advocacy. In following years, the Forum was involved in many community activism activities on human rights, transitional justice, peacebuilding and post-conflict transformation. This includes its critical role in the Church and Civil Society Forum work on dealing with the past, the setting up of the National Transitional



- Justice Working Group, and international campaigns for human rights at various fora.
2. Having said this, if this chapter is predominantly Western in scholarship it is only a pointer to the paucity of the knowledge industry in the area of transitional justice in the Global South.
  3. 'Made in Africa' and 'Making Evaluation Our Own' are mantras developed and popularized by the African Evaluation Association (AfrEA) to motivate a drive for the budding African crop of evaluators to continue to fledge and develop self-belief.
  4. AfrEA is one such frontier pushing for 'Made in Africa' ways of generating knowledge which is ideologically African. Other examples include the Council for the Development of Social Science Research in Africa headquartered in Dakar, or the African Transitional Justice Research Network coordinated by the South African organization Center for the Study of Violence and Reconciliation.
  5. Nguni Bantu term meaning 'humanity'. It is often translated as 'I am because we are', or 'humanity towards others'.
  6. The Gukurahundi was a series of massacres of Ndebele-speaking people and moderate Shona civilians, carried out by the Zimbabwe National Army from early 1983 to late 1987, for being members or supporters of Zimbabwe African Peoples Union (ZAPU) or its military wing Zimbabwe People's Revolutionary Army (ZIPRA) (CCJP and LRF, 1997).
  7. Forgiving each other.
  8. View of one of the facilitators in the Taking Transitional Justice to the People Programme, 2009.
  9. Minutes of the meeting organized by the National Association of Non-Governmental Organisations (NANGO) to discuss the ONHRI/CCSF 2010 outreach report on dealing with the past in five provinces of Zimbabwe.
  10. See also Moyo (2014).
  11. Unpublished Forum training programme outline.
  12. Other voices include CCSF, the Ukuthula Trust and Masakanene Trust. These chose to be low-key on the transitional justice issues but opened up years later.
  13. See <http://www.ntjwg.org.zw/ntjwg.html> to learn about the NTJWG's mission and values.
  14. There seems to be a contradiction between claims in the objective and what was experienced. In practice, there were no consultations; rather, teaching the communities about Western transitional justice models.
  15. In later research carried out by the Forum, the Transitional Justice National Survey, 2011, the startling discovery was made that 82 per cent of the Zimbabwean people had no concept of what 'transitional justice' refers to and 74 per cent had not heard of the ONHRI and what it stands for (Forum, 2011: 12). The irony is that the majority of the people who were reached in the Taking Transitional Justice to the People Programme survey had been 'trained' on transitional justice by the Forum between 2009 and 2010.
  16. This is a teaching method where knowledge is simply 'deposited' with the recipient with the expectation of the pupil being able to reproduce it when needed in future.
  17. Minutes from project design workshop (March 2009) organized by the Forum.
  18. Field notes of Shastry Njeru, 2010.

19. A constellation of black intellectuals and activists who struggle to denounce and contest the effects of racism on their lives and minds but choose to reject everything black and cherish Western culture (Fanon, 1952).
20. Joseph Conrad's novella is actually entitled *Heart of Darkness* (1901). It depicts the brutality of imperialism and the inhumanity of colonialists.
21. Pursuant to section 3(1)(a)–(j) of the Sixth Schedule, the Schedule and a number of (sections of) chapters of the new Constitution come into operation on the publication date – 22 May 2013. Section 3(2) provides that the remainder of the Constitution comes into operation when the president elected in the elections assumes office – the effective date. Constitution of Zimbabwe Amendment (No. 20) Act, 2013 [Zimbabwe], 22 May 2013, accessed 18 June 2019 at <https://www.refworld.org/docid/51ed090f4.html>

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## PART III

### Knowledge producers: experts and expertise

## 8. Who are the members of truth commissions?

**Dietlinde Wouters**

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### INTRODUCTION

Governments of countries in political transition after a period of severe violence, such as a repressive dictatorship or a civil war, have to make important decisions about how to deal with the violent events of the past. The form of justice associated with these periods of political change is called transitional justice (Teitel, 2003). Since the 1980s, truth commissions have been a popular mechanism in these contexts. A truth commission can be defined as:

[...] an ad hoc, autonomous, and victim-centered commission of inquiry set up in and authorized by a state for the primary purpose of (1) investigating and reporting on the principal causes and consequences of broad and relatively recent patterns of severe violence or repression that occurred in the state during determinate periods of abusive rule or conflict, and (2) making recommendations for their redress and future prevention. (Freeman, 2006: 18)

Truth commissions play an important role in a country's transitional justice process (e.g. Bakiner, 2016; Brahm, 2007). Therefore, the selection of members of the commission – hereafter commissioners – is a crucial decision. Commissioners of truth commissions seem to have notably divergent professions and backgrounds. Some of the professions are rather surprising, e.g. physician/author, cardiologist, engineer and philosopher in the case of the truth commission of Argentina. This observation raises the question of why particular commissioners are selected.<sup>1</sup>

This question is sometimes (briefly) answered as part of a broader discussion of a particular truth commission (e.g. Crenzel, 2012 on Argentina; Kritz, 1995 on Chile). The comparative literature on the topic, such as Freeman (2006) and Hayner (2011) who both discuss some contrasting cases with respect to different selection procedures, has an overall descriptive character. Other analyses have a more normative character and formulate specific recommendations for

the selection of the commissioners (e.g. Amnesty International, 2007; Office of the United Nations High Commissioner for Human Rights, 2006).

In this chapter I wish to go further than the existing scholarship and in doing so I am interested in the broader question of whether we can detect an epistemic profile of commissioners of truth commissions in general. My approach contains both descriptive and normative elements, however, clearly different from the examples given above. Through a comparative-conceptual analysis comparing different truth commissions as well as different forms of commissions mainly focusing on the concepts of objectivity and representivity, I arrive at an epistemic profile of commissioners of truth commissions. An epistemic profile, in the way that I use it here, describes aspects related to the agents' knowledge, their knowledge production and the way they pass knowledge on to others. The profile in this chapter is descriptive, but also has normative implications. This epistemic profile does not prescribe binding selection criteria for the commissioners, but rather it is normative in the sense that it indicates the importance of certain concepts and ideas that policymakers should take into account when composing a truth commission. It can offer us a better understanding of the often only implicit ideas and values at play related to the selection of truth commissioners, independent of the particular political context.

For this chapter I draw on the work of Ashforth in his article 'Reckoning Schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms' (1990). The article does not specifically discuss truth commissions, but commissions of inquiry in general. Based on his findings, Ashforth states that there are two basic types of criteria generally considered by governments when deciding membership of a commission of inquiry: representativeness of particular sectoral interests and expertise (Ashforth, 1990). Ashforth furthermore discusses three sources from which a commission's authority is derived. First, the authority of the high-level political authorities that select a commission gives this new commission credibility and authority. Second, commissions have authority because of the status and expertise of their members and, third, the supposedly rational, impartial, objective and independent procedures give authority to the commission's findings (*ibid.*). Both topics, the required characteristics of the commissioners and the commission's authority, are addressed in this chapter. However, in the epistemic profile I develop, I will propose other characteristics for the commissioners of truth commissions, and I will suggest another source for the commission's authority, that of the composition of the overall commission.

The cases of Argentina, Chile, El Salvador and South Africa will serve as the basis of my analysis. I will start this chapter with a brief presentation of these truth commissions, especially focusing on the aspects related to the selection of the commissioners. Drawing on Ashforth's (1990) work as out-



lined above, I then explore how the different compositions of the selected truth commissions can be interpreted according to different ideals of objectivity. The composition of these truth commission can be seen as an additional source of authority for both the commissions and its results.

In the second part of this chapter, I examine what kind of representative role commissioners are expected and supposed to play. In order to do so, I first consider two comparable but contrasting bodies: the expert commissions of the European Commission (hereafter EC) and the jury of an assize court. These two can be placed at two extremes of a continuum: the members of an expert commission can be called *subject matter experts*, whereas jurors are both *laypeople* (non-experts) and *peers*. A comparison between these commissions and truth commissions indicates that the commissioners of a truth commission occupy a place somewhere in between these two extremes. A member of a truth commission should ideally represent all of the victims, the parties involved and society at large, a requirement that neither the subject matter expert nor the layman-peer seem able to meet. I then proceed with an overall comparison of the backgrounds and professions of commissioners which leads, in combination with the analysis in the first part of the chapter, to a general, epistemic profile of the commissioners of the selected cases. In contrast to Ashforth, I state that the commissioners do not necessarily need to be subject matter experts. Their epistemic profile exists in having a good status, possessing the necessary intellectual and research capacities and being able to represent certain groups, in direct or indirect ways. It is important to highlight that the epistemic profile alone is not enough. The commissioners can never fulfil their tasks in a completely objective way, in the sense of being value-free. That is why not only the profile of the commissioner but also the composition of the commission is crucial.

## BRIEF DISCUSSION OF THE SELECTED CASES

In this section, I will outline the characteristics of the truth commissions of Argentina (1983–4), Chile (1990–1), El Salvador (1992–3) and South Africa (1995–2002), with a focus on the aspects relevant for the selection of the commissioners. These truth commissions were selected because of the relevant differences in the selection procedures of the commissioners and the final composition of the commissions. As can be seen below there is some variety in how the commissions were conceived, their mandates and purpose, as well as any specifications regarding the selection of commissioners. However, all four cases share some important similarities. They represent some of the earliest, most defining examples of truth commissions that contributed considerably to shaping not only how later truth commissions were conceptualized and shaped, but they also defined the field of transitional justice beyond criminal justice

(Bell, 2009) both as an academic enquiry and a practice for decades to come. While all four commissions differ in how their commissioners were selected, they all sought to learn from and support each other as they shaped their transitions. This exchange most notably took place at a series of conferences in the late 1980s and early 1990s at which key figures from all four contexts were present (Mouralis, 2013). They can thus be presumed to have influenced each other. Members of the South African Commission then went on to shape transitional justice processes elsewhere, most notably through the founding of the International Center for Transitional Justice by the Deputy Chairperson of the South African TRC Alex Boraine and the truth commission scholar Priscilla Hayner (Vinjamuri and Snyder, 2004). Their importance in shaping both truth commissions and transitional justice more broadly makes them crucial cases for the analysis of the selection processes of the commissioners of truth commissions.

The Comisión Nacional sobre la Desaparición de Personas (National Commission on the Disappearance of Persons, hereafter CONADEP) was established in 1984 by president Raúl Alfonsín by means of Presidential Decree no. 187/83. The objective of the commission was to investigate what had happened during the recent Argentine military dictatorship (1976–83). The presidential decree appointed the first ten members of the commission (CONADEP, 1984: part IV). It was originally intended that both Chambers of Congress would each select three additional members, but only the Chamber of Deputies did so. As a result, the commission consisted of 13 members in total (CONADEP, 1984: cap. 4.I; Hayner, 1994; Presidential Decree 187/83, Art. 7).

The Chilean Comisión Nacional de Verdad y Reconciliación (Truth and Reconciliation Commission) was created in 1990 by president Patricio Aylwin to investigate the human rights violations which occurred during the Chilean dictatorship of Pinochet (1973–90).<sup>2</sup> The president selected the eight commissioners of the commission based on their human rights background, their prestige and authority. He personally invited people with different political affiliations to avoid (the impression of) political bias (Kritz, 1995; Supreme Decree 355: Art. 8).

The Salvadoran commission (Comisión de la Verdad para El Salvador) was established as part of the United Nations (UN) guided peace agreements between the Salvadoran government and the Farabundo Martí National Liberation Front (FMLN) guerrilla movement, in order to put an end to the civil war (1979–90s). Under the Mexico Agreements of April 1991, both parties accepted the UN proposal to create a truth commission (Doggett and Kircher, 2005). Following long discussions, the parties agreed to establish a commission composed of foreigners, while the planned ad hoc commission<sup>3</sup> would be composed of nationals (Americas Watch, 1993; Jowdy, 1997). The

commission's mandate prescribed that the three members of the commission should be appointed by the UN Secretary-General, with input from the parties involved.

The South African Truth and Reconciliation Commission (TRC) was established in 1995 by the Promotion of National Unity and Reconciliation Act, in order to investigate the human rights violations committed during the Apartheid regime (1948–91). The following official instructions were given under the Act regarding the appointment of the commissioners:

- The commission shall consist of not fewer than 11 and not more than 17 commissioners, as may be determined by the president in consultation with the cabinet.
- (a) The president shall appoint the commissioners in consultation with the cabinet.
  - (b) The commissioners shall be fit and proper persons who are impartial and who do not have a high political profile: provided that not more than two persons who are not South African citizens may be appointed as commissioners. (Promotion of National Unity and Reconciliation Act, 1995: Art. 7)

The Act only prescribed that the members of the commission should be appointed by the president in consultation with the cabinet, but the final selection process was more inclusive. During the first phase, the public was invited to send in nominations, which resulted in a first list of 299 candidates. Then, a special committee consisting of members of parliament and people from the non-governmental organization (NGO) community made a first selection and invited them for public hearings. After the hearings, a final list of 25 candidates was compiled and passed on to the president. During the final phase, President Mandela selected 15 members from this list in consultation with his cabinet and with the heads of the political parties. The president also added two extra members to make the commission more representative of South African society (Shea, 2000; Verdoolaege, 2005). The final commission thus counted 17 members<sup>4</sup> and contained commissioners of each of the apartheid's race categories, of the full range of political backgrounds (from the left to the conservative, white right wing) and of different religious beliefs (Christian, Muslim, Hindu and agnostic) (Tutu, 1999; Verdoolaege, 2005).

## THE COMPOSITION OF TRUTH COMMISSIONS

In her article 'The Practices of Objectivity in Regulatory Science' (2011), Sheila Jasanoff investigates how policy-relevant knowledge of investigative and advisory commissions gains authority. Comparable to those commissions, truth commissions also generate policy-relevant knowledge. To have political impact, authority is important for all three kinds of commissions. Jasanoff argues that the authority of investigative and advisory commissions rests on their objectivity. Demonstrations of objectivity can protect the com-

mission from suspicion of arbitrariness or self-interest. She further explains that different countries may have different styles of epistemic legitimation to constitute the objectivity of the commissions and of the knowledge they produce (Jasanoff, 2011). She compares three countries (the United States (US), Great Britain and Germany) in this respect and differentiates between two main approaches, namely *the view from nowhere*<sup>5</sup> (US) and *the view from everywhere* (Great Britain and Germany). I will argue that the authority of truth commissions also depends on often implicit objectivity claims and we can identify different ways of constituting objectivity. Below, I briefly present the American, British and German approaches discussed in Jasanoff's article and then show how this analysis applies to the selected truth commissions.

*The view from nowhere*, used to describe the American approach, is an approach to claims-making 'by ostensibly detaching knowledge from potentially biased standpoints and from the distortions that any perspective or viewpoint necessarily entails' (ibid.: 309). In the American context of science-based regulation, policymakers adhere to the idea that facts speak for themselves and that scientific advice can be impartial. The personal aspects of knowledge producers, such as their personalities, personal opinions or viewpoints, should not have any effect on their knowledge production and even become irrelevant if they do their job correctly. US policymakers minimize the effects that agency, subjectivity and human decision-making might have. Instead they promote strategies of depersonalization and present their decisions as based solely on scientific evidence (ibid.: 312–313).

*The view from everywhere* approach, on the other hand, assumes that decisions cannot be made free from all values, but rather should be taken from a position that is balanced or neutral with respect to a spectrum of views and values. In the UK, elite figures are asked to form part of investigative and advisory commissions. This decision is not only taken because of their social status, but also because they are supposed to 'articulate a plain, common-sense vision: knowledge whose truthfulness anyone in society, from the highest to the lowest, can in theory review and attest to' (ibid.: 313). The results of such a commission are said to be objective, because they emerge from a truly communal view, a view from everywhere (ibid.). The same expression, a view from everywhere, circumscribes the kind of objectivity pursued in the German context of policy-relevant knowledge production. However, its implementation is different. In Germany, expert bodies produce common knowledge through a process of group reasoning in which ideally all the involved parties are represented. The validity of the expert consensus depends on the inclusion of all standpoints. If not all standpoints are represented, this has a negative impact on the objectivity of the results (ibid.: 314).

Truth commissions are also intended to produce objective knowledge. The different ways of attempting to achieve this aim can be mapped onto the

objectivity ideals that seem to have been pursued during the selection of commissioners for the truth commissions described above. The American form of objectivity, which uses strategies of depersonalization and focuses mainly on scientific evidence, is similar to how the Salvadoran commission was organized, as revealed by two of its main characteristics. First, the commission consisted only of foreign members. This was a way of creating distance between the commissioners and the subject of investigation and between the commissioners and Salvadoran society. According to the FMLN guerilla movement, a commission of Salvadorans would conduct the investigation in a less rigorous way because of political pressure and fear of violence (Americas Watch, 1993; Jowdy, 1997). Second, the Salvadoran commission also put a remarkably strong emphasis on rigorous and reliable methodology. They decided to submit all the information gathered to a strict reliability test. Information had to be verified, proven and re-examined before it was accepted as a reliable fact<sup>6</sup> (United Nations, 1993). Consequently, attention was shifted away from the personalities and the backgrounds of the commissioners, helping to constitute a view from nowhere from which objective knowledge can be produced.

The commissions of Argentina, Chile and South Africa were established according to the idea of objectivity as a view from everywhere. In Argentina, the president invited people 'who enjoyed national and international prestige, chosen for their consistent stance in defense of human rights and their representation of different walks of life' (CONADEP, 1984: part IV). The CONADEP was a commission of notables. The focus on prestige and the fact that representivity was not a necessary condition fit in with the British idea of objectivity in which elite figures are asked to form part of a commission. The Chilean and South African commissions, on the other hand, tended to follow the German version of the view from everywhere with representation of the full social spectrum of views being central to the composition of these commissions. However, it is probably more accurate to speak of a mixed view in these cases, in which different objectivity ideals coexist. There was not only a focus on representivity but also on members having, as in the British approach to objectivity, a certain prestige and authority. The Chilean president selected and personally invited the eight commissioners of the Chilean truth commission, based on their human rights background, and their prestige and authority (Supreme Decree 355: Art. 8; Kritz, 1995). At the same time, he tried to include commissioners with different political affiliations to avoid political bias (Kritz, 1995). The selection procedure of the members of the South African TRC was a democratic and open process resulting in a commission of well-known members. The final decision was made by President Mandela who explicitly emphasized the importance of representivity. He added two extra members who had not been on the list of the selection committee, in order to make the commission more representative of South African society

(Verdoolaege, 2005). In contrast to the Chilean commission, representation and representivity were not only interpreted in respect to the members' political affiliations. The TRC also contained members of each of the apartheid race categories and members with different religious beliefs (Christian, Muslim, Hindu, agnosticism).

## REPRESENTIVITY IN TRUTH COMMISSIONS

### **A Spectrum of Representation**

For the view from everywhere, representation is a crucial concept. Political representation generally exhibits the five following components:

- Some party that is representing (the representative, an organization, movement, state agency, etc.);
- Some party that is being represented (the constituents, the clients, etc.);
- Something that is being represented (opinions, perspectives, interests, discourses, etc.);
- A setting within which the activity of representation is taking place (the political context); and
- Something that is being left out (the opinions, interests, and perspectives not voiced). (Dovi, 2017: section 1)

I will show that these components provide a useful framework for discussing representation in the context of truth commissions' work as well.

For the German form of the view from everywhere, representivity, in other words how representative a commission is for the group it represents, is very important. To know whether a (political) representation can be called representative, the question should be answered as to whether the party that is representing (component 1) represents the opinions, perspectives, interests, discourses, etc. (component 3) of the party that is being represented (component 2) in an adequate way, preferably in as complete a way as possible. When the opinion, interests or perspectives of a relevant group of people are not represented, the representation cannot be called representative. Representations can be more or less representative. Reflection about the first four components reveal information about the fifth component and, hence, about the extent of representivity of the representation.

Representation plays an important role in truth commissions, but also in other kinds of commissions. The meaning of the concept may vary for different (kinds of) commissions. I will briefly explore two specific kinds of commissions where representation plays a prominent role: the expert commissions of the EC and the jury of the Belgian Assize court (Hof van Assisen).<sup>7</sup> An expert commission is a consultative body which is set up by the EC or its depart-

ments when external specialist advice is needed for policymaking, often about specific and very technical topics (e.g. climate change policy and artificial intelligence) (EC, 2016). *The EC in need of external specialist advice* is the setting within which representation in the commission takes place (component 4). Given the objective of the expert commission, it should represent the most recent knowledge available from those with the greatest expertise in the field (components 2 and 3). A commission appropriate to represent these experts and this knowledge should therefore be a commission composed of a selection of these experts (component 1). They can be called *subject matter experts*.<sup>8</sup> The official information on the selection of the commissioners on the website of the EC confirms this profile.<sup>9</sup>

A completely different kind of representation and representivity is applied in the context of the jurors of the Belgian assize court (component 4). The principle behind the existence of the jury in the Assize court is the right of the public to participate in the administration of justice (Traest, 2001). It is therefore the opinion of the public that should be represented by the jury (components 2 and 3). In other words, the jury is supposed to offer a view from everywhere. The public is represented by people who are both laypeople and peers of the public (component 1). Peers can be defined as people who are members of the same social set.<sup>10</sup> Jurors are selected by drawing lots from the most recent list of juror candidates based on the voters' register.<sup>11</sup> This selection procedure results in a list of random citizens. They are therefore peers of all citizens and hence of the whole of society (*ibid.*).<sup>12</sup> The jurors of the Assize court are also called laypeople or lay judges (for example in Traest, 2001). A layperson is a non-expert in relation to some particular profession or branch of knowledge (*Oxford English Dictionary*). In contrast to professional judges, jurors do not have the same relevant knowledge, education or experience. In fact, people holding legislative, political, judicial or governmental offices are eliminated from the juror candidates' list<sup>13</sup> (component 5) (Art. 218, Law of December 21, 2009).

The task of the Assize court is to reveal the truth about a crime and to decide on the guilt of the accused. But why would we prefer the judgment of the lay jury over the judgment of professional judges who can be presumed to be the experts in this context? In comparison with other courts, at least three interesting advantages stand out. First of all, the involvement of lay judges is said to provide a better or at least a different kind of judgment. Jury members 'appreciate the moral aspect of the facts in a broader and more human way than professional judges' (Traest, 2001: 46). Second, the jury represents different views, while a professional judge only presents his own view. In addition, the jury decision process is a clearly collective process. The jurors deliberate together before they vote on the question of guilt. Third, the public seems to put more trust in the judgment of the jury and accept their decision more easily

than that of a professional judge. The verdict of the jury is said to represent public opinion because their members are the public's peers (Duquenne, 2015). Hence, the fact that the case is decided upon by a jury has a positive effect on the general credibility of and trust in its outcome.

So, the expert commissions of the EC and the jury of an assize court can be placed at two extremes of a continuum: the members of an expert commission can be called *subject matter experts*, whereas jurors are both *laypeople* (non-experts) and *peers*. A comparison between these commissions and truth commissions will indicate that the commissioners of a truth commission occupy a place somewhere in between these two extremes.

### **Representation in Truth Commissions**

The components used to understand how representation works at the expert commission and the jury also help to analyse the practice of truth commissions. The setting of truth commissions (component 4) is the highly political and complex context of a state after a violent period. By organizing the truth commission, the new government seeks to establish a rupture with the violence of the past. The commissions also often initiate or support the national reconciliation process (Hayner, 1994, 1996). Truth commissions are thus often victim-centred, which means that giving a voice to victims is a crucial part of their approach (Freeman, 2006) and their representation is an important aspect. One of the objectives of a truth commission is to compile a report about occurrences during the violent period, ideally one that will be accepted by all parties involved and by society at large. Ideally, therefore, the commission should represent the victims, all the parties involved and the whole society (components 2 and 3). As a consequence, the following questions arise: Who are the people appropriate to represent these groups? What does representation mean here?

### **Experts or laypeople?**

As explained above, the expert commission (subject matter experts) and the jury of the Assize court (both laypeople and peers) can be seen as two extremes on a continuum. Where exactly on the continuum can we find the members of a truth commission? In comparison with the members of the expert commission, the commissioners of a truth commission clearly have a different profile. To start with, it is more difficult to identify an expert in the context of a truth commission. When the EC looks for members of an expert commission on a specific topic, for example artificial intelligence, it might not be easy to select the best experts in the field, but the kind of expertise they expect from the expert is quite clear. People are chosen to form part of such an expert commission for the specific knowledge they possess on a certain topic. The objective of the commission is to write a report in which the expert knowledge



of all its members is included. Such a report informs policymakers on the latest developments and the most recent knowledge on the topic. In a truth commission, the expertise and the knowledge of the commissioners alone are not sufficient. Once the commission is formed, the commissioners have to start their investigation and gather relevant information from other sources. Only in a later phase are they able to decide what information to include in the report.

We can say that, although the commissioners of truth commissions might have knowledge about the violent past of the country, they do not necessarily have to be experts whose (factual) knowledge will directly serve the report writing. They might know a lot about the conflict, but it is not this knowledge (alone) that will end up in the report. Interestingly, in some truth commissions, the organizers even try to avoid the inclusion of experts who might already have a strong opinion on what happened. For example, Charles Villa-Vicencio (national research director of the TRC) and Wilhelm Verwoerd (researcher within the TRC) explained that in the South African transitional context the decision was taken to not opt for a 'typical, "elitist" commission of experts attempting to produce an authoritative version of the truth' (Villa-Vicencio and Verwoerd, 2000: 289). Instead, they sought 'to implement and manage an inclusive, accessible, and transparent process in order to facilitate a pluralistic public account, generated by diverse individuals "telling their own stories" and a variety of individuals and institutions making submissions' (ibid.: 289). In El Salvador it was decided that the commissioners and their staff would all be foreigners. Although they certainly had expertise in other fields, as non-nationals they clearly had less knowledge of the situation in El Salvador than many Salvadorans at that time. Before they were able to decide which cases to investigate, they had to start with a phase of general fact-finding, in order to achieve a better understanding of the extent and the scope of the violence (Buergethal, 1995). These examples show that the commissioners of a truth commission are, in some aspects, a kind of laypeople: at the beginning of the process they do not necessarily know more about the conflict than other laypeople (i.e. the normal non-expert population); in some cases, they might even know less. They have no pre-defined, in-depth understandings of the conflict; therefore, they are not subject matter experts. Of course, that they can be seen as laypeople with regards to the conflict context does not mean that they have no expertise or qualities with regards to other relevant topics. This will be discussed in further detail below.

The quote from Villa-Vicencio and Verwoerd is particularly interesting. It suggests some relevant reasons for including laypeople instead of experts with a strong opinion. We cannot be sure that these reasons are valid for all cases, but experts appear to be excluded from truth commissions because their knowledge-forming process is not accessible, transparent or inclusive for a non-expert public. Because the experts have already formed their opinion on

the topic, this process is already (partially) completed when they start to work on the commission. Both the knowledge-forming process and the knowledge that result from it are therefore not accessible to or transparent for a non-expert public. Such a non-transparent way of communicating seems to suggest that the results are evident. The role of the members' personal background, experiences, beliefs and opinions is left unclear. In other words, such a commission seems to claim a view from nowhere.

### **Peers?**

The idea that the knowledge-forming process of a truth commission should be transparent and inclusive for a non-expert public points to the same advantages of lay judges in the Assize court, namely the importance of a good reception by society and the inclusion of different views (not only expert views). These seem to be the advantages that truth commissions are looking for as well. If we compare them with the lay judges of the Assize court, can it be argued that they, too, are peers?

In contrast to the members of a jury, the commissioners of a truth commission are not randomly selected peers. They are specifically selected. That they cannot be random peers becomes clear when comparing the tasks of the jury of the Assize court with those of the members of a truth commission. In the Assize court, the jurors do not have to do any research. Their main task is to take the available information and the arguments presented into account when they decide on the guilt and the punishment of the accused. The tasks of the commissioners of a truth commission are more extensive and complex. For example, the primary objective of the Chilean National Truth and Reconciliation Commission was 'to clarify the truth about the serious human rights violations that occurred between 11 September 1973 and 11 March 1990' (Supreme Decree 355 Chile, 1990). Furthermore, the truth commission was instructed to formulate recommendations for reparations and prevention. In the mandate of the Chilean Rettig Commission, two concrete functions were formulated. The first was 'to establish a complete overview of the grave violations, their antecedents and their circumstances'; the second 'to gather information that will contribute to identify the victims and information about their fate and whereabouts' (Supreme Decree 355 Chile, 1990). The responsibility of the truth commissions includes tasks such as doing research, taking testimony from witnesses, analysing data, reporting to the public and composing a complete report on the topic. The commissioners ideally possess certain characteristics and capabilities relevant for these tasks, including research skills, experience working with victims and perpetrators, or the effective communication of complex, often highly moralized, issues to the public.

The commissioners of truth commissions, therefore, are not experts like the members of the expert commission, nor peer-laypeople like the members of

the Jury of the Belgian Assize court. It can be argued that they occupy a place somewhere in between these two extremes. In the next section, I will examine what else is distinctive about them.

## WHO ARE THE COMMISSIONERS OF A TRUTH COMMISSION?

### **Comparison of Membership<sup>14</sup>**

A comparative analysis of the commissioners in the truth commissions of Argentina, Chile, El Salvador and South Africa leads to some interesting observations about their backgrounds and profiles. There are some remarkable similarities. As discussed above, the commissioners are not subject matter experts with regards to the conflict, but they clearly possess other kinds of expertise and characteristics. First of all, many commissioners have worked in academia. This is especially true for the commissions of Argentina, Chile and El Salvador. In the CONADEP, the commissioners had academic backgrounds in fields such as physics, engineering, philosophy, cardiology and mathematics. Many Chilean commissioners had an academic background, too, although they were mostly specialists in law, and one of the three members of the Salvadoran commission was also a law professor. Second, the commissions included many people who were active in human rights defence. Some, such as lawyers, did so professionally. For example, Ricardo Colombres was a defence attorney for political prisoners and relatives of disappeared persons in Argentina. Other members were human rights activists, members of human rights organizations or had taken a personal (and often public) stance against human rights abuses. Third, many members have a legal background: at least one in each of the four truth commissions. In Chile seven out of eight commissioners have a law degree. This commission had a clear legal focus. Although this major legal focus is remarkable, it was not one of the explicit criteria formulated in the supreme decree (Supreme Decree 355). In comparison, in the CONADEP the legal focus seems to be less important: the commission only contained one lawyer. Fourth, the commissions often contained members who could be expected to have the ability to explain complicated issues in a way understandable to a broad public, such as journalists, authors and politicians. Fifth, except for the commission of El Salvador, all the commissions contained either victims or people who could be seen as representatives of the victims. Several Chilean members had lived abroad in exile and several members of the South African commission had themselves been victims of human rights violations. The above-mentioned Ricardo Colombres is an example in the Argentinian case. Sixth, it would be true to say that all the commissioners had a good reputation and a degree of prestige. The legal decree which founded

the Chilean commission is explicit that commissioners should be people with nationally recognized prestige. The CONADEP's report described the members of the commission in a similar way, as people who enjoy national and international prestige (CONADEP, 1984: chap 4.I). This explains why the commission contained, for instance, a famous author, the former rector of the University of Buenos Aires and a well-known cardiologist. In South Africa, the selection procedures of the commissioners had been a participative and democratic process that assured the prestige of the commissioners. The first phase of the procedure consisted in public nominations, which resulted in a list of well-known and respected people. Seventh, another apparently recurring characteristic of commissioners is ethical attitude and moral authority. Note that moral authority is not the same as good reputation and prestige. The latter refers to being well-known and respected, whereas moral authority is focused on the ability to take morally supported decisions or actions. People can have a good reputation or prestige for other reasons, for example because they are a good cardiologist. The condition of moral authority or a highly ethical attitude was clearly formulated in the Chilean decree. Although disputable, inviting people with a religious background (Argentina and South Africa) or judges (South Africa, El Salvador) can be interpreted in this way as well.

### **General Profile of the Commissioners**

The comparison above suggests that the commissioners have some interesting characteristics in common. Based on this comparison, I formulate here a general profile of the commissioners based on the analysed cases. This general profile helps us understand the selection of the members and refers to the notions of objectivity and representation discussed above. The profile can be described by highlighting three tendencies that are independent of the commissioner's actual knowledge.

First of all, the high status of the commissioners forms part of their profile. Certain recurring characteristics, such as prestige, good reputation and moral authority, are all related to the importance of high status. The fact that the status of members is important can be related to Jasanoff's British model, where people of the elite are chosen to form part of the commission. Their presence contributes to a claim of objectivity. They can be said to present a view from everywhere. Their status has a positive influence on the authoritative character and overall acceptance of the knowledge they produce.

Second, another important characteristic which forms part of the profile is that the commissioners possess the intellectual (research) capacities necessary to perform various complex tasks, such as taking testimony from witnesses, analysing data, reporting to other commissioners and to the public, conducting an investigation, fact checking and composing a complete report. This can be

expected from academics, lawyers and people who have previously worked in human rights defence.

Third, the concept of representation plays an important role. However, representation here has a broad meaning. The fifth characteristic discussed in the section above requires that victims or representatives of the victims form part of the commission. We can speak here of direct representation. Direct representation, in the way that I use it here, means that people represent the group of which they form part or that they represent others whom they are entitled to represent because of a direct and personal relationship with this person or group of people. As well as victims, other groups, such as political parties or religious communities, can also be represented in a direct way in the commission. Some commissions pursue representivity on this direct level, in the sense of the German model of a view from everywhere discussed above. When this is the case, the final composition of the commission also tells us something about how policymakers understand the conflict and how they see the society. To illustrate: in the Chilean commission only the political affiliations and ideas of the commissioners were taken into account to establish representativeness. The Chilean dictatorship had also affected indigenous groups; however, they were not represented. The South African TRC represented different political affiliations, but also different apartheid race categories and different religious beliefs. This seems to have been a more complete and realistic image of South African society. Thus, when representativeness is pursued, the selection of commissioners represents the social and political view on society of those who select them. Consequently, the commission's research will be conducted and the report will be written within the framework set by those pre-selections.

I now argue that truth commissions also contain members who represent the relevant parties in an indirect way. Indirect representation, in the way used here, implies that the members of a commission represent individuals or groups of people of which they are not a member or which they do not personally know. Some commissioners have professions, backgrounds or characteristics that help them to represent the parties involved. For example, psychologists, those who have worked with victims or those with a general human rights background can be assumed to be qualified to communicate with and understand witnesses. Even when not personally involved, they are assumed to be good at understanding the parties involved and representing them in the commission. They can often, in fact, represent more than one party. Further, to be good representatives, the commissioners should also be able to explain complicated issues in a way that is understandable to a broad public. Members with a profession such as journalism or authors certainly contribute in this regard. Those who represent in indirect ways have the ability to conduct research in order to understand what happened. They collect documents and testimonies and transform the available information about the complex and

violent past into a report that makes it accessible and understandable to a broad public. They represent the different groups, by listening to them, by telling their stories (often in an indirect way) in the public report and through the formulation of recommendations for reparations for those wronged.

Although the commissioners might have good intentions, representation is never a completely transparent process. In his article ‘The Representative Claim’ (2006), Michael Saward speaks about an aesthetic moment in representation: ‘There is an indispensable aesthetic moment in political representation because the represented is never just given, unambiguous, transparent. A representative – or someone making a representative claim – has necessarily to be creative. He or she has to mould, shape, and in one sense create that which is to be represented’ (Saward, 2006: 310). The idea of indirect representation expects the commissioners to have the necessary creativity and insight to define not only what groups they should represent but also to define which aspects of the groups should be represented. The commission gives the groups they represent a voice to speak. At the same time, however, the claim of representation of the commissioners can also have a silencing effect on the represented (ibid.: 304). The commissioner, as a representative of certain groups, might appropriate their voices.

Although the commissioners might strive to represent others in an objective way, they will always have their own ideas, opinions and values that, inevitably, play a role in their decisions. They cannot fulfil the tasks related to their function as commissioners in a completely objective way, in the sense of being value-free.<sup>15</sup> That is why not only the profile of the commissioner but also the composition of the commission is very important. A truth commission with a balanced composition might thus compensate for the (mild) biases of its individual members.

## CONCLUSION

This chapter started from the observation that the commissioners of truth commissions seem to have divergent backgrounds. The questions ‘Why are the commissioners selected?’ and ‘Do they all fit a common epistemic profile?’ motivated the research presented in this chapter. The first part of the chapter argued that the differences in their compositions can be made intelligible by referring to different ideals of objectivity. The objectivity claims made by the selection of the commissioners help to establish the authority of the commission. As a consequence, they are important for the reception of their future results. The second part of the chapter uncovered what kind of representative role the commissioners ought to play. In comparison with the members of the expert commissions of the EC (subject matter experts) and the jurors of the Assize court (laypeople and peers), the commissioners of

truth commissions have a different epistemic profile. First of all, they are not all subject matter experts. Some of them might have certain knowledge about the topic they investigate, but that is not the (only) reason why they form part of the commission. Others are clearly laypeople (non-experts). In the cases of El Salvador and South Africa, the non-expert character of the members even seems to be a deliberate choice. However, that does not mean that any layperson could have been included in the commission. The commissioners of truth commissions have complex tasks and responsibilities and they need to possess certain characteristics and capabilities relevant to these. A comparison of the professions and backgrounds of the commissioners of the cases made it possible to formulate a general epistemic profile consisting of three main characteristics: first, some of the commissioners are selected because of their authoritative status; second, the commissioners possess the necessary skills and capacities, such as research skills; and, third, the commissioners represent the involved parties, directly or indirectly. Direct representation means that the commissioners have a direct link with the person or group they represent. Indirect representation means that although the commissioners are not directly related to the parties involved, they possess specific characteristics that help to represent them.

The analysis in this chapter draws on data from the truth commissions of Argentina, El Salvador, South Africa and Chile. As a consequence, I cannot argue that my analysis can be applied to all previous or future truth commissions. Every transitional justice context is different. The selection of the commissioners has a great impact, not only on the report but also on the transitional context itself. There is not one right way to compose a commission and there are no strict guidelines to be followed, but concepts such as objectivity, authority, status and representation seem to have an important bearing, independent of the commissions' different political contexts. Answers to questions such as *How can objectivity and authority be reached? Who has the right profile to form part of a commission and to represent the relevant groups?* and *Who are these relevant groups?* will always depend on the context. This chapter has highlighted the importance of these concepts and ideas for policymakers, presenting them as some aspects policymakers should take into account alongside other relevant factors. Reflection on the concepts might ideally lead to more awareness about the different factors and values at play, to deliberate decisions and to more transparency towards the public.

Commissions are often presented as objective bodies, for example by their representative composition (German model) or by depicting a commission with a 'view from nowhere'. However, I have shown in this chapter that neither those who select the commissioners nor the commissioners themselves can do their work in a completely objective way, in the sense of being free from all personal ideas, opinions and values (i.e. value-free objectivity).

Therefore, policymakers and commissioners should be aware of how their own backgrounds might influence the results of their work. Furthermore, the inability to reach value-free objectivity on the personal level can be compensated for on the intersubjective level: objectivity can be approximated when agreement is achieved after a discussion among different members of a truth commission with a well-considered composition.<sup>16</sup>

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## NOTES

1. Not only the selection of the commissioners is important, but the members of the investigation teams that support the work of the commission also have a crucial impact on the working of truth commissions and their results. My reasons for focusing on the commissioners, and not on the investigators, are threefold. First, besides their epistemic tasks, the commissioners of a truth commission have a clearly public role as well. This makes their profile more complex and impactful than that of the investigators. Second, the members of research teams are often selected by or in consultation with the commissioners (e.g. Argentina and Chile), so the selection of the latter influences the selection of the former. Third, generally, there is less information available about who the investigators are, and about how and why they were selected.
2. Chile has had three truth commissions in total. In this chapter I will only discuss the first commission created in 1990. In 2003, a second commission was established by President Ricardo Lagos: the National Commission for Political Imprisonment and Torture (Comisión Nacional sobre Prisión y Tortura or Valech I Commission), which was a commission with a different scope (Bacic and Stanley, 2005: 1). In 2010, a third commission – the Valech II Commission – was established in order to compile a complete list of the victims of the human rights violations that had been investigated by the first two commissions.
3. The Ad Hoc Commission in El Salvador was tasked to investigate human rights violations committed by all top military officers during the war (Doggett and Kircher, 2005: 11; O’Shaughnessy and Dodson, 1999: 103).
4. Two of the 17 members, Dr Ramashala and Advocate de Jager, would resign before the commission’s report was handed over (Tutu, 1999: 68).
5. ‘The view from nowhere’ is an expression Jasanoff borrowed from the philosopher Thomas Nagel.
6. The commissioners compared sources and assigned different degrees of certainty to the final conclusions of the cases. They differentiated between: overwhelming evidence (highly convincing evidence that supports the conclusion), substantial evidence (solid evidence that supports the conclusion), and sufficient evidence (when there is more supporting evidence than contradicting evidence) (United Nations, 1993: 21–2).



7. In this chapter, I give the example of the Belgian jury system, which is partially different from jury systems in other countries such as the US. An important difference is that in the US, juries are involved in procedures in a variety of courts while in the Belgian judicial system, the jury is only involved in cases brought before the Assize court (Hof van Assisen – Cour d'Assises). Belgian law distinguishes three kinds of offence: misdaden (offences punishable with more than five years of imprisonment), wanbedrijven (offences punishable with imprisonment between eight days and five years and/or a fine), and overtredingen (offences punishable with imprisonment between one and seven days and/or a fine). The Assize court is officially responsible for misdaden (Traest, 2001: 27–8, see [www.belgium.be](http://www.belgium.be)). Political offences and offences perpetrated by means of the press can also be brought before the Assize court (Traest, 2001: 27–8). However, not all qualifying crimes are actually brought before the Assize court. Many of them are 'correctionalized' so that the offence is artificially transformed to a less serious one that can be brought before the correctional court (correctionele rechtbank or tribunal correctionnel), which operates without a jury (Traest, 2001: 28).
8. People also can have other kinds of expertise. Some can be called experts based on their practical experience instead of their theoretical knowledge on a topic.
9. 'Expert Groups Explained', European Commission, accessed 31 March 2020 at <http://ec.europa.eu/transparency/regexpert/index.cfm?do=faq.faq&aide=2>
10. Definition from the online version of the *Oxford English Dictionary*.
11. The candidates on this final list all comply with five criteria: (1) entry in the voters' register; (2) possession of civil and political rights; (3) literacy; (4) aged between 28 and 65; and (5) no conviction of more than four months' prison time or more than 60 hours of community service (Federale Overheidsdienst – Justitie, 2010: 6; Art. 213, Law of December 21, 2009). Some additional groups are excluded (see Art. 218, Law of December 21, 2009 for the list) and gender and education balances are taken into account.
12. Interestingly, they can also be seen as peers of the accused, although, the principle of the jury in the Assize court is never explicitly described as the right of the accused to be tried by peers but as the right of the public to participate in the administration of justice (Traest, 2001: 28).
13. The complete list of professions excluded from jury service can be found in Art. 218 of the Law of December 21, 2009.
14. The information on the backgrounds of the commissioners was collected from different sources; for Argentina: Bulygin and Stigol (2007), Cassini (2009), Crenzel (2012: 37–8), Inforegion (2009), Vanoli (2005); for Chile: Kritz (1995: 463); for El Salvador: Americas Watch (1993: 8–9, 12), Mexico agreement (1991) – UN and El Salvador (1991: 263–72); for South Africa: Tutu (1999: 65–7), Verdoolaege (2005: 17).
15. Objectivity can be pursued in different ways. In her paper, 'The Irreducible Complexity of Objectivity', the philosopher Heather Douglas discusses eight operationally accessible and distinct senses of objectivity; value-free objectivity is one of them (2004: 462–4).
16. This is what Heather Douglas calls 'intersubjective objectivity' (2004: 462–4).

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# 9. Developing the African Union Transitional Justice Policy: an assemblage perspective<sup>1</sup>

**Ulrike Lühe**

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## INTRODUCTION

The politics of knowledge production in transitional justice has started coming under increased scrutiny, with a focus on the transfer of knowledge and norms between and within contexts, and on the North-South dynamics and inequalities that shape the global politics of knowledge in the field. Debates around the nature and use of expertise which have emerged from the literatures on knowledge production and transfer, and the norms diffusion literature, have largely discussed expertise in the hands of a select number of international, professional actors (Lefranc and Vairel, 2013; Brehm et al., 2019; Ní Aoláin, 2015; Mouralis, 2013). While the literature has emphasized the preference that the field of transitional justice shows for legalistic, technical and thus apolitical knowledge (Subotic, 2012; Lefranc and Vairel, 2013; Oomen, 2005), it continues to assume that this knowledge is held by a small number of actors who then transfer it to policy-makers and practitioners in contexts of unequal power relations. This assumes that expertise is not only the property of a few select actors but that it is also stable. By focusing on international non-governmental organizations (NGOs) and the technical expertise rooted in lessons learnt and best practices, the literature also furthers an assumption that policy processes require, and are built on, one type of expertise – no matter the contextual factors or the changing nature of such processes over time. What is emphasized then is legal, technical, academic and thematic knowledge over networks, tacit knowledge, context and political knowledge. This betrays not only the political nature of policy-making in general, but it also reduces transitional justice to a technical response to conflict and transition, rather than seeing it as a political renegotiation taking place over time and between varied actors.

The transitional justice literature that focuses on the North-South dynamics and inequalities in transitional justice expertise in particular highlights

the extractive dynamics and unequally distributed agenda-setting power in the field. On the one side it emphasizes ‘transitional justice entrepreneurs’ (Madlingozi, 2010: 213), well-travelled international experts who ‘theorize the field; set the agenda; legitimize what constitute appropriate transitional justice norms and mechanisms; influence the flow of financial resources; assist governments in transition; invite, collaborate with and capacitate “relevant” local NGOs and “grassroots organizations”’ (ibid.: 225). On the other side it posits national and local actors in the Global South whose priorities are overwritten by international actors in the name of a moralistic and normative human rights agenda and victims on whose behalf actors speak (ibid.). Many of these studies speak in one way or another to the North-South discrepancies in terms of access, resources, power, influence and expertise.<sup>2</sup> However, the practices of knowledge production and expertise within and among transitional justice actors in the South, be they academics, policy-makers or practitioners, have rarely been researched.<sup>3</sup>

This chapter seeks to address both of the gaps outlined above. Firstly, it contributes to a more complex understanding of the use of expertise in policy processes by going beyond a focus on one actor group – international NGOs – and tracing how the shifting needs and circumstances of a policy process change what expertise is required, and thus what expertise means. In doing so I show that expertise is not a stable property of some professional, international actors, but rather a resource that is strategically assembled by different stakeholders in order to meet the complex needs of policy-making. Secondly, it contributes a unique perspective by not focusing on international NGOs or the inequality of North-South interactions, but on a policy process and the making and shaping of expertise within and among stakeholders located in Africa. This chapter will thus explore the strategic assembling of different types of expertise that were required for and employed in the development of the African Union Transitional Justice Policy (AUTJP). It draws on practice and assemblage theories from the broader field of International Relations (IR). As the analysis in this chapter shows, the knowledge drawn on for the making of the AUTJP is not a static body of knowledge, but rather has been assembled by and from a range of stakeholders including, among others, expert consultants and a broader consultation process – activities that are conceptualized as epistemic practices.

At the core of this policy process, and driving most of this assemblage process, were the South African Center for the Study of Violence and Reconciliation (CSVR) and, in the early stages, its partners who have formalized their partnership in the African Transitional Justice Research Network (ATJRN). Based on the research and reflections they had conducted in the mid-2000s on various African transitional justice experiences, they began an advocacy effort aimed at the African Union (AU) for it to develop and adopt

a continental transitional justice policy. The CSVr in particular initiated the process, provided the resources, expertise and momentum required to see it through, and ensured the adoption of the policy through its sustained advocacy. Formally, the CSVr acted as the coordinator of the policy process. Throughout the process, however, it drew in outside expertise. It is this assemblage of expertise which is the focus of my analysis.

This chapter thus provides an account of the way expertise is assembled for the purpose of developing a continental policy in a policy field that is at once dominated by technical approaches and highly political, based on models and best practices and highly complex and contextually specific knowledge. This analysis is based on a review of the various written outputs that were produced in this policy process as well as 60 key informant interviews that were conducted between June and December 2018 in South Africa, Addis Ababa/Ethiopia, Nairobi/Kenya, Arusha/Tanzania and via Skype, and in February 2019 in Addis Ababa. Interviewees included key stakeholders involved in the policy process from civil society and the African Union Commission (AUC) as well as transitional justice experts who have not been involved in the process but have been observing it. Additional informal conversations helped shape my understanding of the process, its evolution and context.

I will proceed by discussing my conceptual framework which centers on assemblage and practice theories borrowed from IR, before providing an overview of the AUTJP. The core of this chapter then discusses two practices that were key to the strategic assemblage of expertise that was built throughout the making of the continental policy – the use of experts and consultants to review and revise the policy and a broad process of consultation meetings and workshops. I focus on those practices that show most clearly how the CSVr relies not only on its own expertise but also draws on an assemblage of experiences, disciplinary backgrounds and types of expertise. These are also the practices that help co-create knowledge and legitimacy thus (re-)enforcing the expert status of the involved stakeholders. This analysis holds important insights for both transitional justice and IR, for in both fields the knowledge production and policy-making practices of African governmental, non-governmental and regional organizations (such as the AU and Southern-based research networks) remain vastly under-researched.<sup>4</sup> Furthermore, the AUTJP is only the second holistic, continental transitional justice policy<sup>5</sup> that has been developed. Its analysis can thus provide insights for the future nature and making of such policies. Lastly, this is a unique process in that the key stakeholders have tried to almost exclusively rely on African expertise, which runs contrary to the often-expressed assumption that international (read Northern) expertise is prevalent (and necessary) in Southern policy processes (for critical discussions on this see *Ní Aoláin, 2015; Fletcher and Weinstein, 2018a, 2018b; Oduro and Nagy, 2014*).

## ASSEMBLAGES OF KNOWLEDGE AND EXPERTISE

In IR the study of expertise and the knowledge-policy nexus has for a long time focused on the agency of experts and expert groups, for example epistemic communities or advocacy coalitions, and on how they exert influence and authority (Haas, 1992; Keck and Sikkink, 1998). Their expertise is thus grounded in the policy-relevant knowledge they hold, produce and distribute. However, considerably less emphasis has been placed on how these actors produce knowledge and how this knowledge gains authority (Bueger, 2015). From there, the focus has shifted towards expertise not as the property of an individual or group, ‘but the effect of a process’ (Bueger, 2019: 42). If, then, ‘expertise is authoritative knowledge at a given decision point’ and ‘experts are those who/that which communicate(s) this knowledge’ (Leander and Wæver, 2019: 2), expertise and expert status are dependent not only on the definition of the problem at hand, but their expert status is also a function of their relations to those who seek their knowledge or upon whom they infer their knowledge. As a consequence, expertise is contingent and experts are defined relationally. This allows for a definition of expertise as ‘a social process of stabilizing the authority of a selection of knowledges in relation to a specific problem’ (Berling, 2019: 95).

Expertise then is neither static nor bounded by disciplines, but rather is transgressive in that it crosses boundaries between scientific and practical knowledge (Nowotny, 2000) with professional experience being equally valuable as scientific knowledge. It is unstable and uncertain (Leander and Wæver, 2019) as continuous challenges make constant review and revision a requirement which in turn renders expertise ‘provisional’ and short-lived (*ibid.*; Best, 2014). It is in this sense also constantly ‘emergent’ from tensions and contradictions between different forms of knowledge (*ibid.*). As it is constantly challenged and emergent, it has to be constantly assembled and maintained (Berling, 2019) and the declaration of the contingent nature of knowledge underlying expertise becomes crucial to the legitimacy of the expertise itself (Jasanoff, 2003). Thus, expertise is simultaneously embattled and maintained, valued and valuable, and constitutive and constituted of not only expert status but also the world in which it operates (Bilgin, 2019). As a consequence, its study needs to involve the study of process and change (Bueger, 2018).

Assemblage theories offer one perspective for doing so as they take account of the ‘ever-shifting constellations of actors, institutions, data and forms of expression that make up the expertise’ (Leander and Wæver, 2019: 2). As assemblage is ‘the continuous work of pulling disparate elements together’ (Li, 2007: 264), focusing on it allows an emphasis on both agency and practice. As a ‘feature-rich toolbox’ that draws on IR realism, international practice theory



and actor-network theories (Bueger, 2018: 615), assemblage analytics allow us not only to ‘finesse questions of agency’ (Li, 2007: 265) but also to focus on the practices that actors and agents employ to assemble expertise, that is the ‘practical infrastructures through which knowledge is produced and validated’ (Bueger, 2015).

Epistemic objects, such as the idea of an African transitional justice, are dependent on ‘the deliberations and interpretation of actors, on situational factors, on the political and rhetorical strategies of actors, and potentially on their social and cognitive interests’ to become knowable (Knorr-Cetina, 2008: 40). As epistemic objects ‘appear to have the capacity to unfold indefinitely’ (Knorr-Cetina, 2001: 180) epistemic practices are continuous processes that go beyond ‘iterative procedural routines’ (Knorr-Cetina, 2001: 186). An epistemic practice, in essence, is a ‘particular kind of practice that aims at constructing a distinct epistemic object and manipulating it’ (Bueger, 2015: 2). They are practiced by scholars and scientists as much as by expert commissions, planning units, intelligence services, courts or other institutions and actors (*ibid.*). Practices include ‘bodily and mental activities, artifacts, technologies, objects and their use, sayings and doings, representations, concepts and vocabularies, things and machines all of which come together to create structures of meaning’ (*ibid.*: 5). They focus on the ‘mundane functioning and everyday maintenance of orders of knowledge’ (*ibid.*: 4). Various practices have been identified in the literature, including practices of problematization, forging alignments, rendering knowledge as technical, authorizing knowledge, managing failures and contradictions, anti-politics, reassembling (Li, 2007); quantification, the use of monitoring groups and special advisers (Bueger, 2015) or the standardization, abstraction, decontextualization and framing work of experts (Ancelovici and Jenson, 2013).

This chapter, in an effort to unpack the expertise that is assembled in the development of the AUTJP, analyzes two types of consultations as epistemic practices that were key in the process of making transitional justice, as an epistemic object, knowable to the AU and especially to AU member states. I will focus on the practices implied in the engagement of key consultants as policy drafters and reviewers, and the continuous use of consultation meetings that shaped much of the process. Cumulatively these provide insight into the types of expertise that were assembled in order to meet the shifting needs and requirements of an evolving policy process while also giving insight into the nature of expertise as more than a static property of actors.

## THE AFRICAN UNION TRANSITIONAL JUSTICE POLICY

The impetus for the development of the AUTJP came in 2009 from the then newly established Panel of the Wise (PoW), an advisory organ to the AU. In line with its annual priority topics and in response to the increasing need for transitional justice on the African continent and the simultaneously developing tensions with the International Criminal Court (ICC), the PoW focused on the topics of justice, non-impunity, reconciliation and peace among its first priorities (Gomes Porto and Ngandu, 2014). It commissioned Prof. Gilbert Khadiagala from the University of the Witwatersrand and Dr. Comfort Ero, then Head of the South Africa office of the International Center for Transitional Justice (ICTJ), to conduct a study on African transitional justice experiences and to give recommendations to the PoW for further action. The experts' recommendations, among others, included the development of a continental transitional justice policy, to be adopted by the AU in order to guide member states in conceptualizing and implementing transitional justice efforts (Panel of the Wise, 2013).

This was in 2009, around the same time that the ICC had issued its arrest warrant against Omar al-Bashir, then president of the Republic of Sudan, for crimes committed in Darfur (ICC, 2009) and launched investigations into the involvement in the 2007/8 post-election violence, among others, of Uhuru Kenyatta and William Ruto who went on to become Kenya's president and deputy president respectively (Lugano, 2017). Being the first instances in which the ICC investigated sitting heads of state and high-level politicians, considerable resistance was mobilized – notably by African states and through the AU (Ssenyonjo, 2013; Murithi, 2013).<sup>6</sup> On the one side this did not fare well for any attempts to promote the topic of transitional justice at the AU, on the other it increased the need for the AU and its member states to develop their own approach to accountability and reconciliation, in response to the perceived Western imposition of international criminal justice.

The development of the policy has to be seen not only in light of the contemporary tensions around international criminal justice but also in the context of the AU as the successor institution of the Organization for African Unity (OAU) which was established in 1963 to support independence struggles across the continent (Akokpari, 2008; Gawanas, 2009). This origin explains the strong focus of the OAU on sovereignty and non-interference (Mathews, 2008). Founding the AU was a response to shifting needs on the continent where the possibility of intervention, framed in terms of sovereignty as responsibility (Deng et al., 1996), had become a necessity in light of the events in Somalia in 1992, Rwanda in 1994 and the numerous other conflicts that plagued the

continent and to which the international community had proved an unwilling, incapable or unsuitable intervention force (Murithi, 2017; Klingebiel, 2005; Mwanasali, 2008). This shift from non-interference to non-indifference has become evident in the AU's increasing, albeit only slowly materializing, efforts to build an African Peace and Security Architecture (APSA) as well as an African Governance Architecture (AGA). Having emerged from the former, the development of the AUTJP was taken over and led by the Department of Political Affairs (DPA) of the AUC,<sup>7</sup> which is also the secretariat of the AGA.

This brief overview situates the AUTJP not only at the institutional and normative intersection between governance and peace and security, but also in the particular historical context of the AU as an institution that emerged from a fight for sovereignty and independence but increasingly seeks to foster the principle of sovereignty as responsibility among its members (Deng, 2013; Bah et al., 2014). This contextualization is crucial for understanding the discourses and boundaries within which the process of developing the AUTJP took place. In light of the often interventionist nature of transitional justice processes and mechanisms this creates a frame 'where the policy engagement [was] about building acceptance of the language of transitional justice' (Hugo van der Merwe, quoted in Fletcher and Weinstein, 2018b: 102)<sup>8</sup> before being able to have substantive thematic discussions. These contextual parameters are crucial as they frame transitional justice not only as a domestic question of how to deal with a violent past, but also a foreign policy and indeed international relations issue for the AU and its member state. It speaks to global power relations as much as to individual states' post-conflict reconstruction needs and responsibilities. The policy (process) thus had to bridge domestic and foreign policy expertise, speaking equally to local particularities, global transitional justice discourses and the political and technical requirements of transitional justice in Africa.

Around the same time that the PoW took an interest in the topic, the ATJRN had set its eyes on the AU as a target for continental policy advocacy (ATJRN, 2012; Wachira, 2010). The ATJRN emerged out of two research projects. The first was the 'Transitional Justice Governance and Accountability in Africa' project which included the CSVr from South Africa, the Kenya Transitional Justice Working Group, the Refugee Law Project (RLP) in Uganda and the Zimbabwe Lawyers for Human Rights (ZLHR) (Wachira, 2010). This was followed by the ATJRN project which ran from 2006 to 2010. It included the CSVr, ZLHR, RLP, the Center for Democratic Development Ghana, and the Campaign for Good Governance from Sierra Leone (Humphrey and RLP, 2014; Hamber, 2008). The partners were chosen based on their long-standing working relationships and their engagement in transitional justice processes in their home countries (ATJRN, 2012). The ATJRN engaged in joint research activities, reflection processes and publications (*ibid.*). It also organized the

African Transitional Justice Institute and other activities which increased its outreach.<sup>9</sup> ATJRN members furthermore engaged in advocacy in their home countries and targeted the AU for advocacy (Brankovic, 2010). Thus the CSVR (and its partners in the ATJRN) took up the nascent PoW discussions after the Khadiagala and Ero report and engaged in an almost decade-long process of discussions, consultations, reviews and redraftings for which the CSVR served not only as a secretariat but for which it was also the key institution shaping the process and indeed keeping it alive. In 2015 the policy process experienced a considerable setback when the Specialised Technical Committee (STC) on Justice and Legal Affairs, a policy organ of the AU, considered the draft policy for recommendation for adoption to the higher policy organs of the AU, and 'rejected' it. The STC recommended a range of revisions, which reignited the consultation and review process until the policy was adopted by the STC in November 2018 (AU, 2018) and the Summit of the Heads of States and Government, the highest organ of the AU, in February 2019.<sup>10</sup>

The main parties to this policy process and expert assemblage include the DPA as the custodian of the process at the AUC, the AU member states, the CSVR, members of the ATJRN, key experts hired by CSVR (consultants), donors who financed the process, and the many civil society and governmental experts and representatives involved through various consultations. The specific composition of the group changed over time with changing demands, as explored below. However, the CSVR and some of its partners from the ATJRN are an identifiable community of experts that was key at different points during the process as they were critical to initiating the policy engagement (ATJRN, 2012), were represented at several consultation meetings (see e.g. Brankovic, 2010; AU and CSVR, 2011; CSVR, 2012) and authored numerous studies that informed the process directly or indirectly (African Commission for Human and Peoples' Rights, 2019; Songa, 2018; Hanzi, 2010).

In the rest of the chapter I analyze two very different types of consultations as epistemic practices engaged in by the key stakeholders, as these most directly influenced the making of the policy and its knowledge base. As a consequence of having to represent national and local particularities while speaking proficiently to the key discursive frameworks of the AU, the CSVR worked with a network of partners. On the one side it worked with a periodically changing set of consultants and key experts who helped to write and review the policy drafts and on the other side it conducted consultations where a broader range of actors were given a platform to discuss their views on transitional justice and the policy drafts. These epistemic practices were targeted, strategic and tailored to the intended policy outcome while simultaneously broadening the policy process and enabling the assembling of relevant expertise as a strategic resource whenever it was needed. They were, of course, shaped by the broader

processes and politics of knowledge production globally, in Africa, and in the field of transitional justice.

## POLICY REVISIONS: ACADEMIC, PRACTICO-TECHNICAL, GOVERNANCE AND LEGAL EXPERTISE

Different consultants and experts were brought into the policy process at different times to assess, review and edit policy drafts and to some extent influence their core messages. Firstly, Prof. Gilbert Khadiagala of the University of the Witwatersrand and Dr. Comfort Ero from the ICTJ had been commissioned by the PoW to write a study on 'Peace, Justice and Reconciliation in Africa' (Panel of the Wise, 2013), which included the very first policy proposal.<sup>11</sup> Comfort Ero left the process after this study. Once the CSVR took over as the secretariat for the consultation and drafting process, Yasmin Sooka, who had worked with the South African and several other truth commissions, was brought in. Sooka was drawn in because she had 'worked on all these big [transitional justice cases like] Sierra Leone, Colombia, Sri Lanka, it made sense to have a lawyer to help in framing the [policy ideas]. Because she's very knowledgeable about TJ issues.'<sup>12</sup> She represents an internationally accepted authoritative voice on transitional justice<sup>13</sup> and is, simultaneously, an African transitional justice practitioner and a lawyer. She was Deputy Chair of the Human Rights Violations Committee of the Truth and Reconciliation Commission (TRC) in South Africa and responsible for finalizing its report. Later she was one of three international commissioners on the Sierra Leone TRC. In 2010, Sooka was appointed to the Panel of Experts advising the Secretary-General on accountability for war crimes committed in Sri Lanka. In 2016, she was appointed to chair the Commission on Human Rights in South Sudan. Furthermore, 'Sooka has been part of many advisory missions on transitional justice for the United Nations including Afghanistan, Burundi, Kenya, Nepal, and Uganda'.<sup>14</sup>

Sooka provides an interesting case for the blurring of international and 'local,' in this case South African, expertise, and the strategic use of labels in the assigning of expert status. While she was one of the key consultants to advise the development of the AUTJP – a process for which an explicit criteria for participation was the ability to provide 'African expertise' – outside the continent she is variously described as a 'South African human rights lawyer',<sup>15</sup> a 'leading human rights lawyer'<sup>16</sup> or a 'leading international expert in the field of transitional justice.'<sup>17</sup> This highlights how expertise is neither local nor international but is labeled as one or the other as a way of legitimizing and authorizing it for specific purposes. In this particular case her inclusion in the policy process ensured the availability of legally informed, practico-technical

expertise that is internationally acknowledged and demonstrably African at the same time. Hers is expertise that is rooted in first-hand experience in the running of a truth commission, proficiency in international transitional justice discourses, vast regional and global networks, and an authoritative status that had been inferred through constant interactions with key stakeholders in the field of transitional justice. Making her part of the assemblage arguably contributed not only expertise but also authority to the process.

Khadiagala, on the other hand, had not previously worked on transitional justice. In contrast, he states that he had to do ‘a lot of reading [on transitional justice] because that’s not really my area of research’ and describes himself as a transitional justice sceptic.<sup>18</sup> His expertise was of a different kind. The political opportunity structure for convincing the AU to continue working on a transitional justice policy was, in the early stages of the process, stacked against the CSVR: in 2010 George Mukundi Wachira, who became one of the key figures in the policy process, observed that at the AU ‘the greatest potential to influence policy on any issue, including on transitional justice, rests at the AU Commission, it being a technical organ involved in the conceptualization and implementation of AU decisions’ (Wachira, 2010: 6). However, in the same report he also assessed the African Citizen and Diaspora Directorate which is the secretariat of the Economic, Social and Cultural Council (ECOSOCC) at the AUC and thus the platform dedicated to engagement with civil society, as not being as open as envisaged and ‘[having] largely excluded active CSOs [civil society organizations] from its engagement’ (Wachira, 2010: 6). Despite there being a general interest in the topic, highlighted by the fact that the High Level Panel on Darfur pointed to the importance of transitional justice in 2009 (AU, 2009), and that the 2009 theme for the PoW had been ‘impunity, reconciliation and healing,’ there were ‘bureaucrats at the AU Commission’ (Wachira, 2010: 11) making ‘working with AU organs [...] not a walk in the park’ (ibid.). This was due to ‘gatekeepers, individuals bent on keeping their jobs who therefore exhibit hostility towards CSOs perceived to be critical of the AU’ (Wachira, 2010: 11). This difficulty was further complicated by the fact that the DPA had not been prone to collaboration with academia or civil society, contrary to the PSD which had had partnerships with think tanks such as the Institute for Security Studies or the Institute for Peace and Security Studies for extended periods of time.<sup>19</sup> The CSVR turned these odds around when it absorbed Khadiagala, who had been asked to co-author the original study due to his previous working relations with the PoW,<sup>20</sup> into the process as a key consultant.

Khadiagala recounts how he might not have been a transitional justice expert but someone who ‘worked with the policy makers and the advocates’<sup>21</sup> and ‘was the only person who had been involved in the first report [to the PoW],’ in other words he has a track record with the AU. Furthermore, he had

written extensively on Africa's international relations, regionalism, peace-building, pan-Africanism and the AU (Khadiagala, 2012, 2015, 2018) and is in fact one of the most prolific and most-cited African authors on peace and security in Africa (African Leadership Center, 2018). His expertise is thus not only in a different field but also of a different type, namely academic and in terms of his social capital. I propose that retaining him as a key expert ensured that CSVR's and Yasmin Sooka's practical expertise and critical reflections on transitional justice could be anchored in discourses that speak to the core of the AU and provided individual and institutional networks that permeate the AU.<sup>22</sup> These were key strategies that ensured access to decision makers in the early stage of the process and paved the way for long-term engagement independently of these individuals. They thus served as a bridge between the core expert community of the CSVR and the ATJRN partners as well as policy-makers.

Khadiagala and Sooka remained as key experts until 2015, when the STC for Justice and Legal Affairs rejected the policy draft and requested that it be revised regarding structure and language (Trust Africa et al., 2015), around some thematic issues (especially gender and youth),<sup>23</sup> with regards to its position on international criminal justice,<sup>24</sup> and in terms of the perceived insufficient inclusion of member states in the development of the policy.<sup>25</sup> The rejection of the policy draft by the STC can be read as a 'switch point' (Li, 2007: 279) in that it 'reshuffl[ed] what is valued [and thus] also change[d] who is an actor' (Leander, 2013: 818) in this process. Now '[a] consultant with policy and legal expertise [was] required to assist in improving the format of the draft policy framework, with particular focus on the structure and language used' (Trust Africa et al., 2015: 5). Based on a suggestion by the DPA, Don Deya, Chairperson of the Pan-African Lawyers Union (PALU), who had already participated in previous consultations and supported other policy processes of the AU, was now commissioned by the CSVR to revise the policy document.<sup>26</sup> The particular aim was to make it look and feel 'more like a policy document' and less like an academic analysis of transitional justice in Africa.<sup>27</sup> PALU is one of the foremost voices on legal issues on the continent and seeks to 'strengthen the unity of Africa under the rule of law' (PALU, 2006) – hinting at its pan-African vision and agenda. While Sooka and Khadiagala had brought in transitional justice expertise and an authoritative voice on the political economy of the pan-African project that is the AU and the network required to open the door to the AU, Deya's profile is foremost as an expert in the legal genre and discourse. He has been described as 'the most prolific litigator at the African Court on Human and Peoples' Rights (AfCHPR) and the East African Court of Justice (EACJ)<sup>28</sup> and has an express interest in focusing on continental transitional justice efforts before drawing on international ones.<sup>29</sup> Before heading PALU he was the Chief Executive of the

East Africa Law Society, and Kenyan Section of the International Commission of Jurists (ICJ-Kenya), as well as Deputy CEO of the Law Society of Kenya (LSK).<sup>30</sup> Besides supporting the revision of the AUTJP, PALU and Deya have also been involved in developing a model law for universal jurisdiction for the AU<sup>31</sup> and drafted the Malabo Protocol.<sup>32</sup>

Deya thus contributed the legal expertise and understanding of the intricacies of policy development at the AU that was required when the STC asked for a review of the policy 'to make it more like a policy document' and less academic. The revised policy was then taken up again by the CSVr's Sufiya Bray, together with Brian Kagoro and Solomon Dersso, Commissioner at the African Commission for Human and People's Rights (ACommHPR), for further revision.<sup>33</sup> Bray had been involved in the policy process from the side of the CSVr for several years. She was intimately familiar with the process and the key people and ideas it represents and accommodates. She too has a background in law.<sup>34</sup> She allowed the expert assemblage to shift towards combining technical expertise with a familiarity with the people, the relationships involved in the process as it had unfolded, and the intentions that the civil society stakeholders had originally brought into the process. Brian Kagoro in turn is a pan-Africanist, constitutional and economic relations lawyer<sup>35</sup> who has published about the AU and its organs, as well as the transition process in Zimbabwe (see for example Kagoro, 2002, 2008, 2012). He is an expert who is well versed in both the pan-African discourses that dominate much of the AU's policy and foreign relations debates, and the transitional justice discourses that take place at the intersection between mainstream global debates and particularistic African discourses. Dersso, being an expert in diversity management and constitutionalism, brought yet another profile to the table. He provided close linkages to key institutions within the AU institutional landscape, but also a deep understanding of the topics at hand, as well as the authorization to develop the ACommHPR's vision and understanding of transitional justice in Africa.<sup>36</sup> Similar to the member states' delegates and representatives who participated in the policy process, Dersso represents a form of delegated authority as well as a thematic expert with considerable legal and policy expertise. He complements the technical and thematic expertise of Bray and Kagoro with the authority to shape the thinking of an AU organ on transitional justice and the authority of being a well-connected and respected member of the AU diplomatic and bureaucratic world.

Overall, this analysis describes and reflects on the different disciplinary backgrounds and profiles, as well as the nature of the expertise grounded in academic reflection or reflective practical experience working with transitional justice mechanisms, that were strategically assembled into this process. Throughout the different phases of the policy development different types of expertise were assembled through this practice of revision by key consultants



to address the shifting requirements of the policy process. The first set of consultants (Khadiagala and Sooka) provided academic expertise in African governance and pan-Africanism, with the adjacent networks, combined with legally informed practico-technical expertise. When the need arose to polish the document into legalese and align it with the AU's policy format, prior expertise requirements were replaced by a need for legal expertise – based both on disciplinary background and experience – with the aim of making the policy look and feel 'more like a policy.' Following this, other issues highlighted by the STC had to be addressed (e.g. gender and youth) and the spirit of the document, from the perspective of civil society, had to be re-emphasized. In addition, to ensure adoption, AU and member state involvement in the process had to be strengthened further. Thus, the last set of 'reviewers' provided the combined expertise of an authorized policy-maker (Dersso) and the practico-technical and reflexive expertise required to see this process to its end (Kagoro and Bray). Working with consultant and external experts as reviewers rather than doing the revisions exclusively itself enabled the CSVr to draw on a broader set of experiences, networks and disciplinary insights. It thus legitimized the policy writing process by relying not on the expert status of one institution, the CSVr, but both the expertise and the expert status inferred on the consultants by regional and international actors, their academic status and the like. Assembling a changing set of experts allowed the CSVr to react to a changing process and permitted it to draw on various sources of authority and legitimacy both of which are key to the successful exercise of expertise.

## CONSULTATION MEETINGS: KNOWLEDGE PRODUCTION, CONTESTATION AND LEGITIMATION

A second key strategy through which knowledge for this policy process was produced, assembled and legitimated was a series of 'consultation' and 'validation' meetings with transitional justice experts on the one side (AfricaNews, it, 2016; AU, 2016; Trust Africa et al., 2015; CSVr and AU, 2013) and 'member state experts/delegates/representatives' on the other side (AU and CSVr, 2011). While the consultation meetings with member states had 'capacity building components' (AU and CSVr, 2011) intended to strengthen member states' understanding of the issue of transitional justice, these meetings also aimed to provide space for debate, discussion and validation of the constantly evolving policy draft based on 'both academic and technical input' (Trust Africa et al., 2015: 11), thus drawing on the fact that transitional justice, like other fields, has two anchors: an academy and journal focused discipline, and 'an experience-centred discipline where lessons learned, training courses, policy research and the straddling of academic/practice divides are central' (Leander and Wæver, 2019: 6).

Invited to these meetings were civil society (and governmental) stakeholders that could represent the different regions of the continent,<sup>37</sup> the experience of African transitional justice researchers and practitioners,<sup>38</sup> and legitimate voices for African transitional justice debates. The meetings thus served a threefold purpose: to familiarize AU member states with the debates, terminology and topic of transitional justice and ‘breaking down all these assumptions around the discourse’;<sup>39</sup> to debate, challenge and verify the policy and by implication the knowledge and expertise that went into it (CSV, 2012; CSV and AU, 2013). This process takes the form of a debate rather than a set body of knowledge from which relevant expertise would be drawn. The ATJRN had developed a starting point for this discussion with its comprehensive, African-authored critiques of mainstream transitional justice from an African perspective (e.g. Okello et al., 2012) and the insights it had gleaned from practice, research and joint critical reflection. Ideas from these critiques which shaped the policy draft were then put up for debate over years of consultations. This does not mean that some of the ‘non-negotiables’ as they have been referred to<sup>40</sup> were dissolved, but rather that technical aspects, nuances, contextualization and the weighting of specific focus topics (e.g. gender and youth) were debated. Based on these deliberations and their own expertise, the consultants described above and the CSV then revised the policy proposals accordingly.

While several of the key consultants and experts that drove the policy writing and revision process are lawyers, thus replicating many of the features of ‘mainstream’ transitional justice with its deep roots in legalism (McEvoy, 2007), the transitional justice expertise sought here transgresses the disciplines of international criminal and humanitarian law and human rights by inviting not only practitioners but also those with other disciplinary backgrounds (e.g. psychology, sociology, and others). Consultations can thus be read not only as an attempt to broaden the scope of the policy process and the experiences and expertise it draws from, but as a continental learning process (especially for member state representatives). It can also be seen as creating spaces for transdisciplinary perspectives and transferring these to policy spaces in order for transitional justice to go beyond judicial and quasi-judicial processes. From an assemblage perspective these broad consultations thus allowed and facilitated the emergence of transgressive expertise providing both new insights and additional legitimacy. An important dimension of this transgressive expertise is that it enabled the creation of connections between people and topics. As one process participant states, both the key experts and the consultation process allowed them to connect the policy process and topic to policy-makers’ existing agendas,<sup>41</sup> in other words it helped them to connect the dots and pull together people and their interests into an overall strand of debate.

However, while the consultation meetings inferred legitimacy on a set of core ideas they also opened space for the expertise to be seen as provisional and open to change. On the one side the core stakeholders who organized the consultation and policy process were opening themselves up to critique, indicating not only their acknowledgment that their expertise is limited and thus provisional – an acknowledgment that is increasingly being seen as a necessity for expertise to become recognized as such (Leander, 2018; Jasanoff, 2003) – but they were also legitimating the policy outcome by increasing the ownership base of the process, thus democratizing the policy process to some extent. As one interviewee stated, ‘obviously you’re not going to get the draft anywhere if you come up as one civil society organization from one country. That’s not going to work.’<sup>42</sup> The outcome of the demonstrable ability to assemble these different forms of expertise and representations was thus a more legitimate policy document.<sup>43</sup> They essentially put their policy proposal up for an extensive peer review, which is in itself a way of (re-)producing expertise (Leander, 2014), while simultaneously providing the opportunity to include new aspects of knowledge into the assemblage. By having drawn dozens of individuals and organizations into the policy process at various stages, the policy is arguably the result of a continental assemblage of experiences and expertise that represented and included voices from all regions of the continent. The consultation process thus helped to generate and assemble knowledge, but beyond that it was crucial for forging alignments, authorizing knowledge and legitimizing the policy outcome. The debated and negotiated character is not only central to the nature of expertise (Tan, 2019) that has been built here but it also conveys a sense of legitimacy onto the end product (Jasanoff, 2003), where there is ‘consensus [between] the civil society organizations, the private sector and also the government saying that this is the policy that is needed and they accept it. So it is a legitimate document.’<sup>44</sup>

In summary, the consultation meetings were one way of simultaneously debating and manifesting the cornerstones of the debate, thus stabilizing the knowledge at the core of the policy process. As one report describes them, the consultations were ‘an opportune avenue for CSOs to engage constructively [with member state representatives, especially those of the STC task team] on the non-negotiable elements of the policy framework’ (Trust Africa et al., 2015: 11). They were a means of folding further expertise into the assemblage that in turn helped broaden the knowledge and experience base that the policy could draw from, and they conferred additional legitimacy and authority onto the process by including a broader base of views and representations. However, as a side effect they can be presumed to have solidified the expert status of the CSVR as it was able to demonstrate not only an acknowledgment of the provisional nature and limits of its own expertise but also because ‘expert status is the outcome of successful boundary work, then the expert is the one who is

able to build a social network within which he or she is recognized as having relevant expertise' (Evans, 2016: 22).

## CONCLUSIONS

This chapter has explored two practices employed by the CSVR and the AU in producing and assembling expertise, i.e. authoritative knowledge, for the problem of designing an AU transitional justice policy. I have selected two knowledge production practices that have helped the CSVR to simultaneously closely guide the policy debate at the AU while also opening it up by democratizing it and rendering it provisional and transgressive. I have chosen to look at two practices of consultation, through selected consultants and key experts on the one side, and a broader process of consultation meetings on the other side.

What emerges is a policy process that has been assembled from various professional practices and fields of knowledge, thus creating an assemblage of expertise. As has been shown, expert status for, and in, this process was derived equally from education, practical experience, networks, and international and regional acknowledgment of expert status. The assembled expertise is both academic and practice derived. It is at times both legalistic and political. Through its Africanness and regional representation of experiences it is particularistic but also universal in that it claims to be applicable in guiding countries and stakeholders across the continent and providing insights for challenging the globally dominant transitional justice paradigm beyond Africa. It is provisional in that it acknowledges its limits and temporary boundaries and (semi-)permanence in its form as a policy, i.e. as a minimum agreed consensus. Despite the assembled character of the expertise in this policy process, and unlike the expertise assemblages in other processes and fields that do not have a stable center (e.g. the counter-piracy field as discussed in Bueger, 2019), the CSVR clearly acted as the center of the assemblage of expertise for this policy process and in the course of the process also emerged as an important reference point in the African transitional justice discourse. Debating its own understanding of transitional justice while maintaining a clear strategic hold on the policy process helped it to maintain its expert status and influence, while simultaneously drawing on a consultative knowledge production process. Through this process and surrounding activities, the CSVR established itself as perhaps *the* continental hub on transitional justice expertise, including the knowledge, experience and the network required for that status. Nonetheless, the process did bring together different disciplinary backgrounds, and fields of practice, including academia, research, activism, policy-making, practice and advocacy. The process simultaneously accumulates African transitional justice expertise and sets, at least to some extent, its boundaries.

Besides consultations, other knowledge production practices that were employed throughout the policy process – such as the commissioning of input papers and presentations, conducting research, producing resource packages, or knowledge transfer practices through a sustained learning approach – were equally important but are beyond the scope of this chapter and are of lesser importance to the points I have been trying to make here: namely that expertise is continuously assembled to meet the changing needs of a policy process. As such it is necessarily provisional, contested and exclusive – all of which also help to legitimize and authorize the same expertise. This also stresses that the need for expertise in a policy process can rarely be met by one (type of) actor as is often portrayed in the literature. Instead, expertise is multiple, strategic and assembled in a complex interplay of actors, and thus – within a given policy process – not ‘owned by’ one actor or organization. This undermines the finding of much of the existing transitional justice literature that international NGOs, as transitional justice experts, dominate transitional justice policy-making and agenda setting, and that they do so based on technical expertise. Further enquiries should thus be undertaken into the interplay and strategic use of different actors and knowledges as experts and expertise in transitional justice policy-making.

## NOTES

1. The research for this article was kindly supported by a grant of the Swiss Program for Research on Global Issues for Development which is jointly funded by the Swiss Agency for Development and Cooperation (SDC) and the Swiss National Science Foundation (SNSF).
2. While the power Western actors hold over agenda setting and transitional justice practice in the Global South has frequently been pointed out, there are also a number of studies challenging this (presumed) dominance and highlighting instead the crucial role domestic Southern civil society and government actors play in transitional justice decision making, institutionalization and implementation. See Oduro and Nagy (2014) and Lamont et al. (2019).
3. Exceptions include ‘Opportunities and Challenges of South-South Partnership: Reflections on a Collaborative Research Project on Violence and Transition in Africa’ by van der Merwe et al. (2013).
4. Other intergovernmental institutions and international organizations, such as the EU (e.g. Rogacheva, 2019), the OSCE (e.g. Alawattage and Elshihry, 2017), OECD (e.g. Lemay-Hébert and Mathieu, 2014), NATO (e.g. Berling, 2016), the UN (e.g. Bierstecker, 2017; Bueger, 2015), or other policy areas in which expertise comes to bear, such as terrorism (e.g. Stampitzky, 2014, 2016) or piracy (e.g. Bueger, 2018, 2019), have received greater attention.
5. The first was European Union’s (2015) Transitional Justice Support Policy.
6. There was also concern from civil society actors who, for example, see the ICC’s decisions and actions in tension with local peacebuilding efforts and at times the needs of victims (Glasius, 2009).

7. The PoW is an organ of the APSA. However, the PSD, which is the secretariat of the APSA at the AUC, did not support the idea of developing a continental transitional justice policy. The policy then became the responsibility of the DPA (interview with civil society representative, 4 October 2018, Cape Town, South Africa).
8. A similar sentiment was expressed by several interviewees. E.g. interviews with civil society members on 4 October 2018, Cape Town, South Africa; on 10 March 2018, Cape Town, South Africa; and on 9 October 2018, Johannesburg, South Africa.
9. See the Refugee Law Project, accessed 29 March 2020 at <https://www.refugeelawproject.org/>
10. 'African Union Adopts Transitional Justice Policy', African Union Press Release, accessed 29 March 2020 at <https://au.int/en/pressreleases/20190212/african-union-adopts-transitional-justice-policy>
11. Substantive support was provided by Stephen Oola.
12. Interview with Gilbert Khadiagala, 9 October 2018, Johannesburg, South Africa.
13. See for example her appraisal by the Institute for Integrated Transitions: 'Yasmin Sooka', Institute for Integrated Transitions, accessed 29 March 2020 at <https://www.ifit-transitions.org/issue-areas/law-and-peace/law-and-peace-practice-group/yasmin-sooka>
14. 'Yasmin Sooka', Institute for Integrated Transitions, accessed 29 March 2020 at <https://www.ifit-transitions.org/issue-areas/law-and-peace/law-and-peace-practice-group/yasmin-sooka>
15. 'Biographies of the Members of the Commission on Human Rights in South Sudan', accessed 8 August 2020 at <https://www.ohchr.org/EN/HRBodies/HRC/CoHSouthSudan/Pages/Bio.aspx>
16. 'Yasmin Sooka', Open Society Foundations Boards, accessed 29 March 2020 at <https://www.opensocietyfoundations.org/who-we-are/boards/human-rights-initiative-advisory-board/member/yasmin-sooka>
17. 'Yasmin Sooka', Institute for Integrated Transitions, accessed 29 March 2020 at <https://www.ifit-transitions.org/issue-areas/law-and-peace/law-and-peace-practice-group/yasmin-sooka>
18. Interview with Gilbert Khadiagala, 9 October 2018, Johannesburg, South Africa.
19. Interview with former AU staff member, 19 February 2019, Addis Ababa, Ethiopia.
20. Interview with Gilbert Khadiagala, 9 October 2018, Johannesburg, South Africa.
21. Interview with Gilbert Khadiagala, 9 October 2018, Johannesburg, South Africa.
22. These efforts were complemented by the CSVR's own George Mukundi Wachira who also had considerable knowledge of and networks in the AU (interview with George Mukundi Wachira, 3 October 2018, Cape Town, South Africa; interview with Gilbert Khadiagala, 9 October 2018, Johannesburg, South Africa).
23. Interview with Salah Hammad, 21 February 2019, Addis Ababa, Ethiopia.
24. Interview with civil society representatives, 10 January 2019, Skype and 4 October 2018, Cape Town, South Africa.
25. Interview with civil society representative, 4 October 2018, Cape Town, South Africa.
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# 10. Playing politics with knowledge: the works of multiple actors within IGAD PLUS

**Kuyang Harriet Logo**

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## INTRODUCTION: ACTORS AND INTERPRETATIONS

Before the independence of South Sudan on 9 July 2011, the Sudan had a turbulent history and had experienced two civil wars. The first civil war was waged between 1955 and 1972 and the second civil war was waged between 1984 and 2005. The second civil war came to an end when the Intergovernmental Authority on Development (IGAD),<sup>1</sup> with the assistance of Troika, which is comprised of the United Kingdom (UK), the United States (US) and Norway, mediated the Comprehensive Peace Agreement (CPA) of 9 January 2005. The CPA provided for a referendum allowing South(ern) Sudan to choose whether to remain united with the Sudan or become independent. After a successful six-year interim period which ended in 2011, the South overwhelmingly voted to separate from the Sudan in the same year. The South eventually became independent on 9 July 2011. On 15 December 2013, two years after independence, South Sudan's civil war started (De Vries and Schomerus, 2017). Since independence, South Sudan remains embroiled in a senseless war and disarray. The situation in South Sudan is "more than a breakdown of the rule of law and order" (Mamdani, 2016). The violence is political. IGAD, and later IGAD PLUS, again intervened as mediators and the Agreement for the Resolution of the Conflict in South Sudan (ARCSS), including its stipulations on transitional justice and the establishment of the Hybrid Court for South Sudan (HCSS), was signed on 17 August 2015.

The consequences of the civil war have been devastating, yet there has been a lack of accurate reports on the level and details of the violence and destruction. Reports from the United Nations (UN), the African Union (AU), the European Union (EU) and Troika show that human rights violations marred the trajectory of the conflict. Both parties to the conflict, including their allied militias, committed human rights violations with systematic impunity

(Dessalegn, 2017). Such reports indicate that over 400,000 people have been killed, with thousands forced to seek refuge and some living as internally displaced persons in the Protection of Civilian sites (PoCs), but little detail has been provided on how these analyses arrived at their figures (*ibid.*).

As early as 19 December 2013, when the conflict erupted, IGAD convened an extra-ordinary meeting to respond to the crisis in South Sudan. Upon intervening, IGAD appointed three envoys to structure the mediation of the South Sudan conflict and set up the Joint Monitoring and Evaluation Commission (JMEC) to monitor compliance of the parties to a ceasefire agreement. Besides IGAD, the AU also intervened in support of IGAD, but each actor did so within its own mandate and the extent to which the two coordinated the peace mediation was unclear, indicating a likely lack of coordination (Vertin, 2018).

From the very onset of intervention by IGAD and later IGAD PLUS,<sup>2</sup> the conflict was labeled an ethnic conflict sparked by political differences between factions of the ruling elite. The dominant conceptualization of the conflict as an ethnic one arising out of a political stalemate inhibited regional actors from providing a complete analysis of the deeply rooted animosities in South Sudan (De Vries and Schomerus, 2017). Moreover, the root causes of the conflict are multiple, but little analysis of these causes has fed into how IGAD and later IGAD PLUS intervened in the conflict. For instance, as soon as independence was attained, the government became increasingly corrupt, kleptocratic and intolerant to dissent. Political power was used to secure public resources for individual projects. A lack of inclusive participation, weak institutional capacity and a disinterest in nation building, combined with a focus on the instrumentalization of ethnicity, compounded the challenges of the new nation. However, during the mediation of the conflict, and in the final peace accord, none of these root causes was discussed, except for the political differences within the Sudan People's Liberation Movement (SPLM) (Dessalegn, 2017).

The chapter which follows elaborates on these difficulties with regards to knowledge production for transitional justice in the non-transition context that emerged from the CPA. In particular, it looks at the challenges in establishing the transitional justice process, and especially the HCSS, as they unfolded in the process of mediating and implementing ARCISS and the revived 2018 agreement. It does so by applying the processes and politics of knowledge, its production, management, coordination, use and dissemination, as well as knowledge gaps, as entry points for the discussion of how the intense regional geopolitics of the immediate neighbors of South Sudan, and the IGAD PLUS actors, have overwritten concerns for knowledge- or evidence-based policy-making. In doing so, the chapter highlights the impact of the intersection of knowledge and power on the resolution of the conflict, the peace negotiations and on (the possibility of) criminal accountability. While the multiple knowledge actors within IGAD PLUS eventually delivered on the

peace agreement, the politics of knowledge and regional geopolitics within the region inhibited the establishment of the HCSS (Knopf, 2018).

## SOUTH SUDAN AS A NON-TRANSITION STATE

In transitional justice theory and practice, political shifts are anticipated to take a particular form, like a transition to democracy. In conceptualizing transition, terms like the transfer of power, regime change, restorations, political development or political transition itself may be appropriate. Whatever change or transition is, key transitional justice scholars suggest that it has to include a transition to democracy and the undertaking of democratic reforms including the initiating of civilian rule. Transition would also entail that a system respects the rights of citizens and becomes intolerant to citizen abuse (Arthur, 2009). The history of transitional justice and its ideologies were rooted in liberal democratic transitions that occurred in Latin America as well as in the legal innovations of the Tokyo and Nuremburg trials. Over time, the normative focus of the field became more preoccupied with justice for victims of human rights violations, truth telling and reparations. While the assumptions that shaped the field, its policy and practice, originated from contexts where political and democratic transitions occurred, in contexts where no such transitions were experienced, transitional justice implementation has faced significant challenges. For instance, in contexts where political and democratic transitions failed or did not occur at all, we see demand for justice after conflict either halted or approached differently altogether (Sharp, 2015). The Sudan is a good example of such a case where justice was attempted and failed because no transition had occurred. The International Criminal Court (ICC) sought to indict Omar al-Bashir for the genocide in Darfur when he was still the sitting head of state in the Sudan, but failed to move forward with the case because al-Bashir used his political power to frustrate the ICC's move (Rothe, 2007). The challenges in trying to indict a sitting head of state by the ICC are well documented and provide good lessons for South Sudan (Rothe, 2007). As I will elaborate here, none of what is envisaged in a transition to democracy and civilian rule has occurred in South Sudan.

When the CPA was signed in 2005, amid a myriad of challenges, a transitional period of six years as an integral part of the peace process was initiated. In a context where there was no functional state and no functional institutions, there was nothing to fail, except the anticipated transition itself (Mamdani, 2016). Therefore, while justice remained elusive in South Sudan and while attempts were made to include criminal accountability for crimes committed, such calls for accountability were ignored. For instance, the mediators of the CPA avoided all notions of criminal accountability despite calls to bring perpetrators of human rights violations to book. In the end, the CPA placed

the country in the hands of an unaccountable clique. As a result, South Sudan emerged from the CPA with no (democratic) institutions of any form, except old colonial systems that continue to function alongside the Sudanese systems. After the CPA, the oil money began to trickle into an informal economy and into the hands of political elites. Economic transformation of ordinary citizens' lives did not happen. Additionally, patronage networks increasingly correlated with ethnicity and identity politics in a system where ethnicity was institutionalized, and closely linked to territoriality and belonging. Therefore, the issue of ethnicity became more complex than just the understanding construed around the Dinka–Nuer dynamics. Compounded by a failed security sector reform and rural insecurity, the weak state capacity to manage violence and contain rebellions made shifting alliances more plausible and complicated. South Sudan's weaknesses and the influence of international actors undermined state legitimacy, a pattern which has been repeated every time there is a crisis in South Sudan (Rolandsen, 2015).

With a failed transition at hand came the tough question of how to deal with the situation in South Sudan – a question that has been asked in many other non-transitioning contexts. For instance, the key and yet most intractable questions gravitated around how the newest state could avoid being compromised in the struggle for democracy and how the perpetrators of violence and the leadership could be sent to trial without necessarily jeopardizing a fragile sovereignty. There were no easy answers to these questions. Nevertheless, ample literature has cited transitional justice as a single solution across the board (Loyle and Davenport, 2016) in a varied set of contexts, and criminal justice has been heralded by IGAD PLUS as a golden standard for South Sudan to deal with the massive impunity. Critical literature outlines that criminal justice in transitional contexts is never as simple as a case of a crime being committed and the perpetrators being brought to account. Instead, as has been experienced, it is a complex situation, and the pursuit of justice cannot be at the expense of peace.

This nagging debate has been reincarnated in the South Sudan case with even more force as it does not have the type of transition that transitional justice scholars envisage. Nonetheless, the IGAD PLUS successfully negotiated an agreement in 2015 and later revitalized the same provisions in 2018 with both agreements retaining a transitional justice chapter to deal with a truth telling process, reparations, criminal accountability and provisions for a hybrid court. Perhaps a crucial action was to build political consensus and keep the call for criminal accountability on the agenda. However, in the absence of a clearly defined transition, those to be tried by the HCSS would be the same people as those who are yielding power. It was then no surprise at all that in 2016 both the incumbent president and the leader of the opposition wrote an article stating that South Sudan should pursue reconciliation and not



justice (Mamdani, 2016). The newspaper article was intended to influence the decisions of the key stakeholders to focus on reconciliation and not trials. The political leadership assumed that by controlling the narrative, criminal accountability would be dropped. In hindsight, their resistance to trials points to the fact that the same leaders accused of wrongdoing prefer to absolve themselves from possible prosecution. The resistance also highlights that no political or democratic transitions have taken place. It became clear that the transition that had been envisaged, but not defined, in the CPA had failed and since the Sudan People's Liberation Army (SPLA) became a breeding ground for the worst forms of violence, South Sudan needed a second transition, a political consensus and resources to tackle the impunity and violence. According to Mamdani, such a transition should seek to forge a political compromise at the level of society and the political elites, and should seek to gain political justice and political reforms (2016).

A context like South Sudan, where a transition failed and where transitions were only articulated in peace agreements and as short-term processes, was prone to further challenges. Firstly, the conflict is "on and off," even when a peace agreement has been signed. As peace was being mediated in Addis Ababa in 2014 and 2015, the parties overtly violated ceasefire arrangements and continued to stockpile arms for yet another offensive. The realization that trials were likely prompted the parties to the mediation to find ways to derail the peace negotiations. Secondly, from the perspective of IGAD PLUS the on and off and back and forth of the conflict affected the very production, use and dissemination of knowledge on the nature of the violence, human rights violations and recommendations for action against the perpetrators of violence. When IGAD PLUS coalesced around some key issues, the conflict re-erupted and a set of new issues came up again. This has been the case because every time IGAD PLUS made progress in resolving outstanding issues between the parties the conflict would resume and undo all the progress that had been made.

## IGAD'S LIMITATIONS IN CONCEPTUALIZING THE CONFLICT AND THE CONTEXT

An analysis of IGAD's intervention in the Sudan-South(ern) Sudan conflict which culminated in the CPA and IGAD PLUS's intervention in South Sudan, which led to the 2015 ARCSS agreement, demonstrates a series of significant knowledge gaps. These gaps have shaped the way the violence has been understood, and importantly the way transitional justice was being debated and designed. In this section I outline the relevance of three key limitations in the way IGAD actors conceptualize the conflict and the context of their intervention: the framing of the conflict as an ethnic one between the two dominant tribes of Dinka and Nuer; a lack of consideration of the root causes

of the conflict during the mediation; and a lack of analysis of whether criminal accountability is feasible in a non-transition context, i.e. where the same political elites have remained in power.

Firstly, the conflict was much more than that which had triggered the Dinka–Nuer showdown in December 2013. While the liberation struggles of the 1980s called for ethnic solidarity, the powerful elites who led the movement were split on whether to pursue a united Sudan or a new nation. At the start of the post-independence conflict, the violence had looked ethnic in nature because Juba was cleansed of some of its ethnic Nuer population. The intention of the perpetrators of the political violence was to divide the citizens along ethnic lines and “destroy any basis for consensus” (Mamdani 2016). However, there were in fact several other factors and divisions which had existed within the SPLM from the 1990s. During this time, the members of the SPLM leadership who called for democratic reforms fell out with the SPLM leader Dr. John Garang in 1991, which led to several internal problems and a near collapse of the SPLM. Consequently, the internal divisions within the SPLM led to several atrocities being committed against civilians by both the SPLM Nassir faction,<sup>3</sup> led by Dr. Riek Machar, and the mainstream SPLM, led by Dr. John Garang. Eventually, IGAD dealt with the SPLM and the SPLM/IO as separate entities, yet they were in many ways one and the same and had only splintered because of unresolved differences (De Vries and Schomerus, 2017). Additionally, political exclusion, discrimination and the government’s habit of seizing communal land from smaller groups were contentious and long-standing issues relevant to analyses of the violence and yet missing from IGAD’s mediation priorities.

In the process of negotiating the 2015 ARCSS the government of South Sudan, the opposition and the international community eventually made concessions to enable the parties to come to an agreement. The concessions bred a simplified narrative of what was occurring on the ground. South Sudan is multi-ethnic, but the Dinka and the Nuer make up nearly 57 percent of the population. The simplified version limited the issues of contention to ethnicity and a tribal war between the two dominant tribes. The interpretation and meaning given to the conflict meant that other grievances were seen as falling either with the Dinka-led government or with the Nuer-led opposition. There was no room to hear other grievances. The narratives of an ethnic fight made the resolution of the conflict seem easy. Most importantly, framing the conflict as such meant that the international community was only ready to deal with the recognized government led by the Dinka majority, and the opposition led by the Nuer. This approach has brought peace to South Sudan only on paper, without tangible improvements, because the grievances of other groups like the Equatorians, the Shilluk and the Fertit have not been addressed (De Vries and Schomerus, 2017). These include for example land grabbing, tribal

dominance and their exclusion from the history of liberation, all of which fall outside of the main issues of the mediation and peace process (De Vries and Schomerus, 2017). So, at the time of the signing of the 2015 agreement there remained a series of important yet ignored issues. As a consequence, the quickly patched together agreement was abrogated almost immediately, in July of 2016. Its subsequent collapse was the starting point for a display of the intense geopolitics of the region (De Vries and Schomerus, 2017) which I discuss in further detail below. This strategy also meant that the primary stakeholders in the mediation were the same actors potentially implicated in any accounting for the past. In sum, IGAD's limited conceptualization of the causes and nature of the conflict, as well as the lack of analysis of the implications of the non-transition for accountability, would prevail over all of IGAD's criminal accountability and peacebuilding interventions in South Sudan (Kumalo and Lucey, 2017).

Secondly, and in a connected point, the IGAD mediation team failed to account for the root causes of the conflict, particularly around corruption and land disputes. Corruption, which had permeated the SPLM since its inception in 1983, included the diversion of food aid as a military strategy and established a system where humanitarian aid and financial resources could be misappropriated with impunity. This continued when the SPLM became the government and led to massive theft of government resources, including oil revenues from the CPA, activities which continue to this day. Corruption, coupled with no viable vision for post-CPA security, governance and institutional reforms, lowered the government's capacity to govern, and to manage localized conflicts triggered by competition over resources such as land, water or grazing land for animals, all of which had exacerbated insecurity in many pastoral areas and areas of farming communities, even before the 2013 conflict. Indeed, the misappropriation and sale of communal land without any consultations sat at the heart of the conflict. Land was supposedly sold to investors without any consultations with the communities and armed SPLA often grabbed communal land with undue regard for constitutional provisions on land, the Land Act or the Local Government Act (De Vries and Schomerus, 2017). SPLA military men used narratives of liberation as a benchmark to grab land and settle in spaces whose owners were considered by the SPLM/A as lesser contributors to the armed liberation struggle (Waal, 2014). The visible patronage networks, failed security sector reforms and rural insecurity, in the context of weak state capacity to manage such conflicts, did not form part of the core issues for mediation during the 2014 and 2018 peace talks (Rolandsen, 2015). The absence of these issues from IGAD's conflict analysis and approach to intervention reflects how IGAD was unable to grasp the depth of the problem (Waal, 2014) and thus they were also absent from the final text of the 2015 and 2018 peace agreements.

Thirdly, there was a limited understanding of the political context in South Sudan and little to no analysis was done on whether criminal accountability in a situation where the same political elites are in power was a feasible option. This is despite reports on the conflict in South Sudan which have consistently implicated the leadership of the country in war crimes, as well as indicating that the leadership has benefitted from the war at the expense of the people (African Union 2015) – an aspect that will be discussed in more detail below.

## EXPANDING THE STAKEHOLDER POOL: KNOWLEDGE INTERVENTIONS AND POLITICAL EXPERTISE OF THE AU, UN AND TROIKA

The peace process mutated several times as it went along, and it eventually encompassed a small secretariat consisting of Kenyan and Ethiopian aides, and experts to manage specific issues and to improve on country-specific knowledge and expertise. A small group from the UN mediation team in New York joined the mediation (Vertin, 2018). At the request of IGAD, Norway along with other European partners and the US offered to fund the process. Despite the readily offered financial support, coordination and expectations management there remained constant challenges (Vertin, 2018). In response to these challenges, IGAD eventually officially expanded the mediation team to include the UN, the AU and Troika. The expanded body came to be known as IGAD PLUS. The expansion of the mediation from IGAD to IGAD PLUS aimed to draw in more actors with expertise in supporting mediation and transitional justice initiatives and also to empower an IGAD that seemed too fraught and weak to deliver a peace deal on its own.

As stated earlier, IGAD was the first to intervene in the South Sudan crisis. It led the mediation process and, as an institution, retained its links with the member states in the region and drew on the member states as mediators, thus playing a pivotal role in setting the stage for understanding the violence and how to resolve it. For example, an IGAD Summit of Heads of State and Government was urgently convened in Nairobi, Kenya, in December 2013 because of the increasing ethnic undertones of the conflict and the widespread atrocities committed by the parties to the conflict. The heads of state present called for an immediate cessation of hostilities and for an inclusive dialogue. It was eventually decided that the South Sudanese parties should hold face-to-face talks, but the IGAD Heads of State communique left the details of the proposed plans to the foreign ministers of the respective IGAD states and a team of newly appointed envoys (Booth, 2016). The envoy from Ethiopia, Seyoum Mesfin, eventually led the mediation, deputized by a Kenyan, Lazaro Sumbeiywo. The addition of General Mohammed Ahmed Al-Dabi from the Sudan, after the communique was issued, marks the starting point of geopoliti-

cal interests overtaking the process as his last-minute addition was undertaken to appease Khartoum. This was a concerning sign that the regional interests of the IGAD member states would take precedence over the content and objectives of the negotiations (Vertin, 2018).

The IGAD leadership had also clearly articulated their positions on the role of the AU and the UN as well as the wider international community as welcome partners in the search for peace and justice in South Sudan. The rationale for an IGAD-led peace process was widely shared, and both the AU's Peace and Security Council and the UN Security Council (UNSC) endorsed IGAD's leadership. As a regional hub of knowledge and with a niche in conflict mediation, IGAD was expected to engage with a more political understanding of each of its member states' contexts, since the region was often prone to vulnerabilities arising from high-level politicking and associated informal dynamics. The political and institutional dynamics of IGAD had been made more complex by the birth of South Sudan as a new nation, and IGAD began concerted efforts in working through a range of institutional reforms and in engaging the warring parties. While South Sudan, as a new nation, possesses little experience in political engagements, it remained highly attuned to the varying state agendas and interests within the region and among IGAD member states, using this to its advantage. Indeed, the ad hoc institutional arrangements of IGAD and IGAD PLUS, as well as its lack of specialized knowledge of the context and causes of the South Sudan crisis, offered a fertile landscape for the competing interests of the member states whose actions are as much informed by their self-interest as by the moral imperative to put an end to the suffering. Before IGAD was even able to deal with criminal accountability in South Sudan it first had to maneuver within the self-interest of states, regional dynamics and a history of reluctance to accept accountability of domestic constituencies (Byiers, 2016).

The involvement of South Sudan's immediate neighbors later proved to be problematic. Gradually, IGAD led the process and experts from the UN, the AU, the EU and South Sudan's biggest bilateral donors like the US, the UK, Norway and some select European actors and, to a small extent, China, supported the peace process. Drawing in South Sudan's neighbors, and informally engaging with the AU, UN and Troika, proved to be a double-edged sword, because the multitude actors that make up IGAD PLUS worked independently and the coordination of approaches and outputs became a challenge. Moreover, these influential member states began to ignore reports and recommendations on the need for criminal accountability in order to further their own bilateral arrangements with South Sudan while sidestepping the thorny issue of systemic impunity (Vertin, 2018).

## IGAD PLUS AND THE ENSUING POLITICS OF KNOWLEDGE

The success of IGAD PLUS seemed almost instant, with the 2015 deal being reached immediately after the mediation team was expanded. The provisions of Chapter V – the transitional justice chapter – of the agreement articulated reconciliation and truth telling processes, reparations and compensation, and the establishment of the HCSS to deal with the massive impunity and the horrendous human rights violations in the wake of the conflict. While the establishment of the court was incumbent on the AU, the proposition of criminal accountability through the HCSS was a collective effort emanating from the combined expertise of IGAD PLUS. The details pertaining to enabling legislation, mandates of the court and the seat of the court were not included in this transitional justice chapter.

The provisions on the court sought to establish the HCSS through the AU. Many critics argued that the lack of detail in the provision of the court in the 2015 agreement was the start of the ambiguities and knowledge gaps that surrounded the establishment of the court, and leaving the details of the court to the AU and a transitional government that had expressed reservation regarding the formation of the court was a significant error. The South Sudanese parties were highly attuned to the politics of the region, and in most instances sought advantage and support from their regional friends. Eventually, after the transitional government was formed in Juba, the AU that was mandated to establish the HCSS faced difficulties in discussing details of the court with the political leadership in Juba, a leadership that was not interested in pursuing criminal accountability (Booth, 2016).

As soon as the HCSS was proposed, the issue of sequencing peace and justice was raised. A case in point was the release of the report of the AU Commission of Inquiry on South Sudan. The Commission had been established in 2014 by the AU in line with the AU transitional justice framework, which was being developed at the time, and which espoused its institutional intention to combat impunity and promote accountability and justice after mass atrocities. The AU transitional justice policy articulated measures which deal with justice, reconciliation and peace in a holistic manner.<sup>4</sup> The policy sought to understand contexts of conflict states, diverse political situations, cultural nuances and values (African Union, 2019), all of which were relevant for the evolving situation in South Sudan. Tasked with the objective of investigating gross human rights violations, war crimes and crimes against humanity committed in the wake of the conflict, the Commission sought to balance peace and justice and deferred the release of the report until 2015 (Motsamai, 2017), thus engaging in the politics of timing.

The commission's report had detailed massive human rights violations and made recommendations regarding the establishment of a court to try perpetrators. It was ready before the signing of the peace accord in November 2014, but there was an intense debate over whether the release of the conclusions would turn the South Sudanese leaders against the peace process (African Union, 2015). The debates regarding the timing of the release of the AU report of Inquiry on South Sudan illuminated some of the politics of knowledge which surrounded the mediation and also showed some of the difficulties encountered by multiple actors within IGAD PLUS, since IGAD PLUS was divided on the timing of the release of the report (African Union, 2015). Questions over whether criminal accountability would jeopardize anticipated transitions, reforms and the peace itself, continued to mar the course of the South Sudan criminal accountability discussions. Despite the debate on the timing of the release of the report, calls for criminal accountability were routinely made by the South Sudanese citizens, and civil society actors, in the face of reports on atrocious crimes committed (Booth, 2016). Despite AU experiences in South Sudan and its niche in understanding the context, the timing of the release of the report of its inquiry into the human rights violations was a tactical step, to delay the incriminating findings, in order not to jeopardize the peace process, but it was a serious miscalculation. While findings of the AU Commission of Inquiry on South Sudan documented serious human rights violations, the deferment of the release of the report shifted attention away from the suffering of the South Sudanese people to the difficulty of the peace mediation (Chonghaile, 2015). The AU Commission of Inquiry on South Sudan commenced its work at a time when the human rights violations were fresh and it was expected that evidence drawn from the report would be used to hold the perpetrators of violence accountable. So, upon its release at a much later date, in October 2015, its findings were less impactful and failed to draw attention to the human rights situation in the country (African Union, 2015).

Despite the politics involved in the delay of the release of the AU report of inquiry into the South Sudan conflict, the recommendations of the report paved the way for external stakeholders to push for the establishment of the HCSS. While the AU's mandate, to be undertaken jointly with the government of South Sudan, was to establish the HCSS to try perpetrators of atrocious crimes, the government of South Sudan was not, and is not, interested in criminal accountability. It was no surprise that, while transitional justice experts within the IGAD PLUS formation convened to flesh out the ARCISS provisions on the HCSS, violence erupted yet again in 2016. While the ARCISS 2015 and the currently revitalized version attempted to deal with impunity, the inadequate knowledge and understanding of the root causes of the conflict and extreme ethnic polarization discussed in the previous sections of this chapter frustrated efforts towards establishing the court. The following section

highlights the regional politics that further hindered the implementation of the HCSS provisions of the ARCISS.

## REGIONAL GEOPOLITICAL IMPEDIMENTS TO THE ESTABLISHMENT OF THE HCSS

The recommendation for a HCSS was made by the AU in its report of inquiry into the violence in South Sudan. The AU recommendation was eventually endorsed by IGAD PLUS. The proposition of a HCSS was envisaged to counter challenges faced by international courts which tend to have limited mandates and are usually difficult to access for the affected populations. A prominent example is the failure of the ICC to realize that by pursuing African heads of state it was triggering subsequent thoughts of withdrawal from the court by many African states, such as Burundi.<sup>5</sup> Hybrid courts emerged in the late 1990s as a result of the failure of international courts. Hybrid courts, as an experiment of the UN, have been applied in post-conflict settings like Sierra Leone and Cambodia. They combine local and international legal expertise and were seen as positive elements to strengthen capacities and attract legitimacy. Human rights violations occurring in a state may attract international attention, but hybrid courts were regarded as the most effective mechanisms of dealing with the domestic situation in a state and also because they blend domestic actors while embracing international norms. Because of their presumed ability to help transition a fragile state to stability, it became natural that a HCSS was proposed for the situation in South Sudan – an option that provided great resonance because victims could be expected to have better access to the process (Andersen, 2017). However due to the divisive policies, political and economic interests in the region, the ample evidence of human rights violations failed to unite the actors to deal with impunity in the state (Carroll, 2013).

In 2017 IGAD released a communique of its intentions and support for the HCSS and in the same year the EU also encouraged the AU to move forward with the establishment of the court and applauded the recent extension of the UN Commission of Human Rights in South Sudan to preserve evidence of crimes committed. Clearly, a strong narrative was being supported by key actors that there had to be an end to the despicable violence. However, IGAD has been unable to lead the broad and well-articulated agenda necessary to devise clear instruments to enforce regional agreements and to sanction heads of states if needed. As an institution, IGAD's contribution to peace, justice and security in South Sudan is compromised by its weak institutional capacity and the internal politics of its member states, which constantly undermine its role as a Regional Economic Community (REC). The institution functions with few systemic and institutionalized approaches to addressing common



regional interests (Byiers, 2016). Thus, while IGAD was seen to be adopting institutional reforms, in practice it functions through ad hoc processes, with frequent personalized involvement of heads of state. Geopolitical competition manifested in the form of support to armed proxies and other actions that affected the IGAD region in jointly lobbying for the HCSS. The geopolitical constraints not only manifested in actions that delayed the establishment of the court but also resulted in an intense politics of knowledge, including contestation of knowledge collated from reports on human rights violations, and led to a disregard of the findings on human rights violations by some of the member states within IGAD. For example, each of the member states was privy to and had access to reports authored by the members of IGAD PLUS regarding the human rights violations and recommendations regarding criminal accountability. However due to bilateral economic and military arrangements between the President of Uganda and the President of South Sudan, Uganda was least interested in the human rights track record of the government in Juba.

Another good example of geopolitical tensions which eventually undermined the call for criminal accountability is the political tension between the Sudan and South Sudan that led the President of South Sudan to seek alliances from Uganda to remain in power and to wage a successful war against the SPLM/IO, the main opposition and other armed groups. Despite the documentation of human rights violations by IGAD PLUS and Uganda's knowledge of human rights violations being committed, the Ugandan army with tacit US assistance rescued the government from a takeover by the opposition in 2013 and early 2014. Since then, Uganda remains the gateway for the transportation of ammunition to the government in Juba. IGAD, the UN and other South Sudanese civil society actors produced reports regarding the involvement of Uganda and called for the withdrawal of its armed forces to pave the way for the discussion of contentious issues around peace and justice, but Uganda remained adamant. The bilateral arrangements between Uganda and South Sudan undermined IGAD's push for accountability for human rights violations (IRIN, 2014). Uganda's military intervention was received with mixed feelings and while some argued that Uganda's intervention prevented South Sudan from an imminent collapse, critics argued that Uganda's deployment of its army in South Sudan meant it had taken sides with a government whose forces have committed atrocities against civilians. Critics also argued that Uganda benefitted financially from the deployment of its army to South Sudan and could not stand up against the massive human rights violations by the forces of the government. Reports by the UN also showed that the Ugandan forces were involved in the worst forms of human rights violations in South Sudan (IRIN, 2014), including, among others, the use of cluster bombs. Evidence of the use of cluster bombs by the Ugandan army was produced by UNMISS; however,

both the Ugandan and South Sudan government denied the findings of the report (Human Rights Watch, 2014).

The Sudan was also involved in proxy wars and supporting rebels in South Sudanese territory. Several reports authored by the UN pointed to the role of the Sudan in supporting rebel groups in South Sudan, and before IGAD could exhaustively deal with this issue it asked the Sudan under President al-Bashir's leadership to support the 2018 peace negotiations. The involvement of the Sudan in mediating the peace in South Sudan was a double-edged sword as it was viewed as a way for the Sudan to benefit from the oil revenues and revamp its collapsing economy. Additionally, President al-Bashir was accused of genocide and was wanted by the ICC. Thus, considering his own track record of human rights violations, there was no way he could consider the criminal accountability demands of the South Sudanese people. Hence the two countries of Uganda and the Sudan, themselves accused of committing human rights violations, were mandated by IGAD to pressure the two South Sudanese political leaders into agreeing to a settlement (Knopf, 2018).

Meanwhile, Uganda and Ethiopia constantly competed to dominate the region. Recent unrests in Ethiopia and the death of Meles Zenawi, the former Prime Minister of the country, left a vacuum that Uganda felt it could exploit and fill as a regional leader. These developments fueled Museveni's ambitions of replacing Ethiopia as the head of the IGAD. Consequently, he was quick to deploy his army into South Sudan in 2014 and 2015, through a bilateral diplomatic arrangement which obstructed the role of Ethiopia and the efforts of an IGAD-led mediation of the peace process. In fact, Uganda's interventions took place outside of the Ethiopian-IGAD-led initiatives. Clearly, geopolitical constraints between some of the states of the IGAD region led to parallel, bilateral processes which inhibited the region from providing a united response to the justice demands.

South Sudan was also the object of competition between Egypt and Ethiopia over the waters of the Nile. Egypt became the only regional state not to side with Ethiopia over the dispute in South Sudan, and for this reason the leadership in South Sudan exploited these tense relationships to side with Egypt (Knopf, 2018). Egypt in return used its seat at the UNSC and its seat on the AU Peace and Security Council, in 2015 and 2017 respectively, to deflect pressure from Ethiopia and others. Despite knowledge of human rights violations by the South Sudan state which had been collated from several reports of the UN and the AU, Egypt continued to front its economic interests at the expense of justice in South Sudan.

To provide one last example, recently the Sentry Report (2018), in a bid to push the IGAD member states to act against impunity in South Sudan, detailed the top leadership's involvement in and profiteering from oil money and their practice of banking on the war to amass resources for themselves. The report

urged Kenya and Uganda to target real estate connected to South Sudanese political leaders. It was envisaged that the financial pressure would disrupt the lavish lifestyle of South Sudanese officials and their families. As argued earlier, and due to the political and economic interests of Uganda and Kenya in South Sudan, the two states ignored the recommendations made by the Sentry Report (Sentry, 2018).

These interesting dynamics and politics in the region robbed IGAD PLUS of the possibility for much needed collective action on issues of justice in South Sudan (Knopf, 2018). For instance, to make a case for justice, through the HCSS, both the AU, the UN, the IGAD and Troika and other verification teams like the JMEC authored reports and made recommendations to IGAD about the massive human rights violations that occurred in the wake of the conflict, but the political and economic interests of the member states of the IGAD inhibited the region from jointly pushing for the establishment of the HCSS. In fact, despite having knowledge of the human rights violations, each of the member states within IGAD constantly undermined the recommendations and decisions of IGAD on the establishment of the HCSS.

Troika as an actor of the international community cannot be excluded from the politics and interests in the region and in South Sudan in particular. Initially, the intention of expanding the mediation of the 2015 agreement was to strengthen the mediation, fill in knowledge gaps and to bring in a myriad of expertise on peacemaking and justice (Booth, 2016). Troika had joined the mediation process as guarantors, and to finance the process. The EU, the US, Japan and China had always had influence in the IGAD region. While the financial support offered to the IGAD by Troika suggested that the IGAD region was a legitimate partner to these countries, it nonetheless highlighted the complexities of a series of networks and alliances which could affect the politics of knowledge. While IGAD was seen as the driver of its own regional agendas on peace and security, it nonetheless was financially dependent on some of the powerful nations from whom it derived financial support. Owing to the financial dependency on and influence of Troika, IGAD was seen by the South Sudanese political leadership as furthering foreign agendas and policies and not its own. Therefore, despite ample evidence collated from reports authored by the UN, the AU, JMEC and civil society regarding the human rights violations and the worrisome levels of impunity exhibited by both the government and opposition forces, the South Sudanese political leadership was attuned to the financial assistance provided by Troika and often accused the IGAD of furthering the agenda of Troika. Eventually the South Sudanese parties referred to the peace agreement and the transitional justice chapter as a foreign agenda intended to change the regime in Juba (Byiers, 2016).

The UNSC members, led by the US and the UK, sought to move forward on multilateral sanctions against South Sudanese individuals seen to be obstruct-

ing peace and justice, but on many occasions there was very little support from IGAD member states and some of the permanent members of the UNSC. For instance, even after evidence of human rights violations was documented in reports of the IGAD PLUS and other verification teams of JMEC, IGAD member states with vested economic interests in South Sudan, notably Kenya and Uganda, chose to overlook the veracity of the human rights situation and the need to pressure the South Sudan rivals to make concessions, and they vetoed international action. Despite the push for punitive action, the US declined to press for an arms embargo. The UN Special Envoy for the Sudan and South Sudan was based in Addis Ababa and had access to all the reports on South Sudan and served as an advisor to the process, but it failed to push the parties to agree to the court because there was no general regional support. The Special Representative of the Secretary-General in South Sudan was privy to various reports but was frustrated by her distance to the process in Addis Ababa. Troika and the EU provided funding and the EU imposed sanctions against individuals. Despite the pressure from IGAD PLUS, the geopolitical interests of the IGAD member states and the actions of some members of the UNSC resulted in a situation where some of the knowledge on human rights violations was either contested by others or was completely overlooked (Vertin, 2018).

## KEEPING CRIMINAL ACCOUNTABILITY ON THE AGENDA: THE ROLE OF IGAD PLUS IN INFORMATION DISSEMINATION

The reports of the AU, the UN, Troika and JMEC which consistently indicated that both parties to the conflict have committed human rights violations against civilians also made recommendations on how to deal with the impunity by proposing the HCSS, but as argued earlier the politics of the region led some of the IGAD member states, and some of the members of the UNSC, to overlook some of the recommendations made regarding the proposed court. For instance, in 2018 the AU Peace and Security Council issued a communique on South Sudan, warning that it would consider other steps, including sanctions, should the South Sudanese parties further delay the establishment of the court.<sup>6</sup> The US permanent representative to the UN issued similar threats and warned of sanctions if the government does not live up to its pledges.<sup>7</sup> In early 2017, the AU held consultations with the Ministry of Justice in South Sudan, which led to a draft statute of the court and draft memorandum of understanding between the AU and the South Sudanese government (Human Rights Watch, 2017). Both documents were submitted to the South Sudan Council of Ministers, but at the time of writing this chapter there has been no action yet. The AU pushed the South Sudanese government to complete its

part of the agreement or face sanctions. However, some government officials told Human Rights Watch that a number of key ministers in government were opposed to the court. Human Rights Watch noted that if a credible, fair and independent HCSS was not established the ICC could be made an option. This strong statement from Human Rights Watch comes against the backdrop of the shared frustrations regarding the lack of action by the South Sudanese political leadership and also some of the weaknesses within the IGAD region and the AU (Human Rights Watch, 2017).

The UN Commission on Human Rights in South Sudan, which was established in March 2016, authored reports and urged the South Sudan government to create the HCSS to adjudicate war crimes. In light of the signing of the revitalized agreement in 2018, the UN Commission urged the government to utilize the opportunity created by the revitalized agreement to ensure that justice and accountability for the victims of the many crimes committed during the war are realized. Yet 24 hours after the signing of the peace agreement, verification teams reported fighting in other parts of the country. The UN Commission noted that the only way for the government to realize peace would be to provide justice to the many victims affected by the war. The commission also urged the AU and the government of South Sudan to expedite plans to form the HCSS. Despite these calls, the government has blocked the AU's ability to set up the court. It is therefore critical that IGAD, the UN and the AU deal with the underlying politics of the region that made some of the member states overlook recommendations regarding the HCSS, and also to ensure that the AU does not get drawn into the politics of the region (Tomlinson, 2018).

Troika nations, which formed part of the IGAD PLUS, made similar calls for the establishment of the HCSS, which were not heeded by the government. While the HCSS was proposed as the best option if South Sudan was to realize a long-lasting peace, the question remains as to whether the incumbent leadership will pave the way for the establishment of the court and if the leadership will allow the court to try any of the current leadership implicated in war crimes. The politics of knowledge within IGAD member states and the delay tactics of the South Sudan government aside, the real question and the real test is whether the AU Assembly of Heads of State and Government will draw up legislation for the HCSS that enables it to try South Sudanese leaders implicated in crimes. The 2015 agreement provided that the creation of the HCSS should not be impeded by a statute or constrained by any statutes of limitation or the granting of pardons, immunities or amnesties. On the other hand, the AU developed the immunity principle for sitting heads of state and senior government officials which led to the inclusion of an immunity clause in the Protocol on the Statute of the African Court of Justice and Human Rights, which in previous drafts did not have an immunity clause (African Union, 2014). This came after the ICC issued an arrest warrant for al-Bashir

of the Sudan (Institute for Security Studies, 2016). Additionally, the AU had perceived that the prosecution of sitting heads of state or government officials would constitute a threat to state stability as seen in the AU's desperate efforts to save Kenya, when its leadership was taken to the ICC. It is to be noted that the AU had instituted an inquiry into a collective withdrawal from the ICC based on the differences over immunity and the fact that the court, at the time, had targeted African states only.

The South Sudanese leadership is attuned to the provisions of the 2015 agreement prohibiting pardons and amnesties and also attuned to the AU's immunity principle for sitting heads of state and senior government officials. The two contradicting positions of the 2015 agreement and of the AU proved to be one of the obstacles to dealing with impunity in South Sudan (Institute for Security Studies, 2016). It may also seem like the IGAD member states' leadership is not interested in criminal accountability.

## CONCLUSION: LOOKING FORWARD FOR THE HCSS

In summary, this chapter discussed the difficulties IGAD faced in dealing with knowledge gaps and the ensuing politics of knowledge within the IGAD region, while attempting to address the root causes of the conflict in South Sudan. The chapter also enumerates additional challenges faced by the reconstituted body of IGAD PLUS in designing transitional justice processes, especially those calling on criminal accountability through a HCSS. The chapter also argues that in order to address its own knowledge gaps, the politics of knowledge around the roots of the conflict, and the most responsive transitional justice mechanism, IGAD PLUS drew on the expertise of its membership and expanded mandates to ensure that discussions about criminal accountability remain on the transitional justice agenda.

IGAD, and later IGAD PLUS, intervened to resolve the conflict in South Sudan and to ensure that transitional justice, especially criminal accountability through the HCSS, was an integral part of the peace agreement. However, conceptualizing the conflict as ethnic, and as one between two dominant tribes, meant that reports on the myriad of issues and roots of the conflict were left outside of the framework of the negotiations and outside of plausible solutions to the conflict, leaving significant gaps in how the international community conceptualized and intervened in the conflict. While IGAD PLUS was preoccupied with dealing with impunity and ending a conflict that was characterized with massive human rights violations, available knowledge on the roots of the conflict, on the trajectory of South Sudan's conflicts, and on the consequences of the unfolding impunity was not adequately used to resolve the conflict. Hence, IGAD PLUS struggled to mediate the conflict and is struggling with ensuring that criminal accountability against those perpetrators who commit-

ted atrocities is realized for the victims of human rights violations (De Vries and Schomerus, 2017).

While the re-composition of IGAD PLUS was significant in pushing the South Sudanese warring parties to sign an agreement in 2015, the agreement was immediately abrogated in 2016. It was later revitalized in 2018, retaining the chapter on transitional justice, including criminal accountability through a hybrid court. While the truth telling processes, like the national dialogue and the consultations on the establishment of the Commission for Truth, Reconciliation and Healing (CTRH), are ongoing, the process of establishing the HCSS has been painfully slow. While the AU, the UN, the EU, the US and the UK urged the government of South Sudan to make good on its promise to establish the court to try perpetrators of gross human rights violations, little progress has been made, largely because the very leaders implicated in wrongdoing are the same ones making decisions regarding the court (Knopf, 2018).

Knowledge on the underlying regional geopolitics and some of the dynamics and interests of the IGAD and the politics within and among Troika members have not been adequately incorporated to ensure that the region is in support of the establishment of the court and does not work against its establishment. The IGAD member states are showing less and less interest in criminal accountability because of their interests in the economic resources of South Sudan and in the political leadership of the region. The politics of the region thus have inhibited the establishment of the HCSS (Knopf, 2018). It will be impossible to curb impunity in South Sudan without criminal accountability. It is therefore essential that trials, implemented through the HCSS, send a strong message to perpetrators of human rights violations in the wake of the conflict (Institute for Security Studies, 2016). The government's policies of blanket amnesties and pardons have sent the wrong message to perpetrators of violence. The amnesties have conveyed the message that there is a reward for waging war and committing atrocities and that mindset should end in the situation in South Sudan if peace and justice are to be realized. While IGAD PLUS is aware of such amnesties being awarded to those waging war and committing atrocities, this has not been addressed directly with the government or the opposition (Deng, 2014).

The HCSS must be established and the perpetrators must account for their crimes. For a start, several reports, including the Sentry report, had rallied the IGAD member states to target properties of government officials who have profited from the spoils of war and those government officials who have accumulated unexplained wealth within a short period of time. Such measures would force the government to prioritize peace and justice (Sentry, 2018). It is also pertinent that the pressure coming from the UN, the AU and the international community is maintained so that criminal accountability is always on the South Sudan agenda. Despite these recommendations for action, the

government continues to play delay tactics hoping that IGAD PLUS drops the idea of criminal accountability. So IGAD PLUS should always be attuned to these internal South Sudanese politics (Institute for Security Studies, 2016).

South Sudan as a complex, non-transition context, suffering from recurrent wars and cycles of human rights violations, is a difficult and risky environment for the production, use and dissemination of knowledge about human rights violations. With failed transitions hailing from the CPA and the 2015 and 2018 revitalized agreements, the current leadership constitutes the transitional government and will obstruct criminal accountability at all costs. IGAD PLUS remains acutely aware of the impediments of dealing with contexts where transitions have not occurred and it is crucial that an analysis of the context informs some of the next steps to ensure that interventions based on the actual situation on the ground are tailored as a response to the impasse. IGAD PLUS was aware that mechanism of the HCSS would be highly contested by the incumbent leaders, but it failed to address some of the deliberate sabotaging actions of government emerging from recommendations collated from reports. Grim as the situation might be, the crimes committed are not subject to a statute of limitations, which is a remarkable legal standpoint. The UN Human Rights Commission on South Sudan also called for the preservation of evidence so that when the time comes and the court is established, the evidence will be used to try the perpetrators of war crimes (Institute for Security Studies, 2016). The role of the international community remains crucial if the government continues to frustrate the establishment of the HCSS. If criminal accountability will not be realized for victims, the ICC should be considered as an option. Even though South Sudan has not ratified the Rome Statute, the peace agreement can be used as a binding instrument to refer the case to The Hague (Kumalo and Lucey, 2017).

The role of South Sudanese civil society groups and other political groups remains crucial in keeping the criminal accountability calls on the agenda, despite the challenges. They continue to produce reports and make recommendations on how IGAD PLUS can deal with some of the obstacles. Ending impunity for all crimes including conflict-related sexual and gender-based violence is the only way to end the widespread practice. Civil society organizations in South Sudan have become the agents who relentlessly call for criminal accountability, and they are being heard by the international community (Sooka, 2018). The deeply entrenched pattern of impunity is because, for so many years, perpetrators of violence, including sexual and gender-based violence, got away with it (Reliefweb, 2019).

Lastly, the UN Commission for South Sudan was set up in 2016 by the UN Human Rights Council to determine the facts and circumstances of the violations and also to collect and preserve evidence. The civil society organizations had a chance to speak with the Commission and their knowledge of the patterns



of the crimes has fed into the UN system that collects and preserves evidence. There is a team of researchers and investigators who speak to the communities and the civil society organizations in South Sudan. The UN Commission has also extended its visits to other states of South Sudan, outside of Juba, for an opportunity to speak with victims and communities that are based out of the capital and to get a clear perspective of some of the crimes that have occurred. This is generating a wealth of knowledge which will eventually be used to try perpetrators of war crimes. The AU, which is tasked with the establishment of the HCSS, will tap into the knowledge already being collected by the UN Commission on Human Rights in South Sudan (Sooka, 2018). All victims have unanimously called for criminal accountability for what has been done to them by the armed forces and it is the duty of IGAD PLUS to ensure that the HCSS is established, or alternatives, which look to international courts, are explored. There will be no peace in South Sudan without justice (Institute for Security Studies, 2016).

## NOTES

1. The members of IGAD are Djibouti, Ethiopia, Somalia, Eritrea, the Sudan, South Sudan, Kenya and Uganda.
2. IGAD PLUS includes the members of IGAD and the United Nations (UN), the African Union, the African Union Commission, China, the European Union and Troika which in turn consists of Norway, the UK, the European Union (EU), the US and, to a small extent, China. This will be elaborated below.
3. The Nassir faction was a breakaway faction led by Dr. Riek Machar after a split from the main SPLM in 1994. The split had occurred due to the disgruntlement of a section of senior SPLM cadre who felt that Dr. John Garang, the former leader of the SPLM, was being dictatorial.
4. For a further discussion of the politics of knowledge of the AU transitional justice policy process please see Chapter 9 by Ulrike Lühe in this book.
5. Burundi became the first African state to withdraw from the ICC, alleging that the ICC deliberately targeted Africans for prosecution (BBC, 2017).
6. Communique of the 786th African Union Peace and Security Council Meeting on South Sudan, 15 May 2018, accessed 24 March 2020 at <http://www.peaceau.org>
7. 'U.S. Envoy Urges S. Sudanese Parties to Renounce Violence', *The Sudan Tribune*, accessed 24 March 2020 at <https://www.sudantribune.com/spip.php?article68167>

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# 11. The meaning of violence and the violence of meaning: the politics of knowledge in Burundi

**Stanislas Bigirimana**

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## INTRODUCTION: RESEARCH, KNOWLEDGE AND VIOLENCE IN BURUNDI

This chapter starts from the premise that ‘scientific’ research is a process of discourse formation. In doing so it draws on the work of Lonergan (1957) which asserts that the process of human knowing is unified but comprises four operations, namely experiencing, understanding, judging (choosing, deciding), and acting. This conceptual insight is applied here to the case of Burundi in the Central African Great Lakes region in order to illuminate how and why the politics of knowledge is relevant both to the phenomenon of violence and its supposed solutions.

Burundi completed its third election cycle in 2020. It is the first time in Burundi’s history that an elected leader has lasted more than three months. Burundi achieved independence on 1 July 1962. The newly independent state suffered instability from 1961 to 1966. In 1961, Prince Louis Rwagasore of the Union for National Progress (UPRONA) was elected on 18 September and was assassinated on 13 October. The period until 1966 was characterized by political pluralism as different groups from the ‘new’ Western-educated elite formed political parties and competed for power and votes within the context of a constitutional monarchy. This period left scars on the Burundian political imagination, reflecting the tension between the mythical foundation of a traditional monarchy of divine right and an emerging Western type democratic model aimed at abolishing inborn privileges and instituting an electoral system. In January 1965, Prime Minister Pierre Ngendandumwe was assassinated before even forming his cabinet. From 1966 to 1993 Burundi was under military dictatorships<sup>1</sup> until the ‘democratic winds’ of the 1990s pushed Burundi to experiment again with multi-party democracy.<sup>2</sup> The democratic process of the 1990s led to the electoral victory of Melchior Ndadaye

of the Front for Democracy in Burundi (FRODEBU) on 1 June 1993. History repeated itself when Ndadaye was assassinated on 21 October. These two periods, from 1961 to 1966 and 1966 to 1993, have become paradigmatic in the post-colonial history of Burundi as they raise questions about the sustained role of violence in access to power and social mobility. Not only have they led to unprecedented periods of instability and violence, but they also epitomize the historical opposition of the power of the ballot to the power of the bullet.

The death of Ndadaye in 1993 provoked unprecedented acts of violence and led to a civil war. Moreover, it inaugurated a long period of transition where politicians and warring parties blamed each other, while Burundians, with the support of the international community, tried to find a lasting solution to the crisis that had paralysed their country for almost half a century. The long negotiations between political parties culminated in the Arusha Peace and Reconciliation Agreement that was signed on 28 August 2000. It created a political and constitutional framework aimed at ending the cycle of political inter-ethnic violence that had culminated in the 1965, 1972, 1988, and 1993 massacres/genocides. In 2003 a ceasefire agreement was signed with the National Council for the Defense of Democracy-Forces for Defense of Democracy (CNDD-FDD) which had not participated in the Arusha process. I use the concept of 'massacres/genocides' because in Burundi the characterization of violence remains controversial. While the report of the Burundian TRC can only be expected to provide an official, albeit not neutral, narrative of the violence of the past once the commission completes its work, both official publications and people's narratives offer different readings and labelling of the events of the past. For example, the Arusha Agreement speaks of 'political violence with ethnic dimensions' highlighting the prominence of social, political and economic interests over ethnic identity itself. This view portrays ethnicity as a pretext used by politicians to access power and the privileges it brings by mobilizing the ethnic sentiment of their community origins, especially during election times. However, this view is not shared by all Burundians.

An international example of how the violence in Burundi is debated and characterized is the Whitaker Report on the prevention and punishment of genocide, submitted by Special Rapporteur Benjamin Whitaker to the 38th session of the Human Rights Council in 1985 which noted that:

The Nazi aberration has unfortunately not been the only case of genocide in the twentieth century. Among other examples which can be cited as qualifying are the German massacre of Hereros in 1904, the Ottoman massacre of Armenians in 1915–1916, the Ukrainian pogrom of Jews in 1919, the Tutsi massacre of Hutu in Burundi in 1965 and 1972, the Paraguayan massacre of Ache Indians prior to 1974, the Khmer Rouge massacre in Kampuchea between 1975 and 1978, and the contemporary [1985] Iranian killings of Baha'is.<sup>3</sup>

However, while the report is publicly available and other sources exist that classify the events in Burundi in 1965 and 1972 as genocide, several researchers on Burundi (Lemarchand, 1998, 2004; Weissman, 1998; Khadiagala, 2003) point to a rather complex situation in which labelling third-party violent activities has specific effects, both domestically and internationally as I will discuss in further detail below. The problem remains as to which episodes of violence should be labelled as genocide.

One common interpretation of the conflict believes that it is an ethnic conflict manifested through three decades of Tutsi hegemony and repressive politics by the army which was in majority composed of Tutsi.<sup>4</sup> The International Commission of Inquiry for Burundi, which had been mandated to investigate the assassination of Ndadaye in 1993 (with a focus on the question of who had ordered the assassination and whether it was pre-planned)<sup>5</sup> and 'the massacres and other related serious acts of violence that followed the assassination of President Ndadaye',<sup>6</sup> submitted its report in 1996. The report has been presented often by Tutsi commentators as proof that the Hutu committed genocide against the Tutsi in 1993.<sup>7</sup> This is the case even though the report recognizes several of its shortcomings, especially in terms of gathering evidence and knowledge about the events and in accessing Hutu respondents for its information gathering. For example, the inquiry took place more than two years after the events, when narratives have been told and retold. By that time the 1994 genocide in Rwanda had made the phrase 'genocide against the Tutsi' familiar in international media to the extent that Burundian politicians tried to gain political mileage by superimposing the Rwandese narrative onto the Burundian situation. Furthermore, the commission lacked both human and financial resources and conducted its inquiry when 'most Hutu residents had been forced out of the city by Tutsi militants and the security forces'.<sup>8</sup> Given the structure of security forces at the time, the commission acknowledged that apart from the personal risks involved, the security situation made contact with rural Hutu witnesses particularly difficult, since they were extremely wary of the indispensable Gendarmerie escort accompanying Commission teams.<sup>9</sup>

The report elaborates that in the capital city

[b]oth the hotel and the offices were guarded by a detachment of the Burundian Gendarmerie, which is a militarized corps under Army command. While the conduct and cooperation of these Gendarmes was at all times beyond reproach, their mere armed and uniformed presence constituted in itself a deterrent to the access of Hutu witnesses.<sup>10</sup>

Moreover, the prevailing violence had radicalized individual positions to the extent that informants and media 'professionals' showed ethnic allegiance.<sup>11</sup>

Considering these different, often contradictory, narratives there is still a need to clarify the nature of the different acts of violence that have affected Burundi's history. Meanwhile, there are risks of political instrumentalization, as some politicians use indiscriminately the term 'genocide' as a way of ridiculing their political opponents or as a means of attracting international support given the resonance that the term 'genocide' has in international media following the tragedies in Rwanda and former Yugoslavia in the 1990s.<sup>12</sup>

Lastly, in addition to domestic tensions around the narratives of the past, several structural and technical challenges can be identified facing truth-seeking in Burundi and the Great Lakes region, which have the potential to exacerbate the tensions outlined above. Firstly, truth-telling or evidence gathering often takes place in remote areas with limited oversight from national or international observers or the media. Secondly, the media has proven to be a powerful tool in the construction of a meta-narrative that is difficult to deconstruct by other actors. Powerful international media have defined truth and reality in the Central African Great Lakes Region and have thus influenced the mobilization of resources and decision-making, and the circulation of information at the international level. For instance, it has become a cliché in international media to portray the Burundian crisis as a phenomenon that started in 2015.<sup>13</sup> Thirdly, much of the information on violence and responses to it has been either filtered or censored in varied ways. For example, media professionals have been assassinated throughout the region leading to significant self-censorship by actors holding different forms of knowledge about violence and its effects.<sup>14</sup>

This chapter seeks to trace the different perspectives that shape narratives about the past in Burundi. These perspectives are enforced not only through physical violence but also epistemic and other forms of violence and politics that shape the narrative space in Burundi and which are the focus of this chapter. These include: (1) political and racial stratification produced by colonial historiography, (2) restrictive temporal thresholds in the chronological identification of events owing to a one-sided process of narrative construction, (3) selectivity in the identification of victims, the construction of monuments and the holding of remembrance ceremonies, and (4) the characterizations of acts of violence themselves. The aim of the chapter is to assess how discourse formation in Burundi influences how Burundians perceive the past, assess the present and construct expectations of the future. Before proceeding into those four realms of the politics of the past, I will continue with a series of short, personal reflections on the nature of my journey as a researcher. I intend for these short vignettes to connect my own individual story to a larger and more collective one: the story of how knowledge is produced about a place and people where violent divisions have rendered knowledge particularly partial, divided and even risky.

## THE RESEARCHER'S JOURNEY

The researcher is not a passive spectator of reality but an active creator of value and meaning through a fourfold process of experiencing, understanding, judging and acting. This came to my awareness as I undertook research for my Bachelor of Arts (Honours) philosophical 'synthesis' as it was called at Arrupe College, The Jesuit School of Philosophy and Humanities, in Harare, Zimbabwe. The choice of the topic itself – 'Sub-National Identities in Africa: The Case of Ethnic Consciousness in Burundi' – made me realize that the ideal of pursuing knowledge for its own sake was untenable while my country was ravaged by an ethnic/civil war. While reading Steve Biko's 1978 book entitled *I Write What I Like* (Biko, 2004) I realized that I was doing the opposite, I wrote *what I don't like*. Paradoxically, as a researcher, I found myself with the noble mission of applying rationality to find 'meaning' in an apparently messy or purposefully 'messed up' universe of discourses where hegemonic academic and political forces use formal and informal means to impose their 'truth'. While the scientific quest for truth and rationality implies objectivity, as a researcher I found myself in a situation where I had to make a crucial decision either to follow the crowd and live a Kafkaesque life of mental and emotional slavery in a political lie, or to claim my *droit de parole* at the risk of getting a low grade, putting my life at risk for criticizing 'prominent figures', or risking my career since researching conflict put me in a situation where I could easily be categorized either as 'taking a side' or as unfaithful to 'the sources'.

I passed 'with distinction' but questions remained. I did not agree with the dominant narrative but the examiners were of the view that my argument was coherent and met required academic standards. I was familiar with Lyotard's (1984) *The Postmodern Condition* and asked myself how I could posit my discourse against the 'grand narratives' without writing another 'grand narrative'. The question seemed to me circular. I had read with passion Bernard Lonergan's 1957 *Insight: A Study in Human Understanding* and his 1972 *Method in Theology* and these two books made me realize that the scientific search for truth and certainty was a much more complex issue than my suspicion that those who supported the status quo had acted, as Sartre would have said, 'in bad faith'. From Lonergan (1957) I learnt that the process of human knowing is unified but comprises four operations, namely, experiencing, understanding, judging (choosing, deciding) and acting, and that it occurs at four levels of consciousness namely the empirical, the intellectual, the rational and the responsible. My attention shifted from 'ethnic consciousness in Burundi' with its narratives and counter-narratives, to the formation of discourses in general including the discourses which claim to be 'scientific'.



The word ‘paradigm’ had entered my vocabulary although I hadn’t read Kuhn (1996) yet, but from Lonergan’s influence I had realized that philosophy cannot be an armchair activity and that the researcher – myself in that case – is no longer just an information gatherer but an information processor, i.e. a gatherer of insights through enriching the immediate data of experience with value and meaning for the purpose of decision-making and problem-solving.

I tried in vain to publish my philosophical synthesis and that taught me that the researcher is an information producer, an information processor and an information disseminator in a context where information can be packaged and sold. I reflected on the tension between ‘sapiential’ and commercial goals, the search for ‘truth’ and the search for publicity, the possible relationship between social research and political activism and concluded the following: (1) the researcher cannot be an Owl of Minerva<sup>15</sup> who wakes up when other people are sleeping but rather a cock who, like in African villages, crows at the dawn announcing a new day, (2) the researcher in this context is different from the Cartesian meditator who looks solely at his own mental processes. My interest had shifted from ‘political philosophy’ to epistemology and in my master’s thesis on ‘The Fate of Scientific Discourse in the Information Society’ (2010), I situated ‘science’ in its context and realized that although Kuhn had focused on ‘paradigm’ shifts in science, ‘science’ itself was a paradigm and that the development and unprecedented diffusion of electronic computers called for a paradigm shift. In studying ‘science’ I realized that the researcher is involved in a community of practices or an economy of significations where words mean more than which they state, and silences say mountains. I agreed with Polanyi (1966) on the importance of *The Tacit Dimension* and my culture and upbringing had prepared me to pay attention to ‘the unsaid’. In some cultures, some things are better left unsaid and expressed in other ways including silence, body language, metaphor or indirect allusion (Balbiani et al., 2012; Moore, 2012; Stone et al., 2012).

I had grown academically and had the opportunity to attend academic conferences. Several times, presenters would be reminded that they did not refer to so and so, etc. I asked myself: ‘What constitutes an “authority”?’ How can the researcher face the selective nature of the human mind – researchers are human after all – and the censorship processes of mainstream and hegemonic academic and political forces? I opted for ‘paying attention’ and remaining alert to what is being said and written to ensure that valuable but disturbing documents and testimonies are not forgotten or relegated to the margins. Starting my own private collection of books and documents was an option available to me despite my limited financial means. I came across overnight ‘experts’ like one German researcher who claimed at a conference in Sarajevo that she is a ‘specialist’ of the Central African Great Lakes region because she had done two weeks of field work in Kigali, Rwanda. I have also observed overt and

covert strategies of silencing at international conferences ('can we have the last question please?') or the simple refusal to include abstracts in conference programmes especially when the conferences are funded. The researcher is then confronted with another reality: academia is not just an empire of rationality where discourses and counter-discourses strive for attention on the free market of reason. Funding, reputation and political patronage may determine who gets invited to a conference, who gets published, who moderates a session and whose article is published in the proceedings. This hegemony is then transmitted to the next generation through a careful selection of what is considered to be a 'researchable' and worthy topic for a PhD thesis.

My personal journey as a researcher touches upon the core themes of this chapter. Following the controversy around my study on 'Sub-national Identities in Post-Colonial Africa: The Case of Ethnic Consciousness in Burundi', I tried to run away from political philosophy to epistemology. However, with my work on *The Fate of the Scientific Discourse in the Information Society* (2010), I realized that the relief was temporary. Research – 'scientific' research to add some prestige – is a process of discourse formation and discourse formation starts with definitions and definitions cast in stone the power of words. My 'new' interest in the 'information society' brought to my awareness the limits of the scientific enterprise. This chapter takes these personal insights and assesses how discourse formation in Burundi influences how Burundians perceive the past, assess the present and construct expectations of the future. Colonial historiography is often blamed for creating discourses of social/racial stratification and profiling (Gahama et al., 1999) but ethnic consciousness is also expressed through 'the unsaid' (Goodrich, 2018). Selective memory is manifested in the temporal thresholds narrators choose to tell their stories or the way journalists report events (Smith, 1978) and commemoration ceremonies have a great element of erasure which makes invisible the suffering of some categories of victims as it has done for racial or sexual minorities (Namaste, 2000). All these themes are reflected in the complex politics of knowledge and discourse in Burundi.

## INTERPRETING COLONIAL HISTORY: THE POLITICS OF POWER AND SOCIAL/RACIAL STRATIFICATION

The politics of knowledge with regards to the conflict(s) and their description and narration in Burundi starts with researchers' disagreement over their description of the pre-colonial society and on the nature of ethnic identities and categories in current day Burundi. Underpinning these varied interpretations is a disagreement on the nature of Hutu and Tutsi identities (Uvin, 1999).

The voices seen as pro-Tutsi present the pre-colonial period as a perfect idyllic society which was interrupted when the 'colonizer' introduced ethnic

division through a strategy of *'divide et impera'*, i.e. divide and rule (Gahama et al., 1999). However, for other scholars, the pre-colonial era was a time of exploitation of the Hutu by the Tutsi through land and pastoral clientelism (*ubugabire* and *ubugererwa*). Through these 'contracts' one could be born into servitude by virtue of the fact that one's family is living on land offered by a landlord in exchange for part of the produce and free services as a form of gratitude. Some authors argue that this system was deeply engrained in Burundi's pre-colonial history and part of social stratification which was bound to different clans.<sup>16</sup> The assassination of President Melchior Ndadaye in 1993 is perceived by some Hutu to be a sign of the Tutsi rejection of a democratic alternative and a manifestation of a superiority complex that would not allow them to submit to Hutu leadership. This accusation is linked to specific colonial historiographies which ascribe to the Tutsi superior intellectual, moral and aesthetic qualities which not only make them closer to the Caucasian race but also describe them as 'born to rule'.<sup>17</sup> This accusation of a refusal of democracy is also linked to the Tutsi's monopoly of the means of repression especially the army, the police, the judiciary and modern administration before the reforms brought by the Arusha Peace Agreement.

On the pre-colonial state, including social stratification, Mbonimpa (1993) puts forward a caste argument which states that whatever the economic and social relationships between the Hutu and the Tutsi, the caste mentality leads to the 'anthropological pauperization' (Kibangou, 2011) of the Hutu. For some authors being a Hutu or a Tutsi is a matter of social class (Hutu also means 'servant') or of economic activity, with the Tutsi described as cattle herders and the Hutu as agriculturists. However, this 'class' ideology is subject to political manipulation. Those who interpret the Hutu-Tutsi identities through 'social class' lenses interpret the relationships in the pre-colonial era as a master-serf relationship indirectly justifying the Hutu's violence in search of a 'social revolution'. This master-slave paradigm is exacerbated in politically militant Hutu circles where the Burundian situation is described using the medieval landlord-serf relation in feudal systems accusing the Tutsi of having exploited the Hutu for centuries (Gahama et al., 1999). On this feudal model, some Hutu activists superimpose a Marxist reading of the pre-colonial society and portray the Tutsi as an exploitative 'bourgeois' class and the Hutu as a 'working' but 'exploited' class (Weilenmann, 2000; Omari, 2017). Yet other perspectives argue that not only was there also mixed clans and inter-clan mobility implying that clan identification did not follow the current patterns of ethnic antagonism (e.g. Trouwborst, 1965; Newbury, 1998) but there was also competition among clans of the same ethnic group (Laely, 1997).

Moreover, although politicians, mainly Tutsi, portray a strong nationalism when they are addressing internal audiences (we are all Burundians) – portraying ethnicity as an aberration – to some international lobbies, they claim

Jewish origins and solidarity with other Nilotic people in East Africa (Bwejeri, 2005). This strategy allows them to secure financial, military and diplomatic support from Jewish lobbies worldwide, especially in the United States of America. However, this claim is detrimental – and at times dangerous – when served to a domestic audience. It feeds into the prejudice that the Tutsi are ‘foreigners’ and ‘invaders’ (Eltringham, 2006) and that they should return to the Nile valley as was suggested by one of the people accused of perpetrating the 1994 genocide in Rwanda (Mugesera, 2004). This statement was later used against that person in his bid to apply for asylum in Canada (Schabas, 1999; Rikhof, 2005).

## THE POLITICS OF ETHNICITY

The politics of ethnicity influences the politics of knowledge production in various ways. This is particularly the case where ethnicity is instrumentalized and narratives of conflict are ethnicized in public discourses. This section provides examples for the instrumentalization of ethnic identity in the service of specific narrative constructions of the past in the realm of gender and education discourses.

Illuminating examples of prejudices according to ethnic identity can be identified in social life and the politics of gender. Some have argued that Tutsi women are sometimes perceived to be more beautiful than their Hutu counterparts since the Tutsi are perceived to be tall, with a straight nose, in short ‘black Caucasians’ (Péan, 2005: 4). The side effect of this classification is the suspicion that during the time of military and political conflict the Tutsi resorted to the ‘Delilah strategy’ offering their women to Hutu leaders, leaders in international organizations and members of foreign governments either as spouses or concubines. This strategy is claimed to have influenced the decisions of international leaders in favour of the Tutsi, leading to the cover up of UN reports that incriminate Tutsi leaders in human rights violations or the illicit exploitation of minerals in the DRC (*ibid.*: 4). Moreover, Tutsi women are also perceived to be instruments in pre-empting the Hutu ascendance to leadership by controlling Hutu leadership through their Tutsi wives or concubines. There is also a perception that Tutsi spouses and women are used as ‘intelligence agents’ and that they extract secrets, influence the decisions of their partners or commit political assassinations – through poisoning – or put a halt to the sustainability of Hutu leadership demographics by infecting Hutu leaders with HIV/AIDS. Following these arguments to their logical conclusion, international actors would be affected by these politics of knowledge in the sense that international experts would never gain a comprehensive and nuanced understanding of the conflict because most of their informants are Tutsi women and their relatives who feed them with (one-sided) information

after sexual experiences. This would in turn affect their perceptions and decisions on transitional justice and peacebuilding modalities. Although these allegations may have no tangible evidence, they are part of 'negative ethnicity' (Wa Wamwere, 2003) and in times of crisis they can trigger blind acts of violence and repression.

They also allege discriminatory practices in the education system especially with the national examinations which give access to secondary schools. There are allegations that the assignments of Tutsi children were marked with the letter 'I' or 'V' while those of Hutu children were marked with the letter 'U' to influence the marking process. Symbolically, the letters 'I' and 'V' symbolizes the 'sharp nose' of the Tutsi while the letter 'U' (flat at the bottom) symbolizes the flat nose of the Hutu. At university level, there are also allegations of the Hutu being denied access to the military academy (ISCAM = Institut Supérieur des Cadres Militaires) and to faculties that teach disciplines with a high potential to access leadership positions such as economics and law or medicine. The allegation is that Hutu would be confined to 'sciences' and 'languages' to become schoolteachers subsequently. This system was abolished during the Third Republic (1987–93) when Pierre Buyoya attempted a policy of national reconciliation and the Ministry of Education introduced a system where national examinations would be written in triplicate and one copy sent for marking at a national centre, another to the teacher of the school where the pupil went and the third copy to the parents of the pupil. However, ethnic cleansing in Bujumbura (where the state university is located) and massacres at university campuses in 1995 'forced' many Hutu to join the armed struggle; fighters who later became members and leaders of the CNDD-FDD including the current President Evariste Ndayishimiye and his predecessor Pierre Nkurunziza.<sup>18</sup>

In some Hutu circles people call this denial of the right to education an 'intellectual genocide' (Ntibazonkiza, 1993). Access to education then becomes part of the politics of knowledge as it prevents the Hutu from producing credible leadership and voicing their version of the Burundian story. Moreover, key figures making political decisions or who are influential in the politics of knowledge in Burundi today have had formative social and educational experiences in a context of intense ethnic politics. Such ethnic politics have been addressed in the official position, after the Arusha Peace Accords, to focus on ethnic cohesion and not divisive identities. However, the rejection of ethnicity in official documents and in public discourses does not prevent ethnic discrimination in practice. One of the contributing factors is proximity: normally, neighbours know each other's ethnic identity (Uvin, 1999). Other authors go as far as finding proverbs and practices in the Burundian traditional society which aim at the humiliation of the Hutu. This portrayal of Hutu as 'less human' is normally reflected in traditional sayings portraying the Hutu

as underachievers (*umuhutu ntashimwa kabiri*, i.e. a Hutu cannot be congratulated twice) or ungrateful (*umuhutu umuvura intonge bwaca ngo twiruke*, i.e. when you heal wounds on a Hutu's feet, the next thing he thinks about is having a race with you, meaning that after you have assisted a Hutu in getting out of trouble, all he will think about is doing better than you). These authors talk about genocide in culture, especially in songs.<sup>19</sup>

Burundians sometimes watch with 'envy' the massive international attention that Rwanda is getting, especially at moments of commemoration. In Burundi, literature on the various periods of mass violence is scarce and so far no genocide in Burundi has been officially recognized by a Burundian government or commemoration events instituted. Most commemoration events focus on individuals (President Ndadaye in October and President Ntaryamira in January) or religious events such as Christmas, Easter, Ascension and All Saints for Christians and Eid for Muslims. Various governments purposefully ignored the issue, and the violent past of the country is totally absent in history textbooks used in Burundian schools and universities. Ethnicity is borne as a heavy burden given the sad memories it raises, and when it is affirmed it raises moral culpability. Hence, despite the ethnic quotas that Burundians agreed upon in the Arusha Peace Process, some Burundians, especially those of mixed parenthood, portray ethnicity as a *maladie honteuse* and portray those who uphold their ethnic identity as either primitive or retrogressive. This partly explains why some international NGOs preferred to leave Burundi when the government suggested that international NGOs (which allegedly employ Tutsis in majority) comply with the prescription of the Arusha Peace Process (Vandeginste, 2019). There is rhetorical 'obscurity and ambiguity' being used (ibid.: 181) since ethnicity is not part of positive identification in Burundi and yet is important in shaping experiences and determining how such experiences are 'known'.

## THE POLITICS OF ETHNICITY AS IDEOLOGY

From the colonial historiographies, outlined above, with their focus on physical and psychological characteristics of ethnicity there has been a shift to the level of ethnicity as ideology. Hence, one can find Burundians who celebrate the economic 'development' of Rwanda much more than the Rwandese themselves and who – especially on social media – present Rwanda as a role model that Burundi should follow. On the opposite side of the argument, putting Rwanda on the pedestal by young unemployed Burundians is seen by some as a strategy of self-aggrandizement which implies that Tutsi are better leaders than Hutu and that hypothetically Burundi would be better off if it was under Tutsi leadership. However, this pattern of ethnicity as ideology is also found in discussions of the policies of the Burundian government by its supporters.

There is a universe of discourses one has to follow and a stereotyped vocabulary one has to use to show allegiance to the current government – otherwise one is accused of having lost connection with reality (*il a deconné* in French or *Yadekonye* in Kirundi) or of talking evil (*avuga nabi*).

Ethnicity as ideology also implies that Tutsi who hold cabinet positions in a Hutu-dominated government are considered as lacking moral probity and accused of being greedy. They are portrayed by ordinary Tutsi citizens as people who have sold their souls in exchange for material goods and social privileges. They are ‘*tutsi de service*’ like their counterparts were ‘*hutu de service*’ in Tutsi-dominated governments. This phenomenon of ‘*hutu de service*’ described Hutu who served in Tutsi-dominated governments during military dictatorships in exchange for the social and material privileges that holding positions of power yields (Mbonimpa, 2000). It described someone seen as having no conscience and with decision-making power, someone who was brought close to the table in order to eat the crumbs that one receives through praising the real owner of bread and betraying his own kin (*ibid.*). This concept has been used increasingly by other authors. While the concept is difficult to translate in its full use it is used to describe someone as having no self-worth or dignity (Smith, 1996). The food metaphor is very important given the mistrust of certain sections of citizenry towards the political leadership, whom they accuse of putting their own privileges before serving the people. This phenomenon is well described in Jean-François Bayart’s (2010) book, *The State in Africa: The Politics of the Belly*. The metaphor itself even goes into the physical appearances of political leaders and most well-to-do Africans who, given various opportunities offered by political power and access to resources, sometimes develop a pot belly. Hence, like the ‘*hutu de service*’ that Mbonimpa described, in some Tutsi circles cabinet ministers and other Tutsi leaders who are serving in the current establishment are sometimes ridiculed as ‘*tutsi de service*’ or ‘screensavers’ with no real decision-making power but routinely following instruction from ‘above’ (higher levels of hierarchy), or implementing decisions they do not believe in as long as they keep their position and the financial and social privileges it brings.

Ethnicity as ideology is also expressed in the ways people describe the current political situation with disputes over which parts of history to focus on. Opposition leaders emphasize that ‘the crisis in Burundi started in 2015’ and that four years of crisis is too long and unbearable (Wielenga and Akin-Aina, 2016). They promote a narrative that casts Burundi as in crisis and elevates and celebrates the ‘progress’ made in Rwanda. Indicative of the tone of these narratives and debates, the opposition also sometimes insults the recently deceased President of Burundi by subverting his name. *Nkurunziza* means ‘good news’ but some of his opponents portray him as the incarnation of evil by changing the President’s name to *Nkurumbi* which means ‘bad news’.<sup>20</sup>

Government supporters interpret these criticisms and claims as not genuine, portraying their opponents as ‘spoiled kids’ or ‘nostalgics’<sup>21</sup> of the privileges they enjoyed during previous military dictatorships. Sometimes, there are also suspicions that opponents portray Burundi as uninhabitable in order to secure political asylum in developed countries. This partly explains the fact that during the demonstrations in 2015, Tutsi students spent days sitting in front of the US embassy in Bujumbura after rumours made waves that the ‘project’ to topple the Burundian government had the full support of the US government and that students who could no longer study in Burundi (fearing for their lives after their participation in the protest) would be given political asylum and scholarships in the USA.<sup>22</sup>

## ETHNICITY AND THE POLITICS OF KNOWLEDGE AND IMPLICIT MEANINGS

One school of thought framing narratives of the past is the one that denies ethnicity on the grounds that there are no fundamental genetic and cultural differences between the Tutsi and the Hutu. It emphasizes that the socially constructed nature of being a Hutu or being a Tutsi can be deconstructed through aggressive nationalist re-education and policies that outlaw the mention of ethnic identity on identification documents or reference to those identities in speeches or private conversation. We have seen one manifestation of this approach in post-1994 Rwanda where the ‘*ndi umunyarwanda*’ (I am Rwandan) campaign supports re-education programmes that aim at creating a mindset where people put their national identity before their ethnic identity. Associated laws carry heavy jail terms for people found guilty of referring to these identities or who overtly or covertly express ethnic hatred (Uwizeyimana, 2014). It is beyond the scope of this chapter to evaluate the success of this approach in Rwanda, but a similar strategy was tried in Burundi during the Second Republic (1976–87). Referring to the Hutu or Tutsi identity was outlawed, and people would be imprisoned for simply referring to a person as a Hutu or a Tutsi.<sup>23</sup>

Policies like these, which prohibit references to ethnic identity – in the Burundian case at least, have the potential to lead to repressed frustrations which later express themselves in violence after regime change. For instance, in 1988, only one year after President Pierre Buyoya came into power through a military coup, ethnic violence erupted in the north of the country in response to alleged ongoing ethnic discrimination in school admissions and access to senior positions in the army and public administration (see previous section in this chapter). The Buyoya government blamed the violence on an uprising planned by the Party for the Liberation of the Hutu People (Palipehutu), a then clandestine group based in refugee camps in Tanzania. At the same



time, informal documents (tracts) alleged provocation of Hutu civil servants by local authorities who suspected them to be part of a growing underground movement of contestation and who wanted to eliminate Hutu 'intellectuals', as it happened in 1972. These types of allegations show the contrast between government official discourse and interpretations by its opponents. For 1972 and 1988 the then Tutsi-led government promoted a narrative of destabilization of the country driven mainly from a neighbouring country (Zaire in 1972 and Tanzania in 1988) and a vigorous response by the army in the name of national security and self-defence. In contrast, Hutus allege a pattern of provocation, reaction and repression which would imply rumours of imminent attacks, arbitrary arrests of presumed leaders and massive repression against ordinary people of Hutu origin perceived as accomplices of rebel groups based in neighbouring countries.

The violence of 1988, however, is also an example of how the informalization of ethnic identity creates a situation where people cannot protest or ask for redress in cases of ethnic discrimination. In response to the violence, Buyoya initiated platforms where the question of 'national unity' would be discussed. During those colloquia which took place in 1989–90, people would refer to such discriminations in the Burundian state administration, describing practices of national examination papers marked with a 'U' for Hutu and an 'I' for Tutsi. However, given the informal nature of these identities it became difficult to document with precise figures ethnic representation in institutions, and allegations of ethnic discriminations were dismissed by the then government due to this lack of formally recognized evidence. Subsequently, a charter of national unity was drafted, a multi-party system was introduced (Reyntjens, 2000) and reforms were implemented that would allow the Hutu more political power (Wielenga and Akin-Aina, 2016).

These are important aspects of the politics of knowledge as sometimes accusations and counter accusations are thrown at various targets without due care for proper documentation and methodological rigour. This is especially so given Burundi's culture, where the unsaid and implicit meanings play a great role in the transmission of knowledge and a simple story can be full of meaning and insinuations. The unsaid makes knowledge 'tacit' and, in my view, subjecting accounts of violence in Burundi to scientific research may lead to a situation where the researcher misses 'tacit knowledge' (Polanyi, 1966), especially when narratives have to be translated from the local language to languages from other cultural contexts or when legal and sociological concepts well entrenched in other cultures are translated into Kirundi. Implicit meanings and anecdotes capture in a synoptic way several aspects of the epistemic

context. Eboussi-Boulaga (1991), a respected Cameroonian philosopher, has captured this aspect of knowledge production as follows:

They emerge from the habitus, the practical mastering of the symbolical significance of social relations. At every moment, they are capable of improvisations ordered in facts of perceptions, of representations, of appreciations and actions, in accordance with the context, the situation and the configuration of relations, and the balance of power.<sup>24</sup>

This creates an interesting contradiction for the study of the politics of knowledge in Burundi: on the one hand, ethnicity is publicly and politically relegated to the informal level. On the other hand, scientific studies and reports of local and international commissions claim methodological rigour and request positive evidence and proof for the existence of ethnicity and its operationalization.

There is, however, another dimension to the implicit meanings and the politics of ethnicity, as my second example illustrates. Ethnicity as ideology implies a chasm between those who 'have' and those who 'have not'. This pattern is not always translated into real material wealth but in the psychological satisfaction that 'we are ruling' especially in ethnic communities like the Hutu in Burundi who allege that they have suffered not only economic exploitation but also ideological subjugation and humiliation for decades. The symbolism is not just about material wealth but also a recovered freedom of social mobility (access to leadership positions) and emancipation. This intertwining of material, psychological and symbolic processes is not easy to discern as it becomes most visible spontaneously through daily events and banal occurrences. For instance, the Ministry of Health in Burundi is adjacent to the army's headquarters. Fearing attacks and intrusion which would come from the side of the ministry, for decades employees of the ministry were prohibited from opening windows facing the army headquarters in order to keep the army headquarters secure. One incident that is often related is that of a secretary opening a window facing the army headquarters. While the Minister of Health was passing for routine inspection, she brought to the attention of the secretary the fact that the windows facing the army should not be opened. The secretary simply said: 'Doctor, please allow us to have some fresh air, it (the army) has been mixed' (referring to the reforms introduced after the Arusha Peace Agreement).

A simple incident like this looks remote from politics. However, in a culture where unspoken and implicit meanings play a great role in the transmission of knowledge this simple story is full of meaning and insinuations. Firstly, the act of opening the window shows that the secretary 'now' feels safe in the presence of the military establishment, unlike with the 'previous' army which was perceived as ethnically discriminatory and repressive. Before the 2000 Arusha

Peace Agreement and subsequent reforms the army was the symbol of Tutsi hegemony. This gesture of ‘opening the window’ portrays the opposite of the ‘ancient’ or ‘old’ army which threatened people. This ‘new’ army is ‘mixed’ implying that it is composed of both Hutu and Tutsi members in its forces – it is a symbol of inclusiveness which means the secretary can respond to a minister without fear of recrimination. The mention of ‘fresh’ air is not only a feeling of ‘novelty’ but also a metaphorical portrayal of the ‘old’ army and political establishment as suffocating. It is an implicit reference to accusations of killing by choking or piling people in military trucks. The military trucks were infamously referred to as *‘je m’en fous’*, i.e. ‘I don’t care’, portraying a lack of compassion and human sentiment in repression processes.

### THE POLITICS OF LABELS: GENOCIDE AND SELF-DEFENCE, VICTIMS AND MARTYRS

This section turns to the use of labels such as ‘genocide’ and ‘self-defence’ that are being used to describe specific events, and the impact this has on perceptions of being victims, martyrs and perpetrators.

Wielenga and Akin-Aina (2016) noted that as things stand, the opposition is largely in the diaspora, and it is to their advantage to paint a picture of Burundi on the verge of civil war or ethnic genocide, and in drastic need of external intervention. This narrative, which is relayed by most international media, can be seen as being based on a superimposition of the Burundian and the Rwandan narratives. Opposition politicians in Burundi exploit what is called the ‘resonance effect’ (Vandeginste, 2015) to attract international attention and to call for sanctions against the Burundian government (Wielenga and Akin-Aina, 2016). The main goal of the opposition is to have Nkurunziza ousted, but it remains unclear what they will do next if successful (*ibid.*). Unfortunately, President Nkurunziza died on 8 June, before his successor, Evariste Ndayishimiye, who was elected on 20 May, was sworn in. The constitutional court accepted the request by the cabinet that Ndayishimiye be sworn in earlier than planned. During Ndayishimiye’s inauguration various speakers pointed to the urgent need to bring back refugees, to open the country to international partnerships for development and economic prosperity, to promote national reconciliation and to fight corruption.<sup>25</sup>

This strategy of describing Burundi as a country on the verge of genocide works, partly, because the horror of the 1994 genocide in Rwanda is still vivid in the memories of the international community. This phenomenon has been observed by Leidner (2015) who noted that labelling a third-party conflict ‘genocide’ has an impact on intervention support through increasing a sense of guilt and thus foregrounding the responsibility to intervene. To provide another example of the politics of labels, when talking about ‘genocide’ in Burundi,

Tutsi networks normally refer to what happened in October 1993, after the assassination of President Melchior Ndadaye. The Hutu, on the other hand, evoke 1965, 1972, 1988, the assassination of President Ndadaye in 1993 and the violence by the Tutsi militia of '*Sans Echechs*' in the streets of Bujumbura from 1994 to 1996 as genocidal acts to which the international community has turned a blind eye. The Tutsi of Burundi, on the other hand, quickly make comparisons between Burundi and Rwanda, specifically between the Youth League of the CNDD-FDD (*Imbonerakure*) with the Rwandese *Interahamwe*. However, the Tutsi militia of '*Sans Echechs*' are rarely mentioned, possibly because they are now dismantled. Tutsi activists often portray themselves as a persecuted minority, describing their situation as an 'African holocaust', and assimilating the discourses and the actions of their opponents to that of the Nazis and sometimes inviting holocaust survivors to lobby for their causes and to speak at their commemoration events. The status of 'victim' seems to explain or even justify one's group's violent activities (especially organized violence in 'liberation' or 'rebel' movements) but it also seems to exonerate perpetrators of any moral culpability.

However, the politics of labels is not only reflected in the question of which events are labelled as genocide and which are not, but also in the contrasting of genocide with self-defence in the different narratives of the past and the idea of victimhood that emerges from this. For the Tutsi, the assassination of Ndadaye was a pre-emptive act to avoid bloodshed based on the Hutu's 'genocide' plans. For the Hutu, the killing of the Tutsi after the assassination of Ndadaye was the result of spontaneous anger (*agashavu*) and a pre-emptive act against a possible repetition of '1972'. This intertwining of memory and actuality impacts not only discourse formation but also political claims. When describing contexts of violence, it seems that the two groups compete for victimhood. The Hutu of Burundi portray the image of an oppressed and discriminated majority and a martyred people – victims of repetitive massacres. For the Hutu, the armed struggle of the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) is a heroic act that ended the Tutsi's monopoly on firearms and repetitive cycles of repression and exile. For the Tutsi, the military operations of the CNDD-FDD are terrorist acts and crimes against humanity and Tutsi activists have been calling for legal action against the leaders of the CNDD-FDD at the International Criminal Court (ICC).

Moreover, although some scholars argue that there are no tangible differences in terms of language and culture between Hutus and Tutsis,<sup>26</sup> ethnic identity is manifested through various allegiances especially when one is narrating events. Rarely would a Tutsi mention the assassination of President Melchior Ndadaye when narrating what happened in 1993, or the fact that there were protests in the streets and a military coup in action when the army

‘intervened’ in 2015. The street violence of the Tutsi militia of ‘*Sans Echecs*’ between 1994 and 1996 is rarely mentioned and when most reporters and scholars talk about militia they point directly to the *Interahamwe* in Rwanda and *Imbonerakure* in Burundi. Similarly, the violence against Hutu students on university campuses in 1995 is also not often mentioned although it created a situation where most elements of the current Burundian leadership including Presidents Nkurunziza and Ndayishimiye gave up on education and joined the armed struggle of the CNDD-FDD. Likewise, in commemorations both in Rwanda and internationally, Burundian victims such as President Ntaryamira and his collaborators are omitted. Some of these exclusion processes appear to be deliberate while others appear to operate at the subconscious levels. There is a trend of competing for the status of victim in a way that one’s victimhood seems to legitimize one’s violence as each group portrays itself as ‘*le peuple martyr*’ (Lemarchand, 2006). Overt rejection of violence especially from children of mixed parenthood (especially those with Tutsi mothers and Hutu fathers) is sometimes interpreted as cowardice or mental illness emanating from identity crisis or brainwashing.<sup>27</sup>

The politics of labels creates controversies over historical events such as the massacre of secondary school pupils in Buta, Rwanda, on 30 April 1997. The description of the ‘events of Buta’ follows a narrative pattern which is common in Burundi and Rwanda – it can be found for instance in the portrayal of the victims of the massacre as martyrs. The narrative recounts a Hutu rebel group arriving and asking the students to separate themselves into Hutu and Tutsi groups. The students refused to identify their ethnicity and were then massacred.<sup>28</sup> The same narrative pattern is applied to another situation in which a passenger bus was attacked by another group. This event was popularized by the short film *Na Wewe* (You Too). The film is about a minivan transporting ordinary citizens being stopped on a Burundian dirt road. A group of Hutu rebels armed with Kalashnikovs get the passengers off. The rebel leader barks: ‘*Hutu to the left, Tutsi to the right!*’ The sorting between ethnic groups fails as all the passengers hurry to the left and neither passengers nor rebels can distinguish Hutu from Tutsi. This leads to a situation where ethnic sentiment is repressed and relegated to the informal level. Consequently, reports or complaints of abuse and discrimination are not taken seriously and are instead portrayed as a manifestation of one’s ‘divisionist’ spirit.

There is a strategy of downgrading the role of ethnicity in knowledge production in order to package ethnically motivated political claims or hatred into an internationally acceptable discourse of human rights and equality between citizens but also struggle for democracy. A strategy of denial is operationalized, i.e. claiming that the problem is economic, social, political and *not* ethnic. There is a certain haste in un-characterizing the ethnic identity of victims by mentioning that *all* Burundians have suffered, or by indicating that ethnicity

is a ‘stereotype’ and hence a lesser-qualified dimension in identity definition than citizenship. For Burundi, it is even more complicated since the two ethnic groups this chapter is discussing shared a territory before colonization which implies that Burundi defeats the traditional theory of the historical precedence of the ‘tribe’ to the state in Africa or the concern over artificial colonial borders.

Lastly, the increasing cynicism in describing and labelling the events of the past is paralleled with an increase in polarization and radicalization through political slogans and symbolism. The Front for Democracy in Burundi (FRODEBU), winner of the 1993 elections, used a cock as its symbol of awakening and the slogan ‘*susuruka*’ (warm up) as a symbol to get the masses to take their destiny into their own hands against a background in which the masses were portrayed as ‘innocent lambs’ (*intama*) that would follow the butcher to the slaughterhouse unsuspectingly. Hence, the description of the masses as a sleeping bunch. The symbols of the CNDD-FDD in contrast portray a more radical stand. Whereas the cock was slaughtered without offering any resistance to the butcher – the assassination of FRODEBU’s President Melchior Ndadaye by elements of an army of which he was on paper the Commander-in-Chief (Lemarchand, 1998) – the CNDD-FDD chose a stronger symbol: the eagle (*inkona*).<sup>29</sup> The slogan ‘*susuruka*’ (warm up) has been replaced by ‘*shirira*’ (get roasted), with the increase in temperature portraying not only increased commitment to the cause of ‘liberation’ but also increased strength through the ability to withstand higher temperatures (to face more challenges from the enemy). The threat of military action is seen as being permanent (*tuzobirukana n’ibirenge bishe*) as leaders have claimed that they pursue the enemy until they run out of energy.

## TIME, TEMPORAL THRESHOLDS AND MEMORY: THE POLITICS OF REMEMBERING AND FORGETTING

Recently, there has emerged a new school of thought that emphasizes what happened from 2015 to date as if the violence does not have long historical roots, adding another dimension to the politics of labelling by reverting to terms like ‘crisis’ or ‘events’ rather than historically contextualized conflicts, or even genocide (Green, 2015; Bouka, 2016; Paviotti, 2018). The phrase ‘the crisis that started in 2015’ is common in international reports linking the crisis to President Nkurunziza’s third term in office.<sup>30</sup> The current discourse surrounding transitional justice in Burundi is thus polarized around President Pierre Nkurunziza’s third term. The official narrative is that the Nkurunziza regime has resorted to repressive strategies to maintain political power (Vandeginste, 2015). According to Jobbins and Ahitungiye (2015) and numerous other scholars, human rights organizations and analysts, Nkurunziza’s nomination to run for a third term in office led to sustained street demonstrations by opposition

forces in the capital; an attempted coup d'état; and a cycle of insecurity, fear, human rights abuses and targeted killings. This linking of Burundi's crisis with the 2015 elections is also upheld by Grauvogel (2016: 4) who noted that 'since the presidential elections in 2015, Burundi has witnessed its worst political and humanitarian crisis since the country's transition to peace after the civil war that started in 1993' and was truncated by the installation of the transitional government in 2001 by the Arusha Agreement in preparation for the 2005 elections. The recent death of President Nkurunziza and his replacement by Evariste Ndayishimiye does not seem to have altered the stance of Burundian activists in exile and their international supporters.<sup>31</sup>

In addition to this shortening of the time horizon for the latest conflict, there is a second way in which time or temporal thresholds intersect with the politics of remembering and forgetting: for the Hutu and Tutsi of Burundi, the dates of 1965, 1972, 1988 and 1993 have become paradigmatic because of the controversies that surround those periods in collective memory, political discourse and scholarship. A common narrative and discursive pattern is to oppose 1972 to 1993 and 1961 to 2015. In addition, the same event is read, interpreted and narrated in vastly different ways. I will discuss the example of 1972 in detail.

This interlinks with the politics of labelling in that the reasons put forward to explain the violence seem to protect perpetrators from moral culpability as both groups claim to be in a situation of self-defence. The Tutsi ideology claims a right to self-defence against a failed military coup on the 18 October 1965 and an alleged mass murder plan inspired by the Rwandese 'social revolution' of 1959. For many Tutsi, there was no revolution in Rwanda in 1959 but there was a 'genocide'. For the Hutu of Burundi, 1972 is a genocide meticulously planned by the then Minister of Foreign Affairs Arthemon Simbananiye, targeting all Hutu males with potential leadership abilities. The Tutsi claim that 1972 was a punitive action against rebels who attacked the south of the country on 29 April 1972, aiming at exterminating all the Tutsi. The year 1972 remains a point of contention as groups in Burundi and in the diaspora hold remembrance ceremonies separately with the 'orphans of 1972' reacting along ethnic lines, with the Hutu claiming their voices were ignored by the international community as a consequence of Tutsi propaganda while the Tutsi accuse the Hutu of reversing roles and claiming 'victimhood' while their rebel fathers (*abamenja*) were punished for initiating an ill-fated insurrection. There are also groups from the royal family – which considers itself to be outside of the Hutu-Tutsi conflict or an additional ethnic group, the Ganwa – who also meet around 29 April to commemorate the death of King Ntare V who was also killed in 1972.

The recent exhumation of the remains of the victims of 1972 as part of the work of the TRC showed that the politics of time and memory intersect with the politics of ethnicity in the production of knowledge, especially in the

interpretation of historical events. Such an event was made possible because of the existence of the TRC and the influence of ‘orphans of 1972’ in the current establishment. The present Burundian leadership comprises several ‘orphans of 1972’ (including former President Pierre Nkurunziza) with most of them not knowing the real circumstances of the death of their fathers. Some are aware that after their fathers were assassinated, immovable goods were confiscated and their families subsequently lived in abject poverty in poor suburbs (Nshimirimana, 2004). The ‘orphans of 1972’ define themselves as an ill-fated generation. Those who managed to get an education consider themselves lucky and remember with a mixture of bitterness and gratitude the hardships that their mothers, ‘the widows of 1972’, went through not only to put food on the table but also to fend for their children alone. In contrast to the meaning the excavations hold for these ‘orphans of 1972’, there are many groups, including young Tutsi in exile, who belittled the event and questioned the timing of the exhumation. Their interpretation is one of an electoral gimmick ahead of the presidential, parliamentary and local elections, which took place on 20 May 2020.

With regards to 1972, the Hutu allege a genocide planned by the then Minister of Foreign Affairs Arthémon Simbananiye who, while socializing with Tutsi from Rwanda in Belgium during his education, had vowed to reduce the number of the Hutu in Burundi to that of their Tutsi counterparts, creating a situation where the two groups would be equal in numbers in case a war erupts or elections are held.<sup>32</sup> The Simbananiye Plan – also entitled the Final Solution – included not only the killing of ‘enough Hutu to achieve ethnic parity in the countryside’ (Lemarchand, 1996: 26) but also the sacrificing of some Tutsi for the bigger goal, the hiding of these actions from foreigners or the intoxication of the population with propaganda.<sup>33</sup>

The controversy around 1972 is also manifested in ways in which Burundians across the world – especially in the diaspora – hold remembrance ceremonies separately and give opposing versions of the same event. I will provide two examples of separate remembrance ceremonies held by different diaspora groups to illustrate this point. On 28 April 2014, an organization called *Association Contre le Génocide* (AG-Cirimoso) held a remembrance ceremony in Ottawa, Canada. All the speakers were Tutsi. One of them was a former member of the ‘*force publique*’, a type of police force in the 1960s, and held several positions in the ministry of defence at the time of the events. He claims that the country had been attacked by ‘rebels’ (*abamenja*) and that the government reacted ‘vigorously’. The speaker portrays a situation of war and a patriotic army that managed to ‘neutralize’ a rebellion within three months. He rejects the number of victims stipulated by international organizations and keeps some events – such as the revocation of the government by President Micombero the day the massacres started – unexplained.<sup>34</sup>



A second speaker at the same event claims that ‘there was never a genocide of the Hutu in Burundi’. This example portrays an important aspect of the politics of knowledge in Burundi, namely selectivity in the use of sources: the speaker references a document published by the Burundian government in 1972, a ‘*Livre Blanc*’. The speaker also raises controversies over UN reports and questions the professionalism of Nicodème Ruhashyankiko, the UN Special Rapporteur on Burundi in 1973 and author of a report *The Study on the Question of the Prevention and Punishment of the Crime of Genocide*, that was approved by the Sub-Commission at its thirty-first session (E/CN.4/Sub.2/416, 4 July 1979). A third speaker castigates the inertia of the Tutsi youth and claims that the Tutsi have been slow in understanding their predicament. She describes 1972 in terms of a big conspiracy against the Tutsi, leading to the massacre of Tutsi leaders of the Union for National Progress (UPRONA) in Rumonge and planned massacres during dancing parties organized all over the country. She derides the actions of the National Commission for Immovable Assets and Other Assets (Commission Nationale pour la Terre et d’autres Biens) in its attempts to return properties confiscated by Tutsi politicians after their Hutu owners had died or went into exile as an attempt to take away properties that have been occupied for more than 40 years without raising a debate on the relationship between occupancy and ownership.<sup>35</sup> This speaker furthermore suggests that Tutsi youths should avoid the ‘regrets of shame’ and ‘the cost of treason’.<sup>36</sup>

On the same day, another organization called *Collectif des survivants et victimes du génocide contre les Hutus du Burundi de 1972* (i.e. ‘Collective of survivors and victims of genocide against the Hutu of Burundi in 1972’) held a remembrance event in Montreal while a peaceful march was organized in Bujumbura. Both commemorated the events of 1972. The speakers at this event describe finding it a relief that they can now sit down and hold remembrance ceremonies after being silenced for so long. At the event, testimonies were given by different speakers on how their parents ‘were taken in 1972’ and never came back. They paid respect for those who ‘courageously’ took up arms and reversed the process of ‘Hutu extinction’ and the propaganda that wanted the Hutu to ‘forgive and forget’ while the Tutsi not only held remembrance ceremonies but constructed monuments.<sup>37</sup> They note that AC-Genocide, an organization that was formed in the aftermath of 1993, has held monthly remembrance ceremonies every 21 October from 1993 and describe this as ‘Tutsi privilege’.<sup>38</sup>

## THE INTERNATIONAL IN THE POLITICS OF KNOWLEDGE

The politics of epistemics in the context of Burundi also include the role of expatriates and the international community who are often accused of complicity. On the one hand, Tutsi groups accuse European missionaries of spreading ethnic division through teaching colonial historiography in schools. On the other hand, in Hutu circles, the theme of the relationship between the Hutu and the Tutsi with the white man (symbol of the international community) is recurrent, and it portrays a section of the international activists who are acquired to the cause of one or the other group either out of conviction or for personal gain including business connection, marriage, romance (sexual favours) or activism from the white man's proper political conviction. For instance, the movie *Na Wewe* (You Too) seems simple in its portrayal of identities as absurd when there is no clear-cut difference in terms of physical appearance, language or psychological disposition. But the movie – written by a (white) Belgian married to a Tutsi woman – is full of symbolism not in its contents but in its production. This movie reinforces the colonial historiography that Hutus are of lesser intellectual, moral and aesthetic quality (Ndura, 2003) to the extent that they can fight a war in which they cannot even identify the enemy. The Hutu and Tutsi identities are also overlaid onto perceptions of the views of international experts, with Jean-Pierre Chrétien (1991) being perceived as pro-Tutsi while René Lemarchand (2002) and Filip Reyntjens (2000) are perceived as pro-Hutu. Likewise, reports by journalists such as Collette Braeckmann (1996) and Marie France Cross are sometimes contrasted.<sup>39</sup>

The theme of the complicity of the 'white man' and the Tutsi re-emerged in 2016 when French Lawyer Bernard Mangain and a Burundian activist produced a controversial video which supposedly portrayed a massacre in Burundi but during which the perpetrators spoke Yoruba, a language which is not spoken in Burundi.<sup>40</sup> This created a situation in which the then President of Burundi took legal action against Bernard Mangain, David Gakunzi and the TV channel, France 3, but the charge of defamation was not retained against Mangain and his co-accused and the President of Burundi appealed the judgment.

Against this perceived complicity between the international community and the Tutsi, the Burundian government has increasingly employed an anti-colonial discourse. It has accused the former colonial power Belgium of interference in Burundi's internal affairs, and pointed towards interference from neighbouring countries, especially Rwanda where former army and police officers fled following an attempted coup in 2015. There have also been allegations of military training in Burundian refugee camps in Rwanda.

Rwanda in turn accuses Burundi of supporting armed groups which have been committing violent acts on its territory. These allegations bring a regional dimension to discourse formation, with an alleged international conspiracy. This conspiracy implies that Burundians who lack popular support and who are aware that they will never win an election may want to get into power through a negotiated deal: the international community, with the complicity of precious minerals cartels, is trying to topple a ‘democratically’ elected government in order to put in power ‘puppets’ who lack the people’s mandate. In this theory, a government lacking a popular mandate would be in permanent fear of a popular insurrection and would only survive through the support of international precious minerals cartels who supply them with weapons, military, media and diplomatic support in exchange for the country’s minerals (and sometimes with minerals ‘stolen’ in the DRC). This narrative shows the impact of memory on discourse formation through the reminiscence of the 1994 to 1996 situation when parties that had less than one per cent of votes during the 1993 elections had the power of appointing a prime minister through the instrumentalization of street violence by the Tutsi militia of the ‘*Sans Echechs*’. The Burundian government has always rejected reports from international inquiries as regurgitating a script written by the Burundian opposition, and sometimes government supporters have organized demonstrations against UN reports or threatened legal action against commissioners in their individual capacity.<sup>41</sup> Burundi also closed the UN Human Right Offices in Bujumbura<sup>42</sup> and officially withdrew from the ICC in 2017 (Moore, 2017; Pauwelyn and Hamilton, 2018). More radical are allegations that reports by international experts do not reflect the reality on the ground.

Interestingly, this discourse of blaming the colonizers for the violence and among other things to ask for reparations from Belgium has re-emerged in the current ruling party in Burundi as a response to Belgian leaders, such as former Prime Minister and European Commissioner Louis Michel and his son (who is the current Prime Minister in Belgium), calling for sanctions against Burundi at the European Union level.

## CONCLUSION

The politics of knowledge production in Burundi is such that it creates narratives and counter-narratives among Burundian and international scholars, as well as among citizens, the diaspora and the political elites in the country on the various episodes of violence that the country has experienced. Colonial historiography portrays a situation of exploitation of the Hutu by the Tutsi – a narrative which is sometimes accepted in Hutu circles. Tutsi scholars in general present a harmonious traditional society which was disrupted by the colonial regime. This disruption led to physical and psychological profiling of the Hutu

and the Tutsi, linking intellectual, moral and aesthetic qualities to a Caucasian 'model'. This is used to explain favouritism in education and public administration as the Tutsi, perceived as being closer to the Caucasians in terms of mental ability, were offered education and leadership positions through a system of indirect government (*gouvernement indirect*) where traditional pre-colonial leaders retained their positions under the supervision of colonial administrators. However, this situation was challenged by Western-educated Hutus who sought to abolish what they perceived as the inborn privilege of the monarchy and install an election-based type of democracy.

There are still substantive controversies around how Burundians describe the acts of violence themselves (genocide vs. spontaneous self-defence or revenge). Similarly, the establishment of the temporal thresholds from which to speak remains controversial. For instance, 2015 has been a frequent date of reference by international media and Burundians in exile as the date of the 'beginning' of the 'current' crisis, whereas the Burundian government has forwarded the position, as expressed in the mandate of the TRC, that true reconciliation should take into account all the episodes of violence that Burundi has experienced since independence. Some actually suggest going back to 1896, the beginning of German colonization, and uphold that the Burundian government should demand compensation from colonial masters for forced labour, humiliation, cattle raiding and land dispossession and for introducing 'ethnic divisions'.<sup>43</sup>

Violence in Burundi is sometimes expressed in metaphors that may escape the attention of foreign researchers who may not be used to Burundi's culture of the 'unsaid'. This implies that subjecting accounts of violence in Burundi to scientific research may lead to a situation where the researcher misses 'tacit knowledge' (Polanyi, 1966). This dimension of remembering by forgetting is prevalent in history and civics textbooks where the various periods of violence that Burundi has experienced are not even mentioned. Other aspects of the politics of knowledge which are rarely investigated are mainly explicit in the construction of monuments and the holding of commemoration ceremonies. So far there is no narrative which is agreed upon by all Burundians, leading to a situation where various groups hold commemoration ceremonies clandestinely and separately. The politics of knowledge production in Burundi is no different from other cases in that it implies a mobilization of academics, media professionals, international experts and other modes of knowledge transmission such as school curricula, construction of monuments, naming of streets and other public places, or holding of commemoration ceremonies as a way of making one's voice heard.

From all these actors, ways of producing knowledge, and narratives of the past, bring diverging perspectives into an ongoing and future transitional justice process that Burundi is undergoing, or might undergo. They will have

an impact not only on how history and the violence of the past are being interpreted but also on how the successes and failures of these transitional justice processes will be read. Any transitional justice process which seeks to achieve more than a superficial and short-lived sense of reconciliation will thus not only have to accommodate these different discourses, but it will also have to find a way of bringing these different strands together into an account of the violence, and its causes, that reflects the different perceptions of history while simultaneously paving a way for a less polarized future.

The unexpected death of President Pierre Nkurunziza brought to the fore – at least on social media – some of the phenomena described in this chapter. Fabien Cishahayo – a professor at the University of Montreal – published a short article showing how President Nkurunziza is a product of Burundi's tormented history.<sup>44</sup> The responses included accusing Professor Cishahayo of a 'selective' reading of Burundi's history,<sup>45</sup> while another author calls for 'not making children bear the burden of the crimes of their fathers'<sup>46</sup> and yet another elderly author – self-portraying himself as an eyewitness from the 1960s – claims that Professor Cishahayo 'only acknowledges the suffering of the Hutu and not the founding atrocities of the endless suffering of Burundians, namely, the recurrent massacres of the small people of Tutsi'.<sup>47</sup> The new president Evariste Ndayishimiye has the challenges not only of fighting COVID-19, but also of initiating policies of national reconciliation that may lead to the return of refugees, and also rekindling international partnerships for economic development.

## NOTES

1. I here maintain the idea of dictatorships on the ground that these governments were instituted through military coups and functioned for several years without a legislative assembly. In addition, most decisions were made by the presidents through decrees.
2. Accessed 17 June 2020 at <https://theconversation.com/burundi-and-rwanda-a-rivalry-that-lies-at-the-heart-of-great-lakes-crises-63795>
3. Accessed 6 July 2020 at [https://en.wikipedia.org/wiki/Sub-Commission\\_on\\_the\\_Promotion\\_and\\_Protection\\_of\\_Human\\_Rights#Whitaker\\_Report](https://en.wikipedia.org/wiki/Sub-Commission_on_the_Promotion_and_Protection_of_Human_Rights#Whitaker_Report)
4. Accessed 16 June 2020 at <https://theconversation.com/burundi-and-rwanda-a-rivalry-that-lies-at-the-heart-of-great-lakes-crises-63795>
5. Paragraph 214, accessed 20 June 2020 at <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Burundi-Report.pdf>
6. *Ibid.*, especially paragraph 5.
7. *Ibid.*, paragraph 496.
8. *Ibid.*, paragraph 46.
9. *Ibid.*, paragraph 54.
10. *Ibid.*, paragraph 49.
11. *Ibid.*

12. Accessed 20 March 2020 at <https://www.iwacu-burundi.org/burundi-les-reflux-repoussant-des-medias-de-la-haine/>
13. Accessed 16 June 2020 at <https://www.weforum.org/agenda/2016/02/burundi-is-on-the-brink-a-crisis-explained-dc4113d4-af48-4f63-b6b8-6a8c42acb78b/>
14. Accessed 16 June 2020 at <https://m.facebook.com/notes/roland-rugero/lextraordinaire-capacit%C3%A9-de-d%C3%A9doublement-au-burundi/1098402783557753/>
15. Minerva was the Roman goddess of wisdom.
16. See e.g. Lemarchand (1966, 1972). For a discussion of ethnicity and political violence see Daley (2006).
17. This perception is often referred to in Kirundi traditional sayings. For a detailed discussion of the stereotypical portraying of Hutu and Tutsi identities in historical accounts see Ndura (2003).
18. For a discussion of these policies from the perspective of the CNDD-FDD see <https://cndd-fdd.org/2016/02/18/communique-n-0032016-of-the-cndd-fdd-party-of-february-17th-2016/> (accessed 5 July 2020).
19. Accessed 20 March 2020 at <https://www.youtube.com/watch?v=8tDICfYkw1I>. For a discussion of the role of sayings and folklore in ethnic identity making in Burundi see Kadende-Kaiser and Kaiser (1997).
20. Accessed 20 March 2020 at <https://www.facebook.com/Urunani2015/posts/1611316762522406>
21. Accessed 6 July 2020 at <https://www.burundi-forum.org/1766/>
22. Accessed 20 March 2020 at <https://www.bbc.com/news/world-africa-32548350> and <https://www.foxnews.com/world/500-students-sleep-outside-us-embassy-in-burundi-amid-political-protests>
23. Accessed 19 June 2020 at [https://books.google.co.zw/books/about/Actes\\_du\\_Premier\\_Congr%C3%A8s\\_national\\_du\\_Pa.html?id=14wNAQAIAAJ&redir\\_esc=y](https://books.google.co.zw/books/about/Actes_du_Premier_Congr%C3%A8s_national_du_Pa.html?id=14wNAQAIAAJ&redir_esc=y)
24. 'Ils ressortissent de l'*habitus*, à la maîtrise pratique de la symbolique des interactions sociales, capables à chaque moment d'improvisations réglées en fait de perceptions, de représentations, d'appréciations et d'actions, selon le contexte, la situation et la configuration des relations, les rapports de force' (Eboussi-Boulaga, 1991: 157).
25. See <https://www.aljazeera.com/news/2020/06/ndayishimiye-sworn-burundi-president-200618103042383.html> (accessed on 21 July 2020).
26. See Daley (2006) for a brief overview of this debate.
27. I have observed on social media fierce attacks on Aloys Niyoyita, a journalist of mixed identity.
28. Accessed 22 May 2020 at <https://www.newtimes.co.rw/section/read/6924>
29. Accessed 20 March 2020 at <https://www.facebook.com/pages/category/Book/Inkona-Ntiyaruzwa-Kirazira-855742064442933/>
30. See for example reports by Human Rights Watch (accessed 5 July 2020 at <https://www.hrw.org/world-report/2018/country-chapters/burundi>) or the International Crisis Group (accessed 5 July 2020 at <https://www.crisisgroup.org/africa/central-africa/burundi>).
31. Accessed 21 July 2020 at <https://afrique.lalibre.be/52530/burundi-le-successeur-de-nkurunziza-garde-la-meme-ligne-celle-de-la-fermeture/>
32. Accessed 14 March 2020 at <https://www.youtube.com/watch?v=8tDICfYkw1I>
33. Accessed 14 March 2020 at <https://www.youtube.com/watch?v=8tDICfYkw1I>. Translation by the author.

34. Accessed 14 March 2020 at <https://www.youtube.com/watch?v=XaVAvd7G5Zk>
35. Accessed 14 March 2020 at [https://www.youtube.com/watch?v=\\_MWLXmYxF9Q](https://www.youtube.com/watch?v=_MWLXmYxF9Q)
36. Accessed 14 March 2020 at <https://www.youtube.com/watch?v=wQMjhC5c38o>
37. Accessed 15 March 2020 at <https://www.youtube.com/watch?v=MBETwvvKCYy>
38. Accessed 15 March 2020 at <https://www.youtube.com/watch?v=MBETwvvKCYy>
39. Accessed 22 July at <https://afrique.lalibre.be/52530/burundi-le-successeur-de-nkurunziza-garde-la-meme-ligne-celle-de-la-fermeture/>
40. Accessed 14 March 2020 at <http://www.france-rwanda.info/2016/01/burundi-maitre-bernard-mangain-et-david-gakunzi-pris-en-flagrant-delit-de-manipulation-d-images-pour-accrediter-la-these-d-un-genocide>
41. Accessed 20 March 2020 at <https://www.reuters.com/article/us-burundi-rights-un/burundi-threatens-to-quit-un-human-rights-council-sue-critics-idUSKCN1LX2EB>
42. Accessed 20 March 2020 at <https://www.reuters.com/article/us-burundi-rights/burundi-forces-u-n-to-shut-human-rights-office-u-n-says-idUSKCN1QM10M>
43. Accessed on 18 December 2020 at <https://www.africanews.com/2020/08/27/burundi-demands-43bn-in-reparations-from-germany-and-belgium/>
44. Accessed 16 June 2020 at <https://www.iwacu-burundi.org/opinion-debat-il-etait-une-fois-pierre-nkurunziza-un-burundais-ordinaire-ni-un-saint-ni-un-salaud/>
45. Accessed 16 June 2020 at <https://www.iwacu-burundi.org/reaction-a-larticle-du-pr-cishahayo-une-lecture-tres-selective-de-notre-histoire/>
46. Accessed 16 June 2020 at <https://www.iwacu-burundi.org/reaction-a-larticle-de-fabien-cishahayo-ne-pas-faire-porter-aux-enfants-le-poids-des-crimes-du-passe/>
47. Accessed 16 June 2020 at <https://www.iwacu-burundi.org/reaction-a-lopinion-du-professeur-cishahayo-je-ne-fais-pas-de-distinction-dans-les-souffrances/>

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## 12. Conclusion: empirical insights on the politics of knowledge production and its transfer into policy and practice

**Briony Jones and Ulrike Lühe**

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### INTRODUCTION

It's right to turn the page but first you have to read it. You have to understand it. You first have to acknowledge it and then you turn the page.<sup>1</sup>

This oft-cited quote from Alex Boraine, former Vice-Chairperson of the South African Truth and Reconciliation Commission, captures the idea that we cannot address the past if we do not know what happened, connecting knowledge to a capacity to act (Grundmann and Stehr, 2012: 16–17). In this sense it also raises a series of assumptions and concerns which are central to this book. First, the capacity to read requires a literacy. This ability to read may be held by some and not others. Second, reading is not only a technical skill, it is also an ability to interpret, to find meaning, and to reflect on what has been read. Third, reading words on a page cannot capture the volume or tone with which they would be spoken by others, as they are brought to life in real experiences. Fourth, there is always a writer and a reader, and we need to know who wrote the words, under what conditions, and for whom they were intended. This politics of knowledge, of who can speak and write, of who is heard and read, and of how knowledge is interpreted for action, is fundamental to a field such as transitional justice which operates on the assumption that the more we know the better we will be able to seek justice or the more able we are to achieve peace (Kritz, 2009; Forsythe, 2011).

This search for better evidence and a trust in the assumption that better evidence will indeed lead to better policies cuts across the different knowledge communities that shape transitional justice. Van der Merwe and Brinton Lykes (2018: 381) have described how 'academics engage each other on a tumultuous battle ground of ideas and empirical claims [...] to build some solid ground for empirical engagement', while Palmer and colleagues have described transitional justice researchers as 'agents of change' (Palmer et al.,

2015: 178; Robins and Wilson, 2015). Practitioner and advocacy organizations such as the International Center for Transitional Justice (ICTJ) or the South African Institute for Justice and Reconciliation also frame ‘research as a tool for action’ (Ancelevici and Jenson, 2013: 301). On its website the ICTJ, for example, states that its research not only ‘aims to bolster global knowledge of the successes and failures in the field, promote innovation, and inform best practice’,<sup>2</sup> but it also undertakes to do research that is ‘policy friendly, and at the same time normatively rich, so as to contribute to giving content to the notion of transitional justice that ICTJ promotes’.<sup>3</sup> It believes that its ‘research products have had significant impact on both national and international policy’.<sup>4</sup> These examples are illustrative of the claims being made by both academics and practitioners regarding the importance of knowledge, produced by academics as well as NGOs and other stakeholders, in shaping transitional justice policy. Furthermore, both law and politics – the academic fields from which transitional justice emerged – are ‘oriented or easily adapted to policy and prescription’ (Fletcher and Weinstein, 2015: 189).

As referred to throughout this book there is a body of work which describes and analyses this politics of knowledge. Our book contributes to this work in two key ways. First, we show how this politics of knowledge determines the basis on which many policies are made as well as the ways they are implemented. Second, we connect this politics of knowledge to the research-policy-practice interface. This speaks to the boundaries and claims of the field of transitional justice, but also more broadly to peace and conflict studies as well as to international relations scholars who are interested in how what comes to count as ‘knowledge’ shapes the claims about the ways we act in and on the world. In this concluding chapter we bring these threads together and reflect on the contributions of the individual chapters and on the collection as a whole. We see some general themes emerging from the chapters which we discuss in turn before returning to our contributions to scholarship: the processes and actors that produce knowledge; norms, interpretations and imbalances of power which shape and are shaped by the politics of knowledge; and the research-policy-practice nexus which forms a particular part of transitional justice’s politics of knowledge.

## PRODUCING KNOWLEDGE: PROCESS AND ACTORS

We can see clearly in each of the chapters of this book the political nature of knowledge production processes.<sup>5</sup> This is not to deny their technical, skills-based or procedural elements. Rather, we argue that just because producing knowledge for transitional justice requires certain skills, resources and planning, it does not mean that the use of these skills, or the identification of resources, is not political. As Halistoprak observes in his chapter, ‘the phrase

“knowledge production” itself signals a methodological departure from the positivist school, which assumes reality is out there waiting to be explored through scientific methods’. Our starting point for this book was in this sense a constructivist one, not taking for granted any stable or objective category that could be referred to as ‘knowledge’. What we see in the chapters is an emergence of varied and subjective knowledges, which come to be known as such, and at times elevated to the level of authoritative knowledge, i.e. expertise, by virtue of the contexts in which processes, actors and interpretations are afforded legitimacy. Knowledge is captured in each of our chapters as contestable and contested, and in this section we reflect particularly on the conditions of its production.

One of the first observations is the sheer variety of types of knowledge production processes, forms of knowledge and, indeed, knowledge dissemination. We have knowledge produced for specific transitional justice interventions: the truth commissions in Wouters’s chapter, the internationally led mediation of South Sudan’s peace process in Logo’s chapter, the African Union (AU) policy-making process in Lühe’s chapter, and the social cohesion programmes in Côte d’Ivoire in N’Da and Fokou’s chapter. This knowledge – aimed at and tailored to very specific policy processes and outcomes – comprises expert statements, mechanism reports, monitoring and evaluation reports, and policy documents. However, there are also the processes and politics of knowledge production that surround these transitional justice processes by shaping the discursive environments in which they take place. Bigirimana has illustrated this by highlighting the discourses of ethnicity, decisions over the labelling of conflicts as genocide, and the availability of international reports that use one or the other terminology, all of which shape the narrative and discursive environment in which not only the researcher has to position him- or herself, but in which decisions about transitional justice are also being taken. In his chapter we also see starkly the way in which narratives of the past are contested through epistemic as well as physical violence, and that this is as much a process which takes place within the academy as it is a process which individual researchers have to navigate.

We furthermore learn that in order for these processes to produce something which is seen as ‘knowledge’ it needs to be legible to certain audiences, conferred with credibility and have a certain mobility. We also learn that there is continual contestation over how the knowledge production process should unfold, whether this is in formal consultations with experts in Lühe’s chapter, workshops with the wider population in Njeru and Masiya’s chapter on Zimbabwe or informal bargaining by national political elites in Lambourne’s chapter on Burundi. The ways of sharing and communicating this knowledge are complicated by language – spoken, written and implicit. Njeru and Masiya, as well as Lambourne, highlight problems with transitional justice training

of local populations in non-local languages, as well as using technical terms which are born of the internationalized non-governmental world of transitional justice civil society. The modes of communication and dissemination say a lot about who can speak, and who should listen.

This idea connects to and expands on the emerging literature on the nature of the expert and their expertise in IR and peacebuilding (e.g. Berling and Bueger, 2016; Littoz-Monnet, 2017a; Leander and Wæver, 2019). The chapters by both Wouters and Lühe explicitly focus on the figure of the expert who is brought into transitional justice processes in order to produce knowledge, validate knowledge and/or confer credibility on knowledge production and policy-making processes. The patterns of expertise are not always easily readable, and detailed analyses of specific cases demonstrate that experts are considered to be experts due to nuances in context and the requirements of specific processes. Wouters demonstrates that differing ideals of objectivity, as well as needs of different truth commissions, can explain the varied epistemic profiles of commissioners – some confer authority, some bring skills and others indirectly represent parts of the population. What is important, she argues, is that ‘policymakers and commissioners should be aware of how their own backgrounds might influence the results of their work’. In her work on experts in the AU Transitional Justice Policy process Lühe describes an assemblage of expertise, brought together in particular places and at particular times and in which ‘expert status for, and in, this process was derived equally from education, practical experience, networks, and international and regional acknowledgement of expert status’. Both of these chapters highlight the concrete ways in which such dynamic and varied assemblages of expertise shape policy outcomes, in terms of the content of reports or statements, selections and constructions of narratives, or how they are received by audiences. In other chapters we see less directly, but also importantly, the working of expertise and the emergence of experts. The transitional justice training in Njeru and Masiya’s chapter conferred expert status on the trainers fluent in internationalized transitional justice language, while at the same time essentializing the local communities and missing an opportunity to engage them as credible repositories of justice knowledge.

A key assumption underlies these dynamics of expertise: that the beneficiary population is ultimately malleable, able and willing to sing to the transitional justice hymn sheet if only given the ‘correct’ knowledge – this acknowledges neither the multitude of discourses and preferences in interpreting certain events that exist within a specific context, as we have seen in Bigirimana’s chapter, nor does it account for the fact that regional connections and elite preferences can very well overwrite the preferences of an affected population, as we have seen in Logo’s contribution. In this logic, knowledge production is furthermore simplified into a transaction, a movement of the

object of knowledge from one party, who owns the knowledge, to another party, who does not – which in turn is based on assumptions of universality and transferability. The earliest works that came to shape the field of transitional justice already forward this idea. Kritz (1995: xix) for example highlights ‘the extent to which the Central and Eastern Europeans and former Soviets who were just emerging from communist rule could learn any useful lessons from the Latin American transitions of the previous decade’. Similarly the Project for Justice in Times of Transition which took place around and shaped some of the first transitional justice processes, ‘brought together almost 40 individuals who are directly involved at the policy-making level’ with the aim of ‘seeking lessons from the past and present experiences of countries which have already attempted to address these issues’ (Albon, 1995: 43). Fletcher and Weinstein’s (2015: 190) analysis of early transitional justice scholarship provides further proof in finding that ‘most of the influential articles were analytic papers and theory-building ones, suggesting that consumers of transitional justice scholarship prioritized work that offered lessons and models that could be applied across particular cases and contexts’. Despite the ‘vibrant intellectual production’ of academic transitional justice knowledge (ibid.: 177), there remains a strong focus on principled research that is at least partially driven by individual investment in specific ideas but also an emphasis on ‘templating or standardization of best practices [that] defines TJ as an organizational field’ (Subotić, 2012: 121). The combination of normative universalist rights discourses, the focus on transferable models and a presumption of apoliticality all lead to transitional justice claiming ‘universal range and, paradoxically, strong political volunteerism’ (Lefranc and Vairel, 2013: 236) in which ‘learning processes’ become a key mechanism for policy-making (Andre du Toit, referenced in Vanantwerpen, 2009: 111). Several forms of these learning processes, be it through consultation, training or report writing and documentation, have been outlined in various chapters.

The power dynamics inherent in these ideas of transferability and universality are clear in Njeru and Masiya’s chapter: it ‘illustrates a key assumption of the Forum: that sustained discussions would naturally follow among ordinary Zimbabweans across the country and that people-driven transitional justice options and mechanisms would emerge, forcing the government to act’. Furthermore, ‘the Forum commoditized transitional justice and mistakenly overestimated the Zimbabwean communities’ willingness to play their role in participating as victims of political violence’. Expectations around the roles to be played by local communities, victims’ groups or beneficiaries can also be seen in N’Da and Fokou’s chapter on Côte d’Ivoire:

In the space of three months and even before his investiture ceremony as President of the Republic, Alassane Ouattara had already developed a roadmap to lead the

post-war process. What is noteworthy is that neither national consultations, nor public debates, open to a wide range of social actors, such as media, victims or opposition parties, were conducted. This lack of inclusion and participation in determining the process of peace-seeking and national reconciliation is surprising considering the context of social division in the country.

This contradicts the value that is assigned to participation and participatory processes in transitional justice literature and practice (Vinck and Pham, 2008; Triponel and Pearson, 2010; Robins and Wilson, 2015) and reinforces the view that participation of both victims and the public is often symbolic rather than substantive, as has been shown to be the case in the negotiations for the Rome Statute (Glasius, 2002) and many other policy platforms. Looking at the two chapters by Njeru and Masiya and by N'Da and Fokou together, as well as the other chapters in the book, indicates that we cannot assume that a given knowledge production process has a certain politics of knowledge. Consultations are not necessarily consultative, centralized state action may be contested by active civil society, and control over knowledge production is deeply embedded in the history of places and institutions as well as the current political constellations. Lambourne's chapter on Burundi looks at a knowledge tug of war between the UN, the national government and the population, leading to negotiations over justice which have as much to do with political jostling as they have to do with justice-seeking, with 'profound influence on the mechanisms and programs that have been pursued and the impact these have had'.

The cases of Burundi, Zimbabwe and South Sudan also point to the politics of time and timing in the area of knowledge production and dissemination. In South Sudan's case (Logo), important knowledge, for example in the form of reports of commissions of inquiry, is being withheld until they become ineffective because decisions that could have been affected by the reports' contents have already been taken. In the case of Zimbabwe (Njeru and Masiya) and Burundi (Lambourne), consultations with affected people and the general population are being held, albeit after the minds of UN agencies and local actors have been made up with regard to the nature of a transitional justice process. While in Zimbabwe the consultations resemble trainings more than open discussions designed to elicit the views of the population, a survey in Burundi only 'asked about specific aspects of each of the four key pillars pre-defined as constituting a truth and reconciliation commission in order to seek the truth, and a special tribunal to achieve prosecutions, along with reparations and institutional reform'. Timing and sequencing are then key not only in the transitional justice process itself, but also in the process of taking decisions about its design. The second chapter on Burundi, by Bigirimana, highlights another aspect in the politics of time and timing with regards to transitional justice knowledge production, by pointing us to the differences between the



ethnic and political communities inside Burundi and in the diaspora in terms of how they remember the same acts of violence differently, and which ones they chose to remember.

Across the chapters we have also mapped knowledge producers and experts beyond those most frequently referred to as shaping the transitional justice agenda – international NGOs such as the ICTJ or Human Rights Watch, or the UN (Jamar, 2014; Zvobgo, 2020), as well as ‘elite and middle ground level’ officials and ‘professionals from outside the country where the conflict is happening’ (Mourlon, 2016: 3) – to draw attention towards ‘local’ civil society, media and film-makers, researchers, and regional actors and their interaction with global, regional and local discursive frameworks. We have chapters on the AU (Lühe), on the Intergovernmental Authority on Development (Logo), on commissioners in truth commissions (Wouters), on civil society programmes in Zimbabwe (Njeru and Masiya) and Côte d’Ivoire (N’Da and Fokou), and on the internal dynamics of an international research partnership (Jones et al.). An even more complex actor landscape is presented by Bigirimana who shows the overlapping and contradictory roles of international commissions of inquiry, the diaspora, media actors, documentary makers, local elites, academics and international NGOs in shaping the contentious, complex and contradictory narrative landscape about the past in Burundi.

Lastly, while the book’s own process of knowledge production was a delicate balancing act between editorial oversight and diversity of voice, it is an acknowledgement of opportunity, which the politics of knowledge theme offers, to reflect on our own processes of knowledge production as well as to engage in a dialogue with the knowledge of actors who are frequently marginalized. According to Colvin (2008: 424), the problem for transitional justice vis-à-vis the local context is not one of a lack of knowledge but rather a ‘failed ethical relationship to the other’. This is a useful reminder that knowledge production matters, that we do need to ‘read the page in order to turn it’, but also that the conditions of the production of this knowledge, and the ethics that it implies, are even more important and are indeed too often overlooked in a rush to generate data and to make claims.

## POLITICS OF KNOWLEDGE: NORMS, INTERPRETATIONS AND (IM)BALANCES OF POWER

The politics of knowledge for justice and peace refers of course to the processes of knowledge production discussed above, but also to the relationships of power which underpin knowledge norms, knowledge interpretations and imbalances between actors jostling in an uneven knowledge landscape. This brings in an element of ethics, for even in the fields of transitional justice and peacebuilding, with their focus on inequality, injustice and disempowerment,

some knowledge is ‘more equal’ than other knowledge. This inequality of knowledge is connected to the knowledge production process and the assigning of expert status to some and not others, but also to the positionality of the knowledge producer (Kagoro, 2012; Ni Aoláin, 2015; Fletcher and Weinstein, 2018a; Bilgin, 2019), to the traction of certain norms and value systems – both local and global (e.g. Carr, 2010), the political functions of expertise (Boswell, 2008) and to hierarchies between different forms of knowledge (Evans, 2016). In this section we focus on these elements which emerged strongly from the chapters and reflect on what this means for the policies that are implemented in the name of justice and peace.

The first three chapters of the book – by Halistoprak, Goetschel and Jones et al. – offer reflections on the conditions of research production, the importance of the positionality of the researcher and the challenges of trying to smooth knowledge hierarchies through research partnerships. Goetschel takes the widely discussed subject of research and policy transfer in the field of peace research and encourages us to include the element of power, not only with reference to the politics of the policy process but also the understanding of the politics of peace research itself. This is something which is not often explicitly discussed but which ‘influences the spectrum of thinkable and therefore available policy options. Therefore, being aware of power dimensions in research and developing possible ways of controlling for them is of eminent relevance not only for quality science but also for peacebuilding policy.’ Halistoprak supports this approach, arguing that ‘the field needs to continue extending its focus into these relational positionalities in knowledge production. The fruitful debate over the conditions that influence knowledge production has the potential to contribute to the field’s capacity to catalyse change.’ Jones et al. take as an entry point research partnerships between the Global North and Global South, and in particular that of the team which worked on the project which has given rise to this book. In a candid account of the emotions, ethics and challenges of this research partnership in practice, the authors highlight gaps in our understanding of the concrete and everyday workings of partnerships and the assumptions that underpin partnership guidance. They also point to a lack of discussion about, or theorizing of, South-South research partnerships which ‘indicates a structural problem in the politics of knowledge production’.

Positionality, as we see in these chapters, is much more complex than easy assumptions about who is learning from whom or how a given individual will relate to the subject matter of the research. Bigirimana, in his chapter, grapples with his own intellectual journey as well as his encounters with formal education in the divisive context of Burundi. He explains this as a difficult and delicate balance between being led by his intellectual curiosity on the one hand and being constrained by his teachers and their narratives of the past on the other. This is an important reminder that epistemic violence occurs within

our own life trajectories as well as between more or less powerful countries or regions. Poets (2020: 105) finds that ‘the inequalities implied in the intersecting differences that make up our positionalities cannot be done away with in the field, including in collaborative and solidarity work. Such work is therefore marked by inevitable impossibilities and difficulties, and the ever-present risk of epistemic violence.’ The ‘Global North’ and the ‘Global South’ researcher do not exist outside of varied and ever-changing contexts of resource access, field access, and individual emotional and intellectual journeys which come to define who we are as researchers, how we produce knowledge and how we can engage in partnerships, as discussed by Jones et al. as well as Bigirimana. They also do not exist outside of the political, discursive and structural conditions in which research is designed, funded, produced and received, as we see in the chapter by Goetschel. The politics of knowledge approach the authors take here reminds us of this and argues convincingly for a greater emphasis to be placed on understanding the politics of research itself in order to be able to understand the relevance and efficacy of the policies that it could or does shape.

The other chapters in the book continue these debates and foreground the role of Southern actors as powerful agents that shape not only the politics of knowledge production but also the processes and politics involved in translating this knowledge into policy and practice. This may seem obvious, but it is an empirically under-researched phenomenon. Njeru and Masiya in their chapter show us how the division between Northern and Southern research is often overlapped, in a transitional justice context, with that between academic and activist or grassroots knowledge. These divisions are also hierarchies, and they remind us that ‘simple’ or ‘jargon free’ language of Southern practitioners and activists is not to be confused with lack of knowledge nor a need for training. Rather, it is only the position from which this knowledge is viewed which renders it somehow less or lacking in the face of internationalized and technical transitional justice categories and labels. This preference for academic knowledge is particularly noteworthy considering the origins of transitional justice in activism and among practitioners and political elites who sought to shape the transition processes in their countries when ‘there were no documents, no international experts’ (Pablo de Greiff, quoted in Fletcher and Weinstein 2018a). Despite the origins in activism and practice in Latin America, Eastern Europe and South Africa, academic knowledge produced in the Global North has come to be viewed as more influential in shaping transitional justice. This authorization and legitimation of the practice of transitional justice through academic knowledge contributes to Lefranc and Vairel’s interpretation that ‘the concept [of transitional justice] has been less formulated to interpret a practice than to legitimate its conversion into a model by activists and concerned professionals’ (2013: 250). A more cynical view

would allow the conclusion that transitional justice emerged from ‘a need by particular global interests to have experts who can claim a social scientific ability to conjure new democratic life from the corpses of authoritarian polities without giving any space to revolutionary transformation’ (Harris, 2014: 216, based on Sitze, 2013).

Tensions around global norms appear in many of the chapters. They may be promoted by some actors, such as the UN, and contested by other actors, such as activists and researchers (see Lambourne’s chapter), or they may make their domination felt more through their existence as discourses that limit local actors’ ability to envisage transitional justice outside of these narrow normative confines (see Njeru and Masiya’s chapter), or provide a narrative framework for local actors to demand accountability (see Logo’s chapter). This is also evident in the chapter by N’Da and Fokou where ‘newcomers, with post-conflict experience from other contexts, have positioned themselves as the main producers of discourse and knowledge on and for the Ivorian post-conflict case’ while ‘the vast majority of local administrators and practitioners were “novices” in these priority topics’. Logo’s chapter on South Sudan, as well as Lühe’s chapter on the AU, are particularly interesting. They tell us not only about the possible use of global norms as tools for local civil society and academia to try to hold leaders accountable, but they also open up the normative tension between the global norms and their contestation in African regional policy and peace processes that are seeking to create more regionally relevant institutions and at the same time to challenge and reshape the global discourses. Like scholarly work that is not taken seriously by the UN as it is perceived as ‘supporting impunity for political leaders’ (see Lambourne’s chapter) these regional policy challenges to global norms also struggle to gain a tangible foothold in global debates.

Consultations in particular seem to have a vexed relationship with ideas of knowledge production in transitional justice. They are often promoted as mechanisms for gaining an insight into local ideas of justice and preferences, but instead of producing new insights, for example by making visible potential alternatives or highlighting alternative conceptualizations of some key concepts such as reconciliation, they merely serve to legitimate and communicate already dominant and visible knowledge. In Lambourne’s chapter on Burundi for example: ‘The results of the national consultations were released in a joint report by the Government of Burundi and the UN in April 2010 and were interpreted as revealing majority support for the establishment of a TRC, even though the consultations did not really provide any alternative.’ Despite opposition from local civil society and proactive lobbying to the government ‘the third draft of the law, which was presented to parliament in December 2012, showed that civil society lobbying had made no impact’. Njeru and Masiya found in Zimbabwe that the consultations undertaken by a local NGO were

limited from the start. They commoditized transitional justice while presenting it as a toolbox, overestimating the willingness of Zimbabweans to ‘play their role in participating as victims of political violence’ and mistakenly viewing them as ‘ready to “explode” into natural discussants of transitional justice and share their suffering’. In both chapters the consultations are framed as opportunities to present limited options and to teach the supposed beneficiaries in the language of an internationalized norm of transitional justice, rather than to learn from them of their understandings and preferences for justice and peace. International NGOs and experts continue to act as gatekeepers who not only have the ability to ‘set the tone of the TJ [transitional justice] debate and create and recreate TJ templates or a menu of TJ options from which states may chose’ (Subotić, 2012: 108) but they are also able to frame their own recommendations as international standards (Jamar, 2014). Unsurprisingly, policies which are supported by the population remain elusive in both contexts showing yet again that ‘[w]hile the language of transitional justice has become more locally resonant, the politics of the policy choices remain highly contentious’ (van der Merwe, 2018: 213).

While the complex Global North-Global South set of relationships and imbalances is undoubtedly important, a politics of knowledge analysis which misses the in-context and South-South dynamics would be incomplete. This is particularly the case considering the fact that transitional justice has always exhibited a ‘deep-rootedness in a South-South discussion that continues to this day’ (Bickford, in Fletcher and Weinstein, 2018a: 240) and that many of the field’s most prevalent mechanisms and concepts originated and were substantively shaped in and by the Global South (for examples see Vanantwerpen, 2009; Ancelovici and Jenson, 2013; Sitze, 2013) even if this often remains unacknowledged. In Lambourne’s chapter the UN is present, but she chooses to foreground Burundian political struggles and Burundian civil society in her analysis of the ‘political struggle for control over the production and dissemination of knowledge’. In N’Da and Fokou’s chapter the ‘usual suspects’ of the international NGOs are but one part of a ‘knowledge market’ on social cohesion which is defined by competition between Ivoirian as well as non-Ivoirian actors, and which is dominated by the terms set by a powerful national government. In Logo’s chapter on South Sudan we learn about the important regional politics as well as the stakes of various South Sudanese actors, which influence how the violence is reported, interpreted and acted upon through transitional justice policy. Bigirimana’s chapter introduces us to the impact of regional conflict dynamics and entanglements on the narratives and discourses that are being used to describe the violence in Burundi. Lühe’s chapter focuses on the AU and its assembling of African expertise in the formulation of its transitional justice policy framework. What we learn from these chapters is that the Global South should not only appear as the contrast

to the Global North, but as a starting point for analyses, with the assumption that endogenous factors are just as important as exogenous ones for being able to analyse processes of justice and peace (McAuliffe, 2017). Moreover, the circulation of the international norm of transitional justice, the contestation and acceptance of different ways of knowing harm and doing justice, break down boundaries between static categories of what is ‘North’ and what is ‘South’, what is ‘international’ and what is ‘local’.

This can be seen in the chapters by Lambourne, by Njeru and Masiya and by N’Da and Fokou where, by choice or as a consequence of structural and other factors, local actors contribute considerably to the dissemination of knowledge produced by actors originating or based in the Global North and the international norm(s) of transitional justice. The question emerges then, whether ‘Southern’ actors who extensively draw on and engage with ideas presumed to be produced in the ‘North’ are ‘local’ or ‘international’ actors? Can we separate the location of the actors from the knowledge, norms and ideas they convey, even if these ideas are at times produced elsewhere? The sense of mobility, of both knowledge and people, that permeates many of our analyses adds to the blurring between these categories. Many of those who produce knowledge or who, as experts, contribute to its dissemination, are highly mobile, both between contexts and institutions. This is evident in the chapter by Lühe, which shows us that many experts have not only engaged with different transitional justice institutions, but they have also been educated and worked in various countries and continents. But it is also evident in the very team that conducted the research for the Knowledge for Peace project of which this book is a result. With all of the project members being highly mobile, presenting at international conferences as well as more localized workshops, we may arguably be considered local and international. In the chapter by Jones et al., where the project team reflects on these questions, we see that an individual researcher is never representative of only one space or one positionality. Moreover, as we see in the chapter by Lühe, the act of labelling the ‘local’ or ‘international’ is a combination of one’s standpoint and the intention of others in assigning these labels through their gaze.

## KNOWLEDGE FOR PEACE: FROM KNOWLEDGE TO POLICY AND THE RESEARCH-POLICY-PRACTICE NEXUS

Our book has contributed to a deeper understanding of the politics of knowledge for peace, with contributions from researchers, practitioners and those engaged in advising on policy-making. All of these knowledge communities are considered ‘generative of the field’ (Fletcher and Weinstein, 2015: 192) making transitional justice both a matter of political practice and its academic

justification (Franzki and Olarte, 2014). In bringing together the authors in this book, who are themselves academics, practitioners, consultants and advisors, it was clear that the boundaries between what counts as ‘research’, ‘policy’ or ‘practice’ are blurred and ever shifting, and that the politics of knowledge has a very real impact on what policies are thinkable, let alone implemented. This is more than a question of knowledge transfer between research and policy domains. It is a question of how knowledge comes to be seen as useful in context, and how this in turn is shaped by the interface and overlaps between research, policy and practice as we have outlined in the introduction to this book. The chapters by Goetschel and Halistoprak highlight that peacebuilding in general is characterized by a mission to know more in order to contribute to peacebuilding. Transitional justice is even more attuned to this research-practice-policy nexus given its origins as a ‘proto-science’ (Lefranc and Vairel, 2013: 236) – a field of legal and political activism responding to past violations of human rights by ousted regimes in Latin America and Eastern Europe in the 1970s through to the early 1990s which developed into a field of academic enquiry (Elster, 2013; Quinn, 2016; Zunino, 2019). It both emerged from and remains vested in international humanitarian law and universal rights discourses (Teitel, 2003a, 2003b; Arthur, 2009). Key academics in the field are often consultants to justice interventions, as we see in the chapter by Lühe on the assembling of expertise by the AU, and by Wouters on the commissioners of truth commissions. Practitioners often participate in the (re)production and dissemination of concepts and norms which determine the direction of research, as we see in the chapters by Njeru and Masiya. In each chapter we see the continual creative tensions between research, policy and practice, and how the individual authors themselves navigate their identities within and between these epistemic communities.

We see clearly in the chapters of this book that there is never just one research-policy-practice nexus. The varied analyses offer a new reading which refers neither to a simple and idealized one-way street in which knowledge, produced by scholars and practitioners, translates into policies through evidence-based policy-making, nor to the cynical opposite view in which politics, represented through agenda setting and policy-making, is exclusively driven by elitist interests and power calculations. Instead, what emerges is a complex multi-directional interaction between knowledge, policy and power that at times leans more towards the one and at other times more towards the other. This delicate balancing act is influenced by the political context and relative freedom of expression (as we read in Goetschel’s chapter), by the interests of powerful key stakeholders able to withhold or reinterpret reports (as we see in Logo’s chapter) and by the struggle to render dominant international discourses of justice legible in regional or national contexts (as we see in Lühe’s chapter). Moreover, the motivations of actors seeking to shape

a knowledge agenda are a mix of power-seeking, national interest, normative ideals, experience and opportunity. There is no journey from research to policy, but rather a series of tracks which intersect, wind around and overlap.

This complex picture which emerges is also a function of the analytically inadequate categories of 'research', 'policy' and 'practice'. Individual authors refer to their multiple roles in their overlapping identities as researchers as well as practitioners or policy advisors. It doesn't necessarily make sense to cleave to one specific identity, but the mobilization of one's epistemic identity will serve a purpose. The chapters by Lühe and by Wouters on the role of experts in transitional justice illustrate how identifying as a researcher or a practitioner will be useful or gain more credibility at different times and in different contexts depending on practical need as well as political mood. This deserves more attention in our analyses, by asking why knowledge produced by certain people in certain contexts is seen as 'research' and by others as 'practice' or 'policy'. Could we also consider the research we undertake, especially the more ethnographic forms, as a practice? Could we consider the practitioner dialogues and policy consultations as a form of research? There is a spectrum which runs between forms of knowledge that are embedded in theories and forms of knowledge that are in turn embedded in action. However, there is no 'pure' point on this spectrum. Halištoprak's chapter reminds us of the international relations and peace studies work which demonstrates the ways in which theory and practice are mutually constitutive: 'theory shapes the practice while practice opens the door to the reproduction of theory'. This chapter, along with that of Jones et al., highlights how the interaction between the researcher and the social and political world are indeed mutually constitutive. It is thus more pertinent to ask why some actors are considered researchers or why some forms of knowledge production are considered research. This has as much to do with some innate characteristics of the knowledge production process or knowledge form itself as it has to do with the politics of knowledge.

This touches upon the instrumentalization of knowledge, which is a recurring theme in the book. This is not just a case of how knowledge can be wielded for political purposes (Boswell, 2017; Littoz-Monnet, 2017b). The chapters also show that the identification of certain knowledge as 'research' or 'practice' or 'policy' confers greater or lesser credibility, and this may serve the agendas of different stakeholders. The peace field can be a challenging environment for critical thinking, as discussed in Goetschel's chapter as well as in other work from which we draw our insights. Bush and Duggan (2014) have written of the complex synergies between peace researchers and donor institutions, which in most cases also act as practitioner organizations, sometimes limiting access for counter-intuitive knowledge to policy-making. Contract-based research agendas and the responsibility of research teams to report to donors make it difficult to produce counter-intuitive knowledge or



to inform policy-making. We wish to add to these debates by articulating the importance of the subjective labelling of ‘research’, ‘policy’ and ‘practice’. Njeru and Masiya connect their analysis of the transitional justice programme of a local NGO in Zimbabwe with a larger discussion around the labelling of practitioners’ knowledge as something qualitatively different from, and less than, research knowledge. This maps onto the Global North-South dynamic we discuss above and an uneasy distinction between the international/research/expert knowledge and the local/practice/limited knowledge. This division is ever shifting, as we see in Lühe’s chapter where expertise is labelled as ‘research’ or ‘practice’ depending on the kind of credibility sought by those leading AU policy formulation process. In Lambourne’s chapter we see how a Burundian NGO was able to adapt the received ‘expertise’ of the UN and its four pillars of transitional justice to undertake ‘practice’ work which would, were it to have been conducted at a desk in a university, have been considered a research contribution to the conceptualization of justice.

The research-policy-practice nexus breaks down when we acknowledge that there is no ‘research’, ‘policy’ or ‘practice’ outside of the politics of knowledge which labels them as such. This leads to a series of questions which build upon but also go beyond previous work. Instead of looking at how research transfers into policy, or how research agendas are shaped by donors’ or practitioners’ priorities, we should ask why and in which contexts we use the labels of ‘research’, ‘policy’ and ‘practice’ and how this intersects with the claiming of epistemic identities by actors. This then renders visible not only the politics of knowledge, which renders certain knowledge and certain actors more credible than others, but also the factors which influence which policies are pursued in a given time and place. If we label the dialogue workshops of local NGOs as ‘practice’ and imbue them with a sense of particular, bounded and limited use, then it is unsurprising that we see in many of our chapters an identification of a lack of uptake of counter-intuitive or counter-narrative policies. Likewise, if we see the knowledge outputs of certain experts as research and imbue it with a sense of mobility, universality and relevance then it is unsurprising that we see in our chapters the presence of a few transitional justice experts from the Global North in local trainings and consultations. Njeru and Masiya critique the Taking Transitional Justice to the People Programme in Zimbabwe for its ‘toolkit grafted from influential knowledge producers in the Global North’ such as Ruti Teitel and Priscilla B. Hayner with ‘no possibilities of finding spaces for African voices or culturally relevant approaches in the transitional justice debate’. But we know, from our chapters, as well as the work of many others in the field (Ní Aoláin, 2015; Fletcher and Weinstein, 2018a), that those marginalized voices are there and are equally full of insight and relevance. We also know that epistemic violence runs through the problematic Global North-South relationships in transitional justice (Fletcher and Weinstein,

2018b). What we add is that the labelling of ‘research’, ‘policy’ and ‘practice’ is also part of this politics of knowledge and maps onto and reproduces these problematic imbalances of power. We also show that this has a direct impact on the kinds of policies we imagine to be feasible or credible. The politics of knowledge production, and the fact that we imbue academic knowledge with authority over practitioner knowledge, then go a long way in contributing to the current policy preferences, for example in favour of trials and truth commissions over local, non-judicial processes (Arthur, 2018; Arthur and Yakinthou, 2018). The influence of these politics also contributes towards explaining the prevalence of transitional justice as a policy approach and discourse despite the ‘poor record of externally driven TJ in nontransitioning contexts’ (Macdonald, 2019: 226) and its inability ‘to account for its own impact’ (de Greiff, 2013: 552).

## CONCLUSION

The academy, the field, and the societies in which both are nested are continuations of one another, not boundaries. (Poets, 2020: 112)

This book has contributed one piece to the puzzle of a preceding body of work on the politics of knowledge in peace studies, international relations and transitional justice. These fields which seek to look outwards, to intervene in ‘other’ societies, and to generate change and impact in the ‘real world’ have a lot to grapple with in this area. Referring to academics, Bliesemann de Guevara and Kurowska (2020: 167) observe that ‘[we] are supposed to know before we get a grip of what there is to know, and control the process of bringing such knowledge to bear’. This insight might well be applied also to practitioners and policy-makers who cannot fail, or experiment, when peace and justice are at stake. The chapters in this book join other work by articulating the assumptions and biases with which we approach knowledge of, and intervention in, contexts of violence and injustice. They have also highlighted how this feeds into a politics of knowledge in which very often knowledge production processes serve to reiterate what is already assumed to be known – that certain policies are the best policies, that certain people want particular interventions, and that certain interventions will lead to expected outcomes. We have added an additional lens by focusing on two red threads: (1) how the politics of knowledge for peace has a direct impact on the kinds of policies which are thinkable and therefore implementable and (2) how our understanding (and presumption) of the research-policy-practice nexus is vital for understanding the politics of knowledge.

In doing so we speak to some well-known debates: the tension between international norms of transitional justice ‘versus’ local priorities and prefer-

ences (Sharp, 2014); the extractive research practices of Global North research projects which seek to know and analyse Global South experiences (Ní Aoláin, 2015; Fletcher and Weinstein, 2018a, 2018b); and how knowledge is aligned with power and interests (Schotsmans, 2011; Macdonald, 2019). By unpacking the politics of knowledge we are not only seeking to peel away at the ‘aura of naturalness and inevitability’ (Sharp, 2018: 14) that surrounds transitional justice policy choices but we are also seeking to further a more nuanced understanding of politicization in the field, which has been highlighted by Lamont et al. (2019) as an important blind spot of the current scholarship. We also unpick and rethink the assumptions and frames underpinning our conceptions of knowledge, expertise, practice and policy-making. International norms do not only circulate in Global North universities, think tanks or donors; Global South scholars, practitioners and policy-makers also operate in problematic systems of power; expertise is not only to be found in the usual suspects but may emerge from local and regional priorities. We also see ways in which the different politics of knowledge are continually changing in response to changes in context and external factors but also through contestation and resistance from varied actors, both those in seemingly powerful and those in marginalized positions. The field of transitional justice derives its identity from its inherent tensions: claims to universality are being made while intervening in particular contexts; normative goals co-exist with a call for reflexivity and critique; and a crystallized international norm reproduces and is reproduced by an elite intervening in contexts of injustice and inequality. Seeking to understand the politics of knowledge which sustain these tensions is one of many possible and necessary steps towards resolving them.

The empirical chapters in this book have provided numerous examples of which policies are thinkable and which are not, based on the politics of producing, dissemination, negotiating, authorizing and legitimizing knowledge in each of the contexts that have been discussed. The cases of both Zimbabwe and Burundi have indicated that while consultations are considered as sites and instances of knowledge production, they merely serve to reaffirm pre-existing policy preferences. Consultations then merely serve to legitimate international policy choices which are based on narrowly defined goals and grounded in the normative frameworks derived from the UN four pillars approach. The case of South Sudan has shown, in contrast, that while local civil society and experts are demanding accountability and criminal justice, this becomes an unthinkable option in practice (if not on paper), due not only to the fact that the political elites who ought to be held accountable remain in power, but also because of the regional interests that drive political decision-making regarding the future of South Sudan. The knowledge which is available – on the causes and complexities of the conflict, on the population’s preferences in terms of transitional justice, and on the application of transitional justice mechanisms

such as (hybrid) courts in non-transition contexts – while certainly incomplete, remains ignored or is being withheld in accordance with specific agendas.

All of the cases presented in this book leave one policy choice unchallenged: that there should be transitional justice at all, that this is a discourse, a set of ideas and practices that can and should come to shape countries in transition. Even if not made explicit, all the authors and all the actors discussed in the various chapters assume and agree that transitional justice should, in one way or another, be applied to help countries in their (presumed) transitions. None of the cases presented opens up or even hints at the possibility of not doing transitional justice. This in itself shows not only the power of the discourse but also the norms that the field of transitional justice, as practice and an academic field of enquiry, has brought forth. It also shows the ultimate parameter within which the politics of producing knowledge in, on and for transitional justice currently operate: that transitional justice will come to shape any given context that considers itself or is being considered as being in transition. The question merely is which aspects of the transitional justice universe of options will be most prominent. This is where the politics of knowledge production currently play out and have the opportunity to shape our choices.

## NOTES

1. Alex Boraine, former Vice-Chairperson of the South African Truth and Reconciliation Commission, at the opening of the Australian Reconciliation Convention in Melbourne in 1997, referenced in Menzies and McNamara (2008).
2. See <https://www.ictj.org/about> (accessed 7 April 2020).
3. See <https://www.ictj.org/research> (accessed 7 April 2020).
4. See <https://www.ictj.org/research> (accessed 7 April 2020).
5. For other examples see e.g. Schotsmans (2011), Ainley (2017), Jamar (2017) and Macdonald (2019).

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# Index

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- academic conferences 219–20  
accountability 39, 101, 109–11, 113–14,  
125, 127–8, 130, 137, 172–3, 175,  
192–201, 203–4, 206–10, 254,  
261  
actor-network theories 171  
advocacy 2, 131, 136–7, 168–70, 173–4,  
182, 246  
Afghanistan 175  
Africa 6–7, 15, 31, 59, 114, 121,  
123, 128, 134–7, 255, *see also*  
*individual countries*  
African Commission on Human and  
Peoples' Rights 6–7  
African Court on Human and Peoples'  
Rights 177–8  
African Governance Architecture 173  
African Peace and Security Architecture  
173  
African Transitional Justice Research  
Network 168, 173–4, 180  
African Union 49, 168–9, 171–4, 176,  
178, 180, 182, 191–2, 199–202,  
204–9, 247, 251, 254–5, 257, 259  
Commission of Inquiry on South  
Sudan 200–201  
Transitional Justice Policy 6,  
167–83, 248  
Agreement for the Resolution of the  
Conflict in South Sudan 191–2,  
196, 202  
Ahitungiye, F. 232  
Akin-Aina, S. 229  
al-Bashir, O. 172, 193, 204, 207–8  
Al-Dabi, M. A. 198–9  
Alfonsin, R. 148  
alternative facts 41  
Alternatives to Violence Project 115  
amnesties 207–9  
anarchy 24, 26–7  
Andrieu, K. 4, 113  
Ansoms, A. 55  
apartheid 123, 149, 152, 159  
Argentina 3–4  
truth commissions 145–8, 151,  
157–8, 161  
Arusha Peace and Reconciliation  
Agreement 103–4, 112, 215, 221,  
223–4, 228–9, 233  
Ashforth, A. 146–7  
Ashley, R. 27  
assassinations 214–17, 221–2, 230, 232,  
234  
assemblage theories 170–71, 178,  
180–82  
*Association Contre le Génocide* 234  
authoritarianism 41, 67, 124, 134, 254  
Aylwin, P. 148  
Banny, C. K. 82, 90  
Batwa 107  
Bayart, J.-F. 225  
Bédié, H. K. 76  
Belgium 103, 106, 234, 236–7  
Bigirimana, S. 15, 218–20, 247–8,  
250–53, 255  
Biko, S. 218  
Blieseemann de Guevara, B. 260  
Boraine, A. 101, 148, 245  
Bourke, L. 58  
Boutros-Ghali, B. 31  
Bowsher, J. 136  
Braeckmann, C. 236  
Bray, S. 178–9  
bridging class 88  
Brinton Lykes, M. 245  
Burundi 99–115, 175, 202, 214–39, 247,  
250–52, 254–5, 259, 261  
truth commission 99–101, 103–9,  
112–15, 215, 233–4, 238, 254  
Bush, K. 258  
Buyoya, P. 223, 226–7

- Cambodia 102, 114, 202  
 Cameroon 49  
 Canada 134, 222, 234  
 capacity building 44, 55, 78, 88, 91, 101, 110, 179  
 Care International 78, 84–5  
 Catholic Commission for Justice and Peace 125  
 Center for the Study of Violence and Reconciliation 168–9, 174–82  
 Central Bank of West African States 83  
 Centre d'Alerte et Prévention de Conflits 106  
 Centre Suisse de Recherches Scientifiques en Côte d'Ivoire 50, 59  
 Chihambakwe Commission of Inquiry 125  
 Chile, truth commissions 146–8, 151–2, 156–9, 161  
 China 205  
 Choi, Y.-J. 75  
 Chrétien, J.-P. 236  
 Cishahayo, F. 239  
 civil society organizations 78, 108–9, 126, 132, 176, 181, 210–11  
 civil wars 21, 75, 100, 103–5, 124, 145, 148, 191–2, 195–8, 200–202, 215, 218, 229, 233  
 cluster bombs 203–4  
 Cold War 21, 27, 30–31, 40, 42, 52, 124  
 collaborative research projects *see* research partnerships  
 Colombia 175  
 Colombres, R. 157  
 colonialism 5–6, 28, 121, 125, 217, 220–22, 236–8  
 Colvin, C. J. 8, 251  
 Commission Dialogue, Verité et Réconciliation 79, 81–3, 89–90, 92  
 Comprehensive Peace Agreement 191–3, 195, 197  
 Comte, A. 122  
 conflict sensitivity 11, 37, 42–3, 45–6  
 Conrad, J. 135  
 corruption 107, 130, 192, 197, 229  
 Côte d'Ivoire 49–50, 58–60, 75–94, 247, 249–51, 254–5  
 truth commission 79, 81–3, 89–90, 92  
 COVID-19 42, 239  
 Cox, R. 26  
 crimes against humanity 80–81, 104, 107, 130, 200, 230  
 criminal justice 147, 172, 177, 194, 261  
 critical theories 26–7, 39  
 critical thinking 33, 121, 258  
 Cross, M. F. 236  
 Datta, A. 55  
 Dayton Peace Accord 114  
 de Greiff, P. 253  
 democracy 3–4, 8, 79, 113, 126, 129–30, 193–4, 196, 221, 238  
 Democratic Republic of Congo 222, 237  
 Dersso, S. 178–9  
 Deya, D. 177–8  
 dictatorships 124, 145, 148, 159, 214, 225–6  
 dignity 54, 124, 225  
 Dinka 194–6  
 Dolan, C. 53  
 due diligence 54  
 Duggan, C. 258  
 duty of care 67  
 East African Court of Justice 177  
 Eboussi-Boulaga, F. 228  
 Economic, Social and Cultural Council 176  
 education, access to 223, 238  
 Egypt 41, 204  
 El Salvador, truth commissions 147–8, 151, 155, 157–8, 161  
 elections 75–8, 80–82, 84–6, 89–91, 94, 104, 106, 114, 126–9, 172, 214–15, 229, 232–4, 237–8  
 elites 13, 77, 82–4, 99, 102, 104–5, 115, 131–2, 135, 150–51, 158, 192, 194–6, 198, 214, 237, 247–8, 251, 253, 257, 261  
 emotion 11–12, 51, 56, 62–5, 68–9, 137, 218, 252–3  
 Ero, C. 172, 174–5  
 ethics 1, 39, 51, 54, 56, 61, 64, 66–9, 158, 251–2  
 Ethiopia 41, 169, 198, 204

- ethnicity 192, 194–6, 201, 215–16, 218, 220–29, 231, 233–4, 236, 247, 251
- Eurocentrism 7, 121, 124, 135
- European Commission 147, 152–4, 160
- European Union 78, 84, 128, 191, 199, 202, 205–6, 209, 237
- evidence-based policy-making 11, 33, 38, 46, 192, 257
- expertise 1, 3, 5, 8–10, 13–14, 24, 32, 50, 52–4, 57, 60–61, 70, 78–9, 87–8, 109–10, 131, 135, 146–7, 150–57, 160–61, 167–83, 198–202, 205, 208, 219, 222, 236–8, 247–8, 252–9, 261
- Farabundo Marti National Liberation Front 148, 151
- fieldwork 53, 55, 58, 63–5, 67, 219
- Fletcher, L. E. 53, 124, 249
- Fokou, G. 11–12, 59–60, 68, 70, 247, 249–51, 254–6
- former Yugoslavia 114, 217
- Forum National des Relais  
Communautaire en Justice de Transition 103, 108–10, 112
- Foucauldian gaze 24, 32
- France 49, 84
- Frankfurt School 29
- Freeman, M. 145
- Front for Democracy in Burundi 215, 232
- funding 40, 43, 53–4, 56, 59, 63, 68, 99, 220
- gacaca* courts 79, 114, 134, 136
- Gakunzi, D. 236
- Galtung, J. 21, 28
- Ganwa 233
- Garang, J. 196
- Gbagbo, L. 75–6, 80–81, 90
- Gbagbo, S. 75–7, 80–81, 93
- gender 107, 130, 137, 177, 179–80, 210, 222, *see also* women
- genocide 15, 104, 106, 114–15, 193, 204, 215–17, 222–4, 229–35, 238, 247
- Germany 49, 52, 84, 150, 152, 159, 161, 238
- Ghana 173
- Global Challenges Research Fund 44, 54–5
- Global North 4–7, 10, 40, 44–6, 49–50, 52–5, 59, 61, 65–70, 120–21, 129, 167–9, 252–3, 255–6, 259, 261
- Global Political Agreement 126–8
- Global Rights 106
- Global South 4–7, 10, 40, 44–6, 49–50, 52–6, 60–61, 63, 66–70, 120–21, 124, 167–9, 252–3, 255–6, 259, 261
- Goetschel, L. 11, 252, 257–8
- Goudé, C. B. 80
- Groupe de Réflexion sur la Justice Transitionnelle 103, 106, 109, 111, 113
- guilt 62, 153, 156, 226, 229
- Gukurahundi 125
- Halistoprak, B. T. 11, 246–7, 252, 257–8
- Hansen, T. O. 8
- Hayner, P. B. 52, 134, 145, 148, 259
- HIV/AIDS 222
- Hobbes, T. 24, 122
- Holland, S. 128
- Houphouët-Boigny, F. 76
- human rights violations 1–2, 4, 6, 56, 64, 68, 76, 79–81, 99–103, 105, 111, 114–15, 120–21, 125–7, 129, 131, 137, 148, 151, 157, 159, 175, 180, 191, 193, 195, 200–206, 208–10, 233, 257
- Human Rights Watch 207, 251
- Hume, D. 122
- Hun, S. 114
- Hutu 104, 107, 114–15, 215–16, 220–39
- Hybrid Court for South Sudan 191–2, 194, 200–11
- identifying the ‘local’ 7–8
- IGAD PLUS 191–211
- impunity 79, 90, 100, 102, 111–12, 114, 125, 130, 172, 176, 191, 194–5, 197, 199–202, 204–6, 208–10, 254
- Impunity Watch 105–6
- indigenous knowledge systems 30–31, 34
- insecurity 58, 61, 66, 68, 76, 194, 197, 233

- Institute for Peace and Security 176  
 Institute for Security Studies 176  
 Intergovernmental Authority on  
   Development 191–211, 251  
 internally displaced persons 76, 103, 127,  
   192  
 International Center for Transitional  
   Justice 52, 78, 84, 172, 246, 251  
 International Commission of Enquiry for  
   Burundi 216  
 International Criminal Court 80–81, 93,  
   102, 113, 172, 193, 202, 204,  
   207–8, 230, 237  
 international law 5, 100, 114, 136, 180,  
   257  
 International Monetary Fund 80, 83, 136  
 International Relations 21–34, 168–70,  
   246, 248  
 International Rescue Committee 78, 84  
 Interpeace 78, 84–5, 92  
 Israel 41  
*ivoirité* 76  
 Ivorian Popular Front 77
- Japan 84, 205  
 jargon 121, 253  
 Jasanoff, S. 149–50, 158  
 Jobbins, M. 232  
 Joinet, L. 100  
 Jones, B. 11–12, 60, 63–5, 68, 251–3,  
   258  
 juries 152–4, 156–7, 160  
 justice *see* criminal justice; transitional  
   justice  
 justice from below 7
- Kagame, P. 114  
 Kagoro, B. 5–6, 52, 178–9  
 Kalomoh Report 105, 108  
 Kaplan, M. A. 25  
 Kavakure, L. 106  
 Kavakure Report 106  
 Kenya 6, 124, 169, 172–3, 175, 198,  
   205–6, 208  
 Kenyatta, U. 172  
 Khadiagala, G. 172, 174–7, 179  
 Khmer Rouge 114  
 knowledge asymmetry 75, 77, 79, 81,  
   83–9, 91, 93, 131  
 Knowledge for Peace 256  
 knowledge imperialism 3, 5–7, 52  
 knowledge production, politics of 1–16,  
   245–62  
   in Burundi 99–115, 214–39  
   in Côte d'Ivoire 75–94  
   definition of 10, 122–4  
   integrating power to increase impact  
     37–46  
   within IR and Peace Studies 21–34  
   reflections on a collaborative  
     research project 49–70  
   in South Sudan 191–211  
   in Zimbabwe 120–38  
 knowledge transfer 60, 69, 88, 183, 257  
 Kritz, N. J. 52, 249  
 Kuhn, T. S. 219  
 Kurowska, X. 260  
 Kurzman, C. 123  
*Kusvutidzana fodya/ukukhumisana  
 umlotha* 128, 130–31
- Lambourne, W. 12–13, 247, 250, 254–6,  
   259  
 Lamont, C. K. 261  
 Latin America 6, 52, 134, 193, 249, 253,  
   257  
 Lawther, C. 53  
 Lefranc, S. 253  
 Legal Resources Foundation 125  
 Leidner, B. 229  
 Lemarchand, R. 236  
 Lévi-Strauss, C. 65  
 liberal democracy 3–6, 129–30  
 Liberia 86, 124  
 Linux 123  
 Locke, J. 122  
 Logo, K. H. 11–12, 14–15, 60–63, 65–8,  
   247–8, 250–51, 254, 257  
 Lonergan, B. 214, 218–19  
 Lühe, U. 11–12, 14, 57, 65, 68, 247–8,  
   251, 254–9  
 Lupton, D. 62  
 Lyotard, J. F. 218
- Machar, R. 196  
 Machiavelli, N. 24  
 Made in Africa 121  
 Making Evaluation Our Own 121

- Malabo Protocol 7, 178  
Mamdani, M. 195  
Mandela, N. 123, 149, 151  
Mangain, B. 236  
Masiya, T. 13, 109, 247–51, 253–7, 259  
*mato oput* 136  
Mbigi, L. 123  
Mbonimpa, M. 221, 225  
memorialization 110, 136  
Mertus, J. 67  
Mesfin, L. S. 198  
Mexico Agreements 148  
Michel, L. 237  
Micombero, M. 234  
Mignolo, W. 138  
militia 76, 191, 230–31, 237  
Miller, Z. 8–9  
Minow, M. 52  
Moffett, L. 53  
Morgenthau, H. 24  
Moro, L. N. 11–12, 50, 60, 63–6, 70  
Movement for Democratic Change 126  
Mozambique 57  
Mugabe, R. 125, 127–8  
multilateralism 31–2, 40, 205–6
- Na Wewe* 231, 236  
Nagy, R. 4  
National Commission for Reconciliation  
and Compensation for Victims  
82–3, 89–90  
National Council for the Defense of  
Democracy-Forces for Defense of  
Democracy 215, 230–32  
national interest 26, 258  
National Social Cohesion Programme  
82–3, 87, 89, 92  
N'Da, S.-A. Y. 11–12, 247, 249–51,  
254–6  
Ndadaye, M. 214–16, 221, 224, 230, 232  
Ndayishimiye, E. 223, 229, 231, 233,  
239  
neoliberalism 32, 121, 124, 130, 132, 136  
Nepal 175  
Ngendandumwe, P. 214  
Njeru, S. 13, 109, 247–51, 253–7, 259  
Nkurunziza, P. 104, 112, 223, 225, 229,  
231–4, 239  
non-governmental organizations 4,  
40–41, 45, 70, 78–81, 84–8, 91–4,  
103, 105, 107, 132, 136, 149,  
167–9, 183, 224, 246, 251, 254–5,  
259  
Norway 191, 198–9  
Nouwen, S. M. H. 5, 65  
Ntaryamira, C. 224  
Nuer 194–6  
Nuremberg Trials 6, 52, 134, 193
- objectivity 13–14, 22–3, 25, 27, 33, 62,  
146–7, 149–51, 158, 160–62, 218,  
248  
Ogoola, J. 5  
Orentlicher, D. F. 52, 100  
Organ of National Healing,  
Reconciliation and Integration  
126–8, 131  
Organization for African Unity 172  
Ouagadougou Agreement 85  
Ouattara, A. 75–7, 80–81, 249–50
- Palmer, N. 245  
Pan-African Lawyers Union 177–8  
pan-Africanism 177–9  
Panel of the Wise 172–6  
pardons 207–9  
Paris Peace Agreement 114  
Parmentier, S. 101  
Peace Studies 21–34, 37–40, 46, 252  
peacebuilding 1, 4–6, 9, 11, 15, 30–34,  
37–40, 45–6, 56, 68, 77–9, 83, 85,  
89, 93–4, 99–102, 104, 111, 113,  
115, 177, 197, 223, 248, 251–2,  
257  
Piccolino, G. 82, 90  
Pinochet, A. 148  
Poets, D. 253  
Polanyi, M. 219  
policy-making 7, 11, 14, 23, 30, 32–3,  
153, 155, 161, 192, 247–9, 256–9,  
261  
developing the African Union  
Transitional Justice Policy  
167–83  
evidence-based 11, 33, 38, 46, 192,  
257

- positionality 8, 11–12, 40, 43, 46, 49, 51, 56–62, 67, 69, 252, 256  
 postcolonialism 6, 26–8, 30, 121, 126, 215  
 Post-Conflict Assistance Project 85  
 poststructuralism 23, 26–7, 32  
 poverty 111, 234  
 power 49–51, 53, 56, 59–61, 83–8, 106, 109, 167–8, 251–6, 258, 260–61  
   in Burundi 99–115  
   integrating power to increase impact 37–46  
 pragmatic approaches 11, 29, 39, 44, 127  
 praxis approach 23, 29–30, 32  
 Prevention of Violent Extremism 42  
 problem-solving theories 26–7, 39, 45  
 Project for Justice in Times of Transition 249  
 public apology 90  
  
 Quaker Peace Network 111–13, 115  
  
 Rapoport, A. 29  
 Realism 24, 27  
 rebel groups 75, 103–6, 204, 227, 230–31, 233–4  
 reconciliation 1, 6, 77–8, 80–82, 84, 87–8, 91–4, 99–105, 110–11, 114, 125, 127, 129–30, 154, 172, 176, 194–5, 200, 223, 229, 238–9, 250, 254  
 refugees 192, 226, 229, 236, 239  
 religion 77, 149, 152, 158–9  
 remembrance ceremonies 217, 233–5  
 reparations 58, 77, 81–3, 89–91, 100–102, 105, 109–11, 114, 124, 127–30, 136, 156, 160, 193–4, 200, 233, 237, 250  
 representation 152–7, 159–61  
 Republican Forces of Côte d'Ivoire 75–6  
 Rescher, N. 122  
 Research Councils UK 44  
 research partnerships 11–12, 37, 42–6, 251–2  
   reflections on a collaborative research project 49–70  
 research-policy-practice nexus 8–10, 15, 246, 256–60  
  
 resource asymmetries 12, 37, 40–43, 46  
 Reyntjens, F. 236  
 Richmond, O. P. 31–2  
 Rome Statute 80, 210, 250  
 Russia 41  
 Ruto, W. 172  
 Rwagasore, P. L. 214  
 Rwanda 6, 79, 103, 114, 124, 134, 136, 172, 216–17, 219, 222, 224–6, 229–30, 233–4, 236–7  
  
 sanctions 205–7, 229, 237  
*Sans Echeecs* 230–31, 237  
 Sartre, J.-P. 218  
 Saward, M. 160  
 Search For Common Ground 78, 84–5  
 Second Great Debate 24–5  
 security 31, 58, 66–7, 77, 177, 202, 226–7  
 Security and Defence Forces 75–6  
 self-defence 227, 229–30, 238  
 Sentry Report 204–5, 209  
 sexual violence 76, 125, 210  
 shrinking spaces 40–41  
 Sierra Leone 79, 124, 173, 175, 202  
 Simbananiye, A. 233–4  
 Simbananiye Plan 234  
 social media 239  
 Somalia 172  
 Sooka, Y. 175–7, 179  
 South Africa 6, 81, 124–5, 132, 168–9, 172–3, 253  
   truth commission 101, 146–9, 151, 155, 157–9, 161, 175–6, 245–6  
 South Sudan 49–50, 58, 60–61, 63, 65–6, 124, 191–211, 247, 250, 254, 261  
   truth commissions 209  
 sovereignty 27, 45, 106–7, 112–13, 172–3  
 Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence 4  
 Sri Lanka 175  
 Sudan People's Liberation Army 195  
 Sudan People's Liberation Movement 192, 196–7  
 Sumbeiywo, L. 198  
 Sustainable Development Goals 42

- Swiss Commission for Research Partnerships with Developing Countries 44, 50, 54, 56
- Swiss Development Cooperation 50
- Swiss National Science Foundation 50, 66
- swisspeace 50, 59
- Switzerland 49–50, 66
- Taking Transition Justice to the People Programme 120, 122, 124, 128–38, 259
- Tanzania 169, 226–7
- Teitel, R. 134, 259
- terrorism 230
- The (Silent) Voices Blog 55, 59
- think tanks 8, 176, 261
- Tokyo Trials 52, 134, 193
- transitional justice 1–16, 246–62
  - in Burundi 99–115, 214–39
  - in Côte d'Ivoire 75–94
  - definition of 2–3, 52, 124–5, 131
  - developing the African Union Transitional Justice Policy 167–83
  - emergence and diffusion of 3–5
  - in South Sudan 191–211
  - truth commissions *see* truth commissions
  - UN pillars of 77, 79, 100, 105, 108–11, 116, 250, 259, 261
  - in Zimbabwe 120–38
- transparency 63, 67, 75, 100, 107, 130, 155–6, 160–61
- Trauma Healing and Reconciliation Services 111
- tribunals 8, 100, 102, 104–5, 109, 113–14, 124, 136, 250
- Troika 191, 198–9, 205–7, 209
- Trump, D. 41
- trust 49, 51, 54, 58–9, 62–4, 77, 82, 89, 107, 131, 153–4, 225, 245
- truth commissions 8, 77, 247–8, 260
  - in Argentina 145–8, 151, 157–8, 161
  - in Burundi 99–101, 103–9, 112–15, 215, 233–4, 238, 254
  - in Chile 146–8, 151–2, 156–9, 161
  - in Côte d'Ivoire 79, 81–3, 89–90, 92
  - definition of 145
  - in El Salvador 147–8, 151, 155, 157–8, 161
  - members of 145–62, 248, 251, 257
  - representativity in 152–7, 159–61
  - in South Africa 101, 146–9, 151, 155, 157–9, 161, 175–6, 245–6
  - in South Sudan 209
  - in Zimbabwe 124–5
- truth telling 100, 111, 113, 129, 193–4, 200, 209, 217
- Tsvangirai, M. 128
- Tunisia 124
- Turkey 41
- Tutsi 104, 107, 114–15, 215–16, 220–39
- Tutu, D. 123
- Twa 104
- Ubuntu 123, 134, 136–7
- Uganda 6, 124, 136, 173, 175, 203–6
- Union for National Progress 214
- United Kingdom 44, 49, 54, 150–51, 158, 191, 199, 205, 209
- United Nations 32, 52, 70, 75–6, 79, 84–5, 94, 99–100, 102–3, 105–15, 136, 148–9, 175, 191, 198–9, 202–7, 209–11, 222, 237, 250–51, 254–5, 259
- Development Programme 78, 124
- Operation in Côte d'Ivoire 78, 83–5, 87
- Peacebuilding Fund 83
- pillars of transitional justice 77, 79, 100, 105, 108–11, 116, 250, 259, 261
- Principles to Combat Impunity 4
- Security Council 102, 104, 108, 199, 204–6
- United States 41–2, 150–51, 191, 198–9, 205–6, 209, 222, 226
- University of Juba 50, 59, 63
- USAID 78, 84–5, 88
- Vairel, F. 253
- van der Merwe, H. 53–5, 173, 245
- Vandeginste, S. 109
- Verwoerd, W. 155
- victims' organizations 78–9, 81–2
- Vietnam War 42

- view from everywhere 150–52, 158–9, 161  
 view from nowhere 150–51, 161  
 Villa-Vicencio, C. 155  
 violence 1, 4–6, 15, 31, 37, 55, 58, 64–5, 75–8, 81, 86, 90, 103–4, 115, 121, 124, 127–31, 134, 137, 151, 154–5, 160, 173, 194–5, 201–2, 247, 251–3, 255, 259–60  
   in Burundi 214–39  
   civil wars 21, 75, 100, 103–5, 124, 145, 148, 191–2, 195–8, 200–202, 215, 218, 229, 233  
   genocide 15, 104, 106, 114–15, 193, 204, 215–17, 222–4, 229–35, 238, 247  
   sexual violence 76, 125, 210
- Wachira, G. M. 176  
 WANEP-Côte d'Ivoire 92  
 war crimes 104, 107, 175, 198, 200, 207, 210–11  
 Weinstein, H. M. 53, 124, 249  
 Weldes, J. 26
- Wendt, A. 26  
 Whitaker, B. 215  
 Whitaker Report 215–16  
 Wielenga, C. 229  
 witness protection 107–8  
 women 7, 85, 89, 105, 107, 129, 131, 134, 137, 222, *see also* gender  
 workshops 11, 49–50, 53, 56, 62–5, 68, 80, 83, 87–8, 92, 103, 111, 130, 169, 247, 256, 259
- World Bank 136  
 Wouters, D. 13–14, 247–8, 251, 257–8
- Zaire 227  
 Zenawi, M. 204  
 Zimbabwe 120–38, 173, 178, 218, 247, 249–51, 254–5, 259, 261  
   truth commissions 124–5  
 Zimbabwe African National Union-Patriotic Front 126–8, 130, 132, 135  
 Zimbabwe Human Rights NGO Forum 120, 122, 126–38, 249