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**Transitional Justice Battlefield**  
**Practitioners Working around Policy and Practice in Rwanda and Burundi**

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For the qualification of PhD in International Development

Submitted in September 2015

## **Statement**

The thesis, whether in the same or different form, has not been previously submitted to this or any other university for a degree.

Signature

A. Jamar

## **Abstract**

Over the last two decades, following a long history of mass violence in Burundi and Rwanda, transitional justice (TJ) efforts were deployed in the two countries. Observing, particularly after the 1994 Rwandan genocide, that cycles of violence had devastated these two nations, a number of international organisations encouraged and financed socio-political and judicial responses with the aim of building sustainable peace in the region. The gacaca courts have been at the centre of the TJ process in Rwanda, and the negotiations over a Truth and Reconciliation Commission (TRC) remain the key focus in the Burundian TJ process. The local contexts have not been the sole influence on the design and implementation of the initiatives: the consolidation of TJ as a field of practice on a global level has also been of paramount importance. Under scrutiny in this thesis is the ‘battlefield’ in which TJ practitioners argue about the past, a battlefield created by the frictions between the universal TJ discourse, the resulting technocratic aid practices and the often silenced, but highly politicised negotiations and implementation on the ground.

My research establishes that while TJ practitioners disseminate a positive discourse designed to help societies emerging from violence, their practices are actually embedded in trenchant hierarchical structures and tensions from the violent past. I argue that their efforts, delivered through performative and technocratic work, too often ignore the hierarchical social and political structures in which they operate. Furthermore, the assumption that their technical work can fix dysfunctional states results not only in a silencing of the social and political dynamics in play, but also demonstrates a form of imperialism and colonialism, leading to the reproduction of multi-layered unequal structures, paternalistic behaviours towards beneficiaries, privileging of implementers over supposed beneficiaries, and the repetition of counter-effective practices. These efforts and silences have the potential to exacerbate the issues rather than to alleviate them.

This analysis engages with two academic debates: first, the questionable capacity of ‘professionalised’ and ‘universalised’ TJ mechanisms to deal with past crimes; and, second, whether aid practices can effectively contribute to ‘sustainable peace’, ‘development’ and ‘democracy’ in post-conflict contexts. My analysis is driven by the following research questions: Why is the role of practitioners and their everyday crucial to understanding TJ processes? How does the professionalisation of aid and TJ shape the practices of TJ in Burundi

and Rwanda? How and why do frictions between academic theory, policy discourse and everyday practice of TJ impact on outcomes on the ground?

In conclusion, my research illustrates the way in which TJ professionalised practices constitute a battlefield, with “ongoing struggles in the battle for the nature and direction of the transition” being a metaconflict – a “conflict about what the conflict is about”, in which TJ victors tilt all transitional mechanisms “towards an end point for transition that approximates” to their “battlefield goals” (Bell 2009). Within these everyday battles, TJ practitioners are playing a crucial role in the implementation of TJ. Through the dissemination of their expertise, they act as ‘brokers’ and ‘translators’ of the TJ toolkit approach. They, particularly the most powerful practitioners, produce interpretations and offer “scripts into which others can be recruited for a period” (Lewis and Mosse 2006, 13). As Norman Long (1992, 275) points out in looking at development actors, their professional practices constitute a “knowledge battlefield” in relation to “the issues of conflicting loyalties, of negotiation over ‘truth’ claims, of battles over images and contesting interests.”

Describing how TJ practitioners work around policy and practice in Rwanda and Burundi, I demonstrate how the gacaca law and the Burundian TRC law, and their policy frameworks and implementing activities, have all been created around the same global discourse. But the actual negotiations of specific prescriptions and implementation have led to very different practices being moulded around different dynamics of power by actors and organisations involved in these processes. Whereas these dynamics are but natural, silencing them behind technocratic knowledge, however, has severe implications. In contrast to most of the TJ literature making reference to civil society and international donors, my research underlines the role and consequences of their everyday politics, through which the directions of the TJ agenda are decided and implemented. Building on social anthropology and development studies, I underline the entanglement formed between TJ and aid, and bring attention to unattended effects of TJ practices, including how power has a play in policy implementation and how unequal relations are reproduced. Doing so, I expand the critical TJ scholarship and the calls for ‘localising transitional justice’, as well as developing the understanding of the limitations of TJ processes in Rwanda and Burundi.

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In 2006, while preparing my application to undertake an MA in peace studies, I decided at the last minute to drop my previous research topic (a territorial conflict over a 200-square-metre island between the Republic of Korea and Japan). I was looking for a more meaningful and powerful area that would stimulate me enough to wake me up feeling motivated every morning for two years. In a hurry to reach the application deadline, I decided to look at aid and peacebuilding as means of dealing with the consequences of genocide and mass violence in Rwanda and Burundi. It was an effective decision, because on many occasions over nine years, this research topic would certainly keep me awake at night. With an ethnographic approach, my whole process has relied on people who engaged in and supported the research, including the research participants and beyond. This long research project was possible only with the support and patience (or even impatience) of a great network of friends, informants, colleagues and supervisors.

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## **List of abbreviations**

AI	Amnesty International
ACP	African, Caribbean, and Pacific Group of States
APRA	Arusha Peace and Reconciliation Agreements
APRODH	Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues (Burundian Association for the Protection of Human Rights and Detainees)
ARMK	Association des Rescapés des Massacres de Kiviyuka (Survivors of Kiviyuka Massacre Association)
ASA	Association of Social Anthropologists of the UK and Commonwealth
ASF	Avocats Sans Frontières
BINUB	Bureau Intégré des Nations Unies au Burundi (United Nations Integrated Office in Burundi)
BNUB	Bureau des Nations Unies au Burundi (United Nations Office in Burundi)
BTC	Belgian Technical Cooperation
CSLP I	Cadre Stratégique de Croissance et de Lutte contre la Pauvreté I (Growth and Poverty Reduction Strategic Plan I)
CSLP II	Cadre Stratégique de Croissance et de Lutte contre la Pauvreté II - (Growth and Poverty Reduction Strategic Plan II)
CNDD-FDD	Conseil National pour la Défense de la Démocratie – Forces de Défense de la Démocratie (Forces for the Defence of Democracy)
CNDP	Commission Nationale des Droits de la Personne (National Commission of Human Rights; Rwanda)
CSO	civil society organisation

DFID	Department for International Development (UK)
DRC	Democratic Republic of the Congo
EC	European Commission
FDD	Forces de Défense de la Démocratie (Forces for the Defence of Democracy)
FOCODE	Forum pour la Conscience et le Développement (Forum for Conscience and Development; Burundi)
FORSC	Forum des organisations de la société civile (Forum of Civil Society)
GRJT	Groupe de Réflexion sur la Justice de Transition (Reflection Group on Transitional Justice)
HRW	Human Rights Watch
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice
ICTY	United Nations International Criminal Tribunal for the Former Yugoslavia
ICRC	International Committee of the Red Cross
IICI	International Judicial Commission of Inquiry
IJR	Institute for Justice and Reconciliation
IMF	International Monetary Fund
INGO	international non-governmental organisation
IOB	Institute of Development Policy and Management
IW	Impunity Watch
JADF	Joint Action Development Forum
JRLO	Justice, Reconciliation, Law and Order Sector
LIPRODHOR	Rwandan League for the Promotion and the Defence of Human Rights
M23	March 23 Movement
MDG	Millennium Development Goals
M&E	Monitoring and Evaluation
MINAFFET	Ministère des Affaires étrangères et de la coopération (Ministry of Foreign Affairs and Cooperation; Rwanda)
MINADEF	Ministry of Defence (Rwanda)



MINIJUST	Ministry of Justice (Rwanda)
MSD	Mouvement pour la solidarité et le développement (Movement for Solidarity and Development)
NGO	national non-governmental organisation
NTRC	National Truth and Reconciliation Commission
NURC	National Unity and Reconciliation Commission (Rwanda)
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
OIF	Organisation internationale de la Francophonie (International Organisation of Francophony)
OLUCOME	Observatory for the Fight against Corruption and Economic Embezzlement
ONUB	Opération des Nations Unies au Burundi (United Nations Operation in Burundi)
PALIPEHUTU-FNL	Parti pour la libération du Peuple Hutu – Forces Nationales de Libération (Party for the Liberation of the Hutu People – National Forces of Liberation)
PAPG	Projet d'appui de la société civile au processus gacaca au Rwanda (Project in Support of Civil Society in the Gacaca Process in Rwanda)
PRI	Penal Reform International
PRSP	poverty reduction strategy paper
RDRC	Rwanda Demobilisation and Reintegration Commission
RGB	Rwanda Governance Board
RPF	Rwandan Patriotic Front
SNJG	Service National des Juridictions Gacaca (National Service of Gacaca Courts)
TIG	travaux d'intérêt general (work for general interest/community work)
TJ	transitional justice
TRC	truth and reconciliation commission
UN	United Nations
UNDP	United Nations Development Programme

UN OHCHR	United Nations Office of the High Commissioner for Human Rights
UPRONA	Union pour le Progrès national (Union for National Progress; Burundi)
UPD	Union pour la paix et la démocratie (Union for Peace and Democracy; Burundi)
WB	World Bank

# Introduction



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## Introduction

Over the last two decades, following a long history of mass violence in Burundi and Rwanda, transitional justice (TJ) efforts were deployed in the two countries. Observing, particularly after the 1994 Rwandan genocide, that cycles of violence had devastated these two nations, a number of international organisations encouraged and financed socio-political and judicial responses with the aim of building sustainable peace in the region. The gacaca courts have been at the centre of the TJ process in Rwanda, and the negotiations over a Truth and Reconciliation Commission (TRC) remain the key focus in the Burundian TJ process. The local contexts have not been the sole influence on the design and implementation of the initiatives: the consolidation of TJ as a field of practice on a global level has also been of paramount importance. Under scrutiny in this thesis is the ‘battlefield’ in which TJ practitioners argue about the past, a battlefield created by the frictions between the universal TJ discourse, the resulting technocratic aid practices and the often silenced, but highly politicised negotiations and implementation on the ground.

Using ethnographic methods to look at aid practices, I undertook an ‘aidnography’ (e.g., Gould 2014) of TJ practitioners by scrutinising the everyday of the local and expatriate professionals who were involved in the negotiation and implementation of gacaca courts in Rwanda and the preparations for TRC in Burundi. I aim to address in this thesis the intersection between the global norms around TJ and its local practices. I unpack the preformatted understanding of concepts and practices related to aid and TJ, and explore the way in which international norms become entangled in the local context, and how frictions are created. My research describes, in addition to the well-established limits between discourse and practice, the micro-social negotiations entailed in dealing with a violent past. Describing TJ as a “battlefield”, Christine Bell (2009, 25) considers that:

Transitional justice mechanisms, with their capacity to adjudicate on the rights and wrongs of a conflict, not only as regards individual culpability but also in relation to institutional and social responsibility for the genesis and sustenance of the conflict, are a key site of ongoing struggles in the battle for the nature and direction of the transition. Control of the transitional justice mechanism can enable victory in the metaconflict – the conflict about what the conflict is about – and thereby enable the victor to tilt all transitional mechanisms towards an end point for transition that approximates to the victor’s battlefield goals.

Following Bell, my research explores how TJ practice is constituted by continual and multi-layered battles over the representation of the conflict, concealed in technocratic and apolitical efforts. A pretence to the latter tends to be held by TJ practitioners, at least in policy and public speeches; whereas the inherently political nature of TJ was acknowledged by many of my research participants. Therefore, I refer to TJ practices as professional efforts that are inevitably marked by burdens and legacies of the conflicts. More specifically, the local practitioners' personal experiences of the violence, and the position of international practitioners, will influence the framework of an adopted model, as well as every step of its implementation. From such an understanding, I argue that everyday TJ professional practices create an illusion of rational actions but conceal ubiquitous contradictions within complex battles over the past (see Lefebvre 1971).

My research establishes that while TJ practitioners disseminate a positive discourse designed to help societies emerging from violence, their practices are actually embedded in trenchant hierarchical structures and tensions from the violent past. I argue that their efforts, delivered through performative and technocratic work, too often ignore the hierarchical social and political structures in which they operate. Furthermore, the assumption that their technical work can fix dysfunctional states results not only in a silencing of the social and political dynamics in play, but also demonstrates a form of imperialism and colonialism, leading to the reproduction of multi-layered unequal structures, paternalistic behaviours towards beneficiaries, privileging of implementers over supposed beneficiaries, and the repetition of counter-effective practices. These efforts and silences have the potential to exacerbate the issues rather than to alleviate them.

This analysis engages with two academic debates: first, the questionable capacity of 'professionalised' and 'universalised' TJ mechanisms to deal with past crimes (Kritz and Mandela 1995; J. N. Clark 2009; Hinton et al. 2010; Gibson 2005; Hayner 2010; Leebaw 2008; Lefranc 2010; Mani 2008; Orentlicher 2007; Roht-Arriaza and Mariezcurrena 2006; Shaw, Waldorf, and Hazan 2010; Subotić 2012); and, second, whether aid practices can effectively contribute to 'sustainable peace', 'development' and 'democracy' in post-conflict contexts (Boutros-Ghali 1995; Escobar 1992; de Guevara 2012; Goodhand and Walton 2009; Goodhand 2006; Zürcher et al. 2013). There is already a vast literature dealing with these debates in general, which I will examine in chapters 2 and 4. My two cases studies, the gacaca

process and the delayed TRC in Burundi, have been widely addressed in the existing literature, but gaps remain.

The pieces of research addressing my case studies have considered: how the legal and policy frameworks have been implemented and interpreted within given groups (regarding gacaca Rettig 2008; Rettig 2011; Ingelaere 2009; Ingelaere 2008; regarding Burundi Rubli 2013; Rubli 2011; Matignon 2012; Taylor 2013a); to what extent these policies achieved their stated aims (e.g Clark 2010; Pozen, Neugebauer, and Ntaganira 2014; Kanyangara et al. 2014); the opportunities and limits of the legal frameworks (Waldorf 2006; Longman 2006; Thomson and Nagy 2011; Meyerstein 2007; Stef Vandeginste 2011a; 2010; 2012; Matignon 2012); and, finally, the difficult dynamics between donors and local authorities (Schotsmans 2011; Hayman 2008; Jamar 2012; Taylor 2013b; Taylor 2014). This literature does not, however, comprehensively examine the global dimensions, the entanglements between aid-dependent local contexts, the socio-political dimensions, and their impacts on policy implementation and outcomes.

Adding to the existing literature, my focus on the everyday of TJ practitioners aims to highlight the social and political dynamics taking place behind the public scene of these TJ policy efforts. My thesis explores how TJ practitioners reinterpret the ‘universal discourse’, how they construct the specific, national legal and policy frameworks, and how they implement and negotiate their activities among or with their partners and beneficiaries. This overall introduction presents: (1) the development of the field of TJ, (2) the two case studies, (3) two vignettes that illustrate the approach adopted for a scrutiny of everyday TJ practices, (4) an outline of the research questions, and (5) an elaboration of the thesis structure.

## **The Global Field of TJ in Rwanda and Burundi**

My research is empirically focused on two case studies of TJ process: the gacaca courts in Rwanda and the TRC negotiations in Burundi. At first sight, the two processes seem very different, but their daily practices and implementation share many similarities. Gacaca courts terminated in 2012 having ruled on over two million cases, and the Burundian TRC is at a deadlock after 14 years of difficult negotiations over its legal framework. Both TJ processes have been heavily influenced by foreign intervention and domestic dynamics. In both cases, international support has been promoted as technical and apolitical. I argue, however, that in reality, TJ practitioners implemented a set of activities that, according to their own

understanding and experiences, were based on their reinterpretation, negotiation and dissemination of the international ‘TJ discourse’. While international support has included expertise for the writing of laws and policy documents, the organisation of training and sensitisation programmes, support to civil society, and funding of research and monitoring projects, it has given limited attention to the political and social dynamics in play. From such observations, I approached the two case studies as localised TJ practices dependent on and affected by international aid. I present, below, the consolidation of the TJ field as the global context in which the two specific processes have been taking place. I then present the two cases and underline the similarities and differences.

### *The Consolidation of the TJ Field in the International Scene*

In parallel with these two localised TJ processes, two major developments took place at the international level. First, TJ and international criminal justice have been consolidated through the establishment of the International Criminal Tribunal for Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court (e.g. Orentlicher 2007; Arthur 2009; Lefranc 2010; Hazan 2007; Subotić 2012 - see more details in chapter 2). By the end of the 1990s, Western donors integrated the TJ project into their international agenda as a common search for accountability in the fight against impunity. This further materialised in: the creation of new international organisations such as the International Centre for Transitional Justice (ICTJ) in New York in the USA in 2001, and the Institute for Justice and Reconciliation (IJR) in Cape Town in South Africa in 2000; new funding being made available for TJ projects; and the appointment in 2012, by the UN Office of the High Commissioner for Human Rights (UN OHCHR) in Geneva in Switzerland, of a UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

A range of technical documents and lobbying activities based on these international developments have influenced the TJ policy framework in various contexts around the world (Lefranc 2010; Subotić 2012); these have been depicted in academic literature as a ‘toolkit approach’ followed globally by TJ practitioners and in local contexts. The term toolkit approach addresses the strong patterns or the formulaic nature of the approaches and activities in current TJ practices (e.g., Shaw *et. al.* 2010; Hinton *et. al.* 2010; Sriram and Pillay 2010 – see chapter 2). It involves a set of aims (peace, reconciliation, rule of law, democracy and accountability) achieved through a set of mechanisms (truth-seeking, judicial, reparations,

reform of institutions and vetting). Despite being widely used in critical scholarship on TJ, the term persists with a lack of both clear definition and empirical scrutiny. My contribution aims to unpack what the toolkit approach is, how it has been consolidated and implemented, and its effects in specific, local, but aid-dependent contexts.

Second, the ‘new aid paradigm’ has simultaneously reformed aid delivery for more efficiency, while TJ practices have been increasingly entangled with aid structures. Although the agenda for efficiency has been criticised (Renard 2007; Holvoet and Rombouts 2008; Molenaers and Renard 2009), the changes have impacted on the organisation of donor agencies, receiving authorities and aid-dependent NGOs, including an impact on the global implementation of the TJ toolkit approach in localised contexts. In order to receive funding, local and international organisations have had to comply with increasing bureaucratic obligations, such as aligning with national development policy, harmonising with institutional and civil society partners, paying attention to local ownership and gender, and, more importantly, having to be managed for efficiency (Second High Level Forum on Aid Efficiency 2005; Third High Level Forum on Aid Efficiency 2008; Fourth High Level Forum on Aid Efficiency 2011).

While these reforms have responded to legitimate concerns, they have created heavy technocratic obligations, such as elaborating on logical frameworks and defining objectives in measurable outcomes, with frequent reporting and quantitative monitoring and evaluation. These obligations are time-consuming, but they also open the door to political manipulation that is hidden behind a technocratic discourse (Hayman 2009; Merry 2011; Giovalucchi and Olivier de Sardan 2009). With a focus on two TJ policies, my thesis illustrates this process of professionalisation, through technocratisation and bureaucratisation, that silences the social and political dynamics inherent in TJ processes – both in the case of the gacaca process and the Burundian TJ process, as I introduce now.

### ***The Gacaca Process***

From 2004 to 2012, 15,300 gacaca courts ruled on over two million cases of genocide crimes committed between 1 October 1990 and 31 December 1994, during which an estimated one million Tutsi and moderate Hutu were killed (e.g., The New Times 2012; Avocats Sans Frontières 2010). The gacaca (Kinyarwanda for ‘grass’) process is a popular tribunal system inspired by a traditional form of conflict resolution, which was modified to deal with the judicial and penitentiary burden created by the genocide (e.g., Digneffe and Fierens 2003;



Tertsakian 2008). The Rwandan population, after electing Inyangamugayo (Kinyarwanda for ‘persons of integrity’) among themselves to serve as judges in gacaca courts, had to “recount, disclose the truth and participate in prosecuting and trying the alleged perpetrators” for genocide crimes that took place in their own community (Preamble of the gacaca Law, *Official Gazette* 2004).

The 2004 gacaca law and subsequent revisions framed the process. While it has often been depicted as a traditionally based system in policy discourse, it became a strictly defined process, in: its categorisation of crimes (Art. 9, *Official Gazette* 2008);<sup>1</sup> the roles of benches according to their level (divided against existing territorial entities: cell, district and appeal courts – see Arts. 2, 3, 4, 7, 23 and 24, *Official Gazette* 2008);<sup>2</sup> court procedures, particularly the guilty plea (enabling a reduction of sentence length and part commutation in community work when the plea was accepted by the court – Arts. 12, 13, 16, *Official Gazette* 2008); as well as the general sentence calculation framework (Arts. 17-21, *Official Gazette* 2008).

The preamble of the 2004 gacaca organic law establishes various aims, such as to establish truth, to instil reconciliation, to reinsert victims and culprits into society, and to fight against impunity. It refers to international and national legislation, and Rwandan culture, creating the illusion that gacaca practices are embedded in legal international standards and Rwandan traditions of conciliation. This complex legal framework was the culmination of long negotiations between various positions and concerns expressed by national and international actors involved in the gacaca preparation. Most academic literature addressing gacaca has focused on this abstract framework (e.g., Drumbl 2005; Corey and Joireman 2004; Meyerstein 2007); or as Bert Ingelaere describes (2012, 391), most analysis is marked by “magical legalism” embedded in “a theoretical model that is primarily based on law or law talk” rather than giving attention to the real practice.

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<sup>1</sup> The Rwandan judicial system divided crimes in three categories. The first category included the most serious crimes, initially all dealt with in classic justice. From 2008, the subcategories 3, 4 and 5 were transferred to gacaca courts, which included those who incited and supervised crimes of genocide, authorities from sub-prefectures and communes who committed crimes of genocide, rape or sexual torture. (The sub-categories 1 and 2 remained within classic courts, dealing with planners, organisers, and authorities from the national level who committed genocide crimes.) Category 2 included notorious murderers and perpetrators of torture acts and of dehumanising acts on the dead. The third category included crimes against property such as looting, and destruction of houses, goods and crops. All the categories included the accomplices.

<sup>2</sup> The gacaca cell courts were in charge of data-gathering by listing committed crimes and alleged perpetrators and ruled on category 3 crimes. After the category transfer in 2008, the district courts ruled on category 1 and 2 crimes in first instance while appeal court ruled on appeals and undertook reviews of category 1 and 2 crimes.

The gacaca process inevitably deviated from the framework: each community experienced and implemented the gacaca law according to their experience of the genocide and current circumstances; this in turn resulted in various forms of infiltration of social and political dynamics (Avocats Sans Frontières 2010; Rettig 2011; Ingelaere 2009; Penal Reform International 2006; Penal Reform International 2007a; Penal Reform International 2003; Penal Reform International 2008; Waldorf 2006; Waldorf 2008).

Regarding international aid, the Rwandan authorities, prior to and during the implementation, received important support from various international actors (Oomen 2005; Da Camara 2001; Hayman 2008). My research highlights how the technocratic pretention of these interventions enabled the silencing of inevitable ‘deviations’. In Rwanda and around the world, conferences and consultancies were organised to discuss the legal, social and political dimensions, such as legal guarantees, protection of witnesses and victims, and trauma (see chapters 5 and 6). During these preparations, a lack of legal training for Inyangamugayo and a lack of legal guarantees raised severe concerns over the respect for the right to a fair trial. These concerns led to the establishment of a massive monitoring project to be organised by a number of local and international NGOs, which was mostly funded by international actors (see chapter 6). Donors also provided direct funding to the National Service of Gacaca Courts (or SNJG, the French acronym for Service National des Juridictions Gacaca). This was the entity of the Ministry of Justice in charge of the implementation of the gacaca law – through coordination of gacaca courts, training of Inyangamugayo and sensitisation of the population, a process that relied on foreign funding for at least 60 per cent.<sup>3</sup> Throughout the empirical chapters, the scrutiny of these negotiations between TJ practitioners, local authorities, NGOs and aid agencies illustrates how the socio-political drives these technocratic efforts.

At the time of writing, some 20 years after the genocide, the national political agenda has moved away from TJ matters to the strengthening of Rwanda’s development (e.g., Kagame 2012).<sup>4</sup> Former donors of gacaca have gradually disengaged from the process; the main

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<sup>3</sup> Various sources indicate a budget for gacaca of US\$43 million for 2003–05 (Oomen, 2005: 903), US\$5 million in 2005 (Journal Inkiko Gacaca, 2006: 10), later reduced to US\$1.92 million in 2008 (Presentation at the Peer Meeting, 2008).

<sup>4</sup> As illustrated by the speech of President Kagame at the official Closing of gacaca Court, “Gacaca has empowered Rwandans in ways few could have envisaged. It has illustrated the liberating value of truth. When truth came out in court, from both the perpetrators and survivors of genocide, from witnesses and the community – freely, not at the prompting or tutoring of paid lawyers – it set everyone free and prepared the ground for the restoration of social harmony. ... We should all be pleased that today, Rwandans live and work together for their wellbeing and common good as we look forward to the start of another chapter in our nation’s development.”

supporters have reorientated their aid towards strengthening the classic justice sector, good governance, creating archives for gacaca files and supporting the pursuit of genocide perpetrators internationally.<sup>5</sup> At the same time, the law that terminated gacaca courts transferred competences to other institutions (Official Gazette 2012). This transfer received limited attention from the practitioners interviewed during my fieldwork, to the point that one donor representative in charge of justice matters asked me to forward him a copy of the law.

### *Negotiation over the Truth and Reconciliation Commission in Burundi*

In Burundi, the Arusha Peace and Reconciliation Agreements (APRA) were signed in 2000 under strong international pressure to put an end to the civil war that started after the first democratically elected president was assassinated in 1993 (Curtis 2012; Dupont 2007; Bentley and Southall 2005). Two armed groups, including the current ruling party,<sup>6</sup> refused the Arusha agreements and they did not lead to a total ceasefire until 2008. Still, the APRA established that the TJ pathway in Burundi should adopt three mechanisms: an international inquiry, a National Truth and Reconciliation Commission (NTRC – later renamed Truth and Reconciliation Commission, TRC) and a judicial mechanism (Arusha Peace and Reconciliation Agreement 2000, Protocol I, Chapter II, Art. 6 and 8).<sup>7</sup>

After the adoption of a first TRC law in 2004, the TJ process proceeded roughly with difficult negotiations among the authorities, UN representatives<sup>8</sup> and civil society organisations (Vandeginste 2011a; Vandeginste 2012; Taylor 2013b). It was also marked by many periods

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<sup>5</sup> Author's interview with donors' representatives, Kigali 2012 and 2013.

<sup>6</sup> The ruling party today: the National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD from its French acronym, Conseil National pour la Défense de la Démocratie – Forces de Défense de la Démocratie) and the Party for the Liberation of the Hutu People – National Forces of Liberation (PALIPEHUTU-FNL from its French acronym, Parti pour la libération du Peuple Hutu – Forces Nationales de Libération which turned into the FNL due to interdiction to strict ethnic affiliation for political parties (however, it is divided into the 'official faction' and the non-recognised faction led by its previous leader Agathon Rwassa faction).

<sup>7</sup> In the APRA, an International Criminal Tribunal for Burundi (such as the ones established for Rwanda and Former-Yugoslavia) was considered to undertake judicial prosecutions against the main perpetrators. Through discussions with the UN, the International Judicial Commission of Inquiry was dropped as perceived as a duplication of the TRC for truth-seeking purpose, and due to high critique towards the ICTR and ICTY, it was alternatively consider establishing a special chamber dealing with judicial dimensions at a national level. Since 2010, it has been implicitly agreed that the judicial mechanism will be put in place after the TRC.

<sup>8</sup> Specifically the United Nations Operation in Burundi (ONUB- Opération des Nations Unies au Burundi) from 2004 to 2006; United Nations Integrated Office in Burundi from 2007 to 2010 (BINUB - Bureau Intégré des Nations Unies au Burundi), United Nations Office in Burundi from 2011 to 2014 (BNUB – Bureau des Nations Unies au Burundi).

of inaction. As a way to move forward, national consultations were organised from 2007 to 2010 to gather views of the population with regard to TJ mechanisms (see chapter 6). In 2011, a presidential decree formed a technical committee to look into TJ matters; which wrote a draft law providing for the TRC that was widely criticised by several NGOs. Matters were put on hold again until a new TRC law came along containing fewer guarantees, to be adopted in May 2014. On December 2014, the 11 commissioners of the TRC took an oath in front of the parliament, which officially launched the implementation of the TRC law. Most research in Burundi has focused on the legal and political dimensions of this process, with neutral or positive opinions regarding towards foreign interventions (more details in chapter 3). I contribute to this research by providing an account of the role and limits of international interventions in these dynamics.

Ahead, there remains a difficult implementation, and an even more difficult path towards a judicial mechanism. The current scholarship about the Burundian TJ process does not, however, sufficiently highlight that the implementation of the TRC, even in better circumstances, would certainly not be a smooth process, nor likely lead to the specified objectives. Instead of blaming only national politics, my research attempts to demonstrate the limits of current TJ discourse and practices ('TJ toolkit approach') and how these also play a role in the difficulties of implementing TJ initiatives. I will do so by unpacking the technocratic efforts of aid-dependent local and international NGOs. Indeed, over the last decades, they organised various TJ-related activities such as training and sensitisation on TJ concepts (see chapter 5), and lobbying and research activities (see chapters 4 and 6), with limited capacities to set off the official process or achieve the set goals.

### ***The Rationale of the Two Case Studies***

Often considered *faux jumeaux*, non-identical twins, because of their entangled histories (e.g., Lemarchand 1970; Marysse, Ansoms, and Cassimon 2006), Rwanda and Burundi also have many overlaps in terms of their TJ journeys. The two neighbours of the Great Lakes region of Africa share similarities in terms of culture and social organisation, as well as the colonial and post-colonial background. Instability in one country, along with the situation in eastern Democratic Republic of Congo, has severely affected the situation in the other. The dynamics related to the general security and political situation have been widely addressed in academic writing (Lemarchand 1970; Guichaoua 1995; Uvin 1999; Deslaurier 1998; Prunier 2009;

Reyntjens 2009). My research illustrates how these historical, geographic and political connections are also relevant in the implementation of TJ policies.

Following the prescriptions of the globally promoted ‘TJ toolkit’ approach, the two mechanisms under scrutiny – the gacaca process and the Burundian TRC – have in common the pursuit of grand ambitions, such as fighting impunity, consolidating reconciliation, and establishing truth, individual responsibility and retribution through short-term policies. Being the most prominent dimensions of the TJ policy framework in the two countries, both processes have been heavily marked by the intervention and financial support of foreign donor organisations and Western countries. A number of donors and NGOs have been involved in both processes, and several international members of staff have worked in both countries. Regional desks in head offices are often in charge of the two countries.

In several instances, my two case studies have referred to each other. Examples of this include gacaca being mentioned in the Burundi TJ discussions, particularly in relation to the eventual use of Bashingantahe (the traditional mediators in Burundi), an idea that was later rejected; Burundian victim associations visiting Rwandan commemorations and Rwandan associations; and the hiring of myself to give a presentation about gacaca to Burundian victim associations during their visit to Kigali for the 20th Commemoration of the genocide.

At the same time, the differences between the two processes also introduce interesting variations for the analysis. The Burundian process was in a deadlock situation for a decade while Rwanda’s gacaca courts ruled on over two million cases of genocide crime. The gacaca process officially came to an end on 18th June 2012, whereas the TRC has at the time of the writing not yet been launched. These different timeframes provide an opportunity to look at different stages of TJ implementation. The Rwandan case enables an examination of the dynamics from preparation to closure, and an observation of the gradual disengagement of initial supporters. The Burundian case offers the chance to observe complex negotiations over the mechanism’s modalities in its initial stages.

Looking into TJ processes in Rwanda and Burundi underlines how aid-dependent practitioners operate similarly in very different contexts. Investigating the processes reveals that these similarities go beyond cultural dimensions and regional proximity. An organisational approach to deal jointly with the two countries was evident in examples such as donor and NGO head offices having desk officers for the Great Lakes, various regional offices covering both countries, and in practitioners interchanging their positions between the two. Consequently,

technocratic approaches that were similar – brought in by international aid – shaped TJ policies to deal with the past in two different countries. However, local social and political dynamics took over these global influences to shape the actual implementation of TJ.

With an interest in the intersections between global and local contexts (e.g., Tsing 2005), my doctoral research looks into the everyday of TJ practitioners, with the aim of bringing into the academic debate the challenges faced by practitioners in their daily lives as a result of the complex legacies of colonisation, violence and aid structures. Using ethnographic methods, the thesis illustrates how, by implementing the TJ toolkit approach locally, TJ practitioners have contributed to the professionalisation of TJ, which through a repetition of technocratic and bureaucratic practices, has silenced social and political dynamics inherently in play in TJ processes. The following two vignettes illustrate the approach adopted in the overall thesis.

## **TJ Practice through Two Ethnographic Vignettes**

### ***Technocratic Approach and Social Aims:***

#### ***“The Gacaca Law does not Say How to Pardon”***

My first experience in Rwanda was an internship within the legal unit in Kigali of the National Service of Gacaca Courts in Rwanda (SNGJ), undertaken during my MA studies in the summer of 2008. I arrived a few weeks after a major modification of the gacaca law: the transfer of cases of the most serious crimes from classic courts to gacaca courts. The decision was widely criticised by most who had previously supported gacaca, particularly monitoring organisations (Amnesty International 2007; Avocats Sans Frontières, Penal Reform International, and Human Rights Watch 2008; Jamar 2012, 85–6). A few days before my arrival, Human Rights Watch (2008) released a report about the weaknesses of the Rwandan justice system; this had created strong reactions from government authorities. The tension created by these two events marked heavily in my time at the SNJG, and was widely discussed in the interviews I undertook with various people from local authorities, donors and NGOs dealing with the justice sector in Rwanda.

Whereas I initially considered my time in the SNJG not to be so productive, it actually gave me the opportunity to observe the gacaca policy environment from behind the scenes. The legal unit in which I was based comprised ten lawyers. Each lawyer was in charge of supervising the cases and the district coordinators of one province, as well as being responsible

for giving legal advice to the population through free phone lines open every day, and office time every Wednesday. This created an apparently efficient structure for the national overview of gacaca, while in reality it was understaffed to support all the district coordinators (around 100) and the 15,300 courts in total.

In my daily discussions with the lawyers, they mostly presented me with a positive discourse by considering gacaca to be an important step for Rwandan reconciliation while also acknowledging some of the challenges. When addressing relations with NGOs, they had different positions. One told me “the monitoring agents from NGOs call us and inform us about problems so we can fix them”. Another warned me that “NGOs like HRW do not inform, they misinform – you should not listen to what they say”.

Most of the activities within the SNJG legal unit were taking place in Kinyarwanda, but colleagues would give me translations of the content of their conversations a few times a day. I was most surprised by the office hours every Wednesday, during which people could come for legal advice. Each time, there were around 100 people coming from all over the country. Some travelled for a day to get there and then queued for long hours to meet a legal expert. I often did not understand what was being discussed, and my attention was turned to the emotions on the faces, mainly concerned-looking and gloomy.

On one occasion, a colleague explained that the young man who had just left the office had come to seek advice on how to forgive the person who was the killer of his father. The killer had pleaded guilty and the gacaca bench ruling on the case accepted his demand of pardon, but the son of the victim still found it difficult to pardon him. My colleague, a formally trained lawyer, advised him to pray to God. He considered that only God could help, as the gacaca law did not say how to pardon.

This episode was one that showed how the gacaca law often did not provide appropriate answers for lawyers, or offer them the capacity to act on the problems brought to them. Other examples of the limits of the law and legal support included: a woman who came and asked for advice on how to get her husband, an alleged perpetrator, released; one man who came for advice on how to receive the financial reparation that the gacaca court had ruled on for their looted goods. They all left to return home with the same level of disappointment they came with.

These interactions between the population and the lawyers did not match the official, positive discourse and the assertion that each problem was fixed, one by one. People were expressing concerns and grievances, and expecting to receive legal advice to overcome their situations. The legal framework and technical expertise left many from the population with a burden that could not be fixed by a technical solution.

By beginning to describe the role and everyday practices of the legal unit of the SNJG, this vignette illustrates that while technical support for the population gives an impression of a problem-solving approach and rational action, a latent irrationality lies beneath. In other words, the unpacking of such a technocratic façade underlines the disjuncture between the model of gacaca and its practices. Furthermore, by pretending to provide only technical and financial support, donors have left themselves without responsibility, which has enabled them to neglect the ‘non-technical’ social and political issues created by the process.

### ***A Deserted Meeting: When the Universal Approach Creates Disenchantment***

The second vignette illustrates how disappointment can be created when the positive and emancipatory discourses of international aid are not matched with concrete actions. One morning in July 2013, an email headed “Urgent – Kivyuka” arrived in my mailbox. It had been sent by an INGO, Impunity Watch (IW), via the mailing list of the Reflection Group of Transitional Justice (GRJT) in Burundi. The email informed recipients that the road under construction over the Kivyuka mass graves had resumed that morning. The sender was calling for the mobilisation of civil society organisations to visit the site and support the Association of Survivors of the Kivyuka Massacre (Association des Rescapés des Massacres de Kivyuka – ARMK), and it suggested a meeting the next morning. I had just returned for the second and final part of my doctoral fieldwork in Bujumbura and decided to attend the meeting. I was one of only six people there. This was peculiar because, throughout the fieldwork, I would attend many meetings in Bujumbura during which nothing major was discussed, but many people would gather. Here, a major event was taking place but few people came along.

During the meeting, a representative of ARMK first showed us a video depicting the construction work, in which a few people were digging out human remains and clothes, and amassing them randomly into coffins. Interviewed local inhabitants were calling for truth, justice and dignified burials. The meeting informed us of the presence of the governor of the province and armed police during the exhumation. During discussions about what to do and



how to react, there was a lot of disappointment in the room. A participant of the meeting asked with a trembling voice, “Where is the international community?” Within such a context, I personally shared the disappointment and wondered why there was not greater mobilisation around this well-known issue among TJ practitioners. In discussions over subsequent days, one INGO worker explained to me that he was waiting for the authorisation from his embassy to visit Kiviyuka; others found it politically too sensitive to intervene, or were simply unavailable.

From 2010, IW and ARMK attracted attention to this massacre in which at least 300 people were shot dead by military soldiers at the local market on 5th May 1996. This was presented as a reprisal for the action of FDD rebels who had pulled down an electric pole nearby. During two years, IW and ARMK pressured international actors and the Burundian government to investigate the massacre, build a commemoration site, exhume and bury victims with dignity (according to both ‘international standards’ and Burundian culture), and redirect the road to keep the mass grave intact. The road construction was then on hold at that junction (Impunity Watch 2012; Impunity Watch 2013). The International Committee of the Red Cross (ICRC), perceived as an expert organisation on the matter, had promised forensic support to exhume the Kiviyuka mass grave, but the government decided to operate without this (International Committee of the Red Cross 2013, 120).

Until that point, the lobbying undertaken about this specific case had been considered as a successful mobilisation of civil society, diplomats and Burundian authorities. In the end, however, these efforts were extinguished by authorities giving priority to the construction of a road over the request of ARMK and IW. Good practices and international standards for exhumation and other related TJ aims (accountability, truth-seeking and commemoration) had been presented to local CSOs by international actors, without acknowledging the inherent political struggles that would sit behind. Sensitising and training activities had raised expectations within victims associations and the population, but they would be left disenchanted.

This second vignette illustrates the highly political and social nature of TJ practices, particularly when dealing with mass graves, exhumation and judicial accountabilities associated with exhumed bodies. The manner in which TJ practitioners reacted to such matters, and the contradictions between the technocratisation of TJ practice and the very real political nature, have become obstacles for many TJ organisations. The realities of how to deal with

mass graves will be a central challenge in the implementation of the TRC, because the TRC law includes in its mandate to map and identify mass graves, protect them, and to enact eventual exhumation for the burial of remains in dignity (République du Burundi 2014, Art 6, 1, d).

Along with other recent examples of damage to mass graves, this example underlines the questionable commitment of local and national authorities to give the appropriate social and judicial attention when dealing with mass graves and the related questions of accountability and reparations to victims' relatives. Also shown is how the various organisations usually involved in TJ discussions have preferred to avoid such discussions or disengaged themselves from them, finding them politically too sensitive. The vignette underlines the socio-political and judicial problems that the TRC will have to face in future that are not considered in current technical preparations of the TRC.

These two vignettes introduce my specific empirical approach to TJ practices, and the ethnographic dimensions of the research looking at actual implementation. Such methods enable us to understand the implementation of TJ in practice, at the everyday level, beyond its policy documents.

The last part of this introduction presents the research questions and the structure of the thesis.

## **Research Questions and Thesis Structure**

My analysis is driven by the following research questions:

- Why is the role of practitioners and their everyday crucial to understanding TJ processes?
- How does the professionalisation of aid and TJ shape the practices of TJ in Burundi and Rwanda?
- How and why do frictions between academic theory, policy discourse and everyday practice of TJ impact on outcomes on the ground?

These questions are answered through six chapters. The first three chapters set the framework of the research by depicting the methodology, the theoretical discussions and the contextual background. The last three chapters are the empirical descriptions of different aspects of the everyday of aid and TJ practices. I review now the key questions and arguments of each chapter in turn.

**Chapter 1** describes the ethnographic methods and reflexive process I employed while working, living and researching in ‘Aidland’. It also defines my understanding of TJ practitioners and of the ethnography of aid. The chapter details my ethnographic approach based on a “thick description” (Geertz 1973) of policy negotiations and implementation by observing the everyday of TJ practitioners in Rwanda and Burundi. In this methodological chapter, I document the data-gathering and data-analysis processes and their theoretical and conceptual backgrounds, as well as the ethical and epistemic implications of research in post-conflict settings.

The chapter recounts that for nine years, most of my professional and personal life has centred on my research into Rwandan and Burundian TJ processes. Throughout this research, I have been confronted with, and acted on, many pragmatic choices that have had important ethical, emotional and epistemic dimensions. This research, driven by my individual professional journey, is undeniably implicated in methodological and reflexive perspectives. The mainstream guidelines on methodology, however, proved to be insufficient for dealing with the ethical challenges that I faced. I argue that gathering empirical data on war-affected environments requires researchers to engage with the hard realities of life in the so-called ‘field’, and to engage with the people who face these realities daily. As ‘real people’ themselves, researchers who engage in discussions with local respondents about war, accountability and reconciliation, have interactions that are frequently charged by feelings of empathy, frustration, anger, helplessness, hopelessness and guilt. Chapter 1 concludes that only by acknowledging this reflexive process can a researcher work effectively on the continuous construction and deconstruction of their understanding of the research object.

In **chapter 2**, I present my theoretical framework. I first review chronologically the development of the field of TJ. Originally, TJ referred to institutional processes put in place by post-authoritarian regimes during the transition to democracy. Today, it refers to a wide range of initiatives undertaken by various organisations and communities to deal with a violent past. Contemporary TJ scholarship addresses this evolution and underlines the conceptual crisis that this young field is going through (e.g., Bell 2009; Arthur 2009; Fletcher, Weinstein, and Rowen 2008). A number of authors in this debate have used the concept of a ‘toolkit’ to denounce the ‘one-size-fits-all’ solution that some key international actors (such as the ICTJ and the UN OHCHR) have promoted globally to nations in ‘need’ of dealing with their violent past. There has been limited discussion, however, of what this TJ toolkit entails.

This theoretical chapter aims to expand the understanding of the TJ toolkit by unpacking the mechanisms, concepts and claims around it. The chapter addresses the following two questions. How was the TJ toolkit developed? How can the entanglement of TJ in aid structures be analysed? Based on the consolidation of the TJ toolkit, the chapter demonstrates how development studies are relevant to a deepening of the understanding of TJ practices. It also outlines how aid structures have impacted on practice through the use of programme and organisation logic, management tools, and accountability and bureaucratic obligations, implemented through channels that claim to be apolitical and technical.

**Chapter 3** provides a brief description of the wider socio-political contexts in which TJ has been implemented in Rwanda and Burundi. How are specific TJ models framed according to the global TJ toolkit approach? And how do the specific political and historical contexts frame TJ policies in Rwanda and Burundi? By responding to a violent past, TJ practices aim to break with a cycle of violence and build a sustainable peace. It is therefore evident that not only TJ policies, but also all socio-political dimensions, are affected by these legacies. In other words, the Rwandan and Burundian socio-political contexts in which TJ has been taking place are entangled in the legacies of violence. Dealing with the past is therefore more than responding to the past through TJ policies; peacebuilding and reconstruction are constrained and challenged by burdens of the past.

The historical and political backgrounds to mass violence in Burundi and Rwanda have been approached by a number of historians (e.g., Guichaoua 1995; Reyntjens 2009; Lemarchand 1970; Newbury 1993; Uvin 1999). Without the ambition of adding to this body of literature, the chapter explains why these contextual factors are important to understanding how the everyday of TJ practitioners is organised around (and affected by) wider responses to the burden of the past. For each country in turn, this chapter traces the global influences of the TJ toolkit on each TJ model, its integration into local dimensions, the wider peacebuilding and development strategies in which TJ fits, and how it affects current political affairs.

The first empirical chapter, **chapter 4**, explores typical day-to-day activities in the private and professional spheres of TJ practitioners. The chapter addresses the following two questions. How is the everyday of TJ practitioners organised? And how are everyday relations affected by social and hierarchical dimensions? The unfolding of a typical day, and day-to-day obligations, in Burundi and Rwanda demonstrate that TJ matters are not the only concerns that most practitioners have to deal with. Above all, this analysis of their everyday highlights the

ways in which routines and day-to-day obligations are framed within an unequal structure and a political bureaucracy that both impact further on TJ practices.

The review of a typical day scrutinises everyday contradictions beyond a simple divide between the international and the local, and argues, rather, that international and local dimensions are intertwined in the reproduction of unequal relations and structures. TJ practice is premised on a positive emancipatory discourse to help societies and victims emerging from violence to recover from past suffering. Yet this chapter describes how actors disseminating the emancipatory discourse for TJ, and promoting human rights, are actually embedded in highly hierarchical structures. A number of scholars argue that the assumption that technical work can fix dysfunctional states leads to Western paternalistic behaviour by donors towards recipients (see e.g., Duffield and Hewitt 2013; Escobar 2011; Paris 2002). Bringing such an analysis to TJ practice, I argue that these efforts and working patterns, focusing on performative and technocratic work, fail to appreciate the hierarchical social structures in which they operate.

Focusing on training and sensitisation activities, **chapter 5** describes the different patterns in the widespread activities through which TJ practitioners engage with ‘beneficiaries’. Training is supposed to contribute to capacity-building and sensitisation in order to enhance social change. What it really brings to the people being targeted and the wider community remains questionable. Looking at the repetitive use of undefined concepts and the silenced reinterpretation and adaption of a simplistic discourse through activities, this chapter highlights how TJ practice has institutionalised the position of claiming that ‘justice’, ‘truth’ and ‘reconciliation’ can be achieved through training and sensitisation initiatives. I address in this chapter the following three questions. What does the ‘TJ toolkit’ concretely entail in terms of discourse and activities? What are the frictions between policy discourse and practice? And what are the power dynamics in play?

The activities that I was able to observe promoted unclear concepts such as ‘truth’, ‘pardon’, ‘justice’, ‘reconciliation’, and ‘reparation’. The projects were presented as a form of technical support, yet I observed a number of dynamics related to social and political matters, such as how the trainers’ experience of the conflict and their political positions were revealed in their interpretations of TJ concepts, and how messages would be interpreted in light of the identity (gender, age, social position and experience of the conflict) of both the conveyers and recipients. Vignettes describe five different projects delivered by international aid

organisations to enhance capacity-building and empowerment. Before reaching the conclusion, I discuss a four-month workshop that I put together to encourage creative and critical thinking among TJ practitioners. Such experimental research proved interesting to an exploration of the challenges and limits of training to transfer knowledge and enhance changes beyond the mainstream technocratic approach.

Finally, **chapter 6** looks at TJ research projects. Whereas reporting practices are widespread in ‘Aidland’, there has been limited academic research to question their impacts. Against such an examination, the chapter is guided by three main research questions. How is a report’s production organised (from practical and social perspectives)? What are the socio-political dynamics in play that impact on the content and dissemination of a report? And how is report production relevant to TJ implementation?

In contrast to sensitisation and training tools, policy-orientated reports promote the view of authoring organisations, with TJ professionals as the main audience rather than direct beneficiaries. From an academic perspective, this chapter aims to increase attention on the epistemic implications of the social processes behind a printed NGO report that is often presented with a strong scientific value. On a pragmatic level, the chapter aims to encourage reflexivity over the practices of report production. It scrutinises the rationales, processes and institutional conflicts beneath the otherwise apparently technical work of report production. First, I provide a general overview of the hundreds of reports produced in relation to the two TJ policies under scrutiny. I then look closely at two prominent research programmes: the gacaca monitoring in Rwanda and the national consultations in Burundi. The analysis of these two research projects will highlight the role played by political negotiations and social dynamics in the production of reports, at both the internal (to define the normative framework of the authoring institution) and the external level (relating to battles over representation).

In conclusion, I consolidate how aidnographic methods have been useful in unpacking TJ practices in Rwanda and Burundi, and contribute to the understanding of TJ in Rwanda, Burundi and hence to the TJ academic field as a whole. I clarify my definition of the TJ toolkit, TJ technocratisation and TJ depoliticisation in everyday aid-dependent professional practices. Overall, the thesis provides a detailed account of the structures in which TJ practitioners operate. Against such a description, I argue that in trying to fix an unfixable society affected by irreparable experiences, frictions are inevitable. Such an approach, with its inevitable issues

but without the appropriate attention to dealing with them, is morally questionable. Placing aid for TJ under critical scrutiny is a first step.

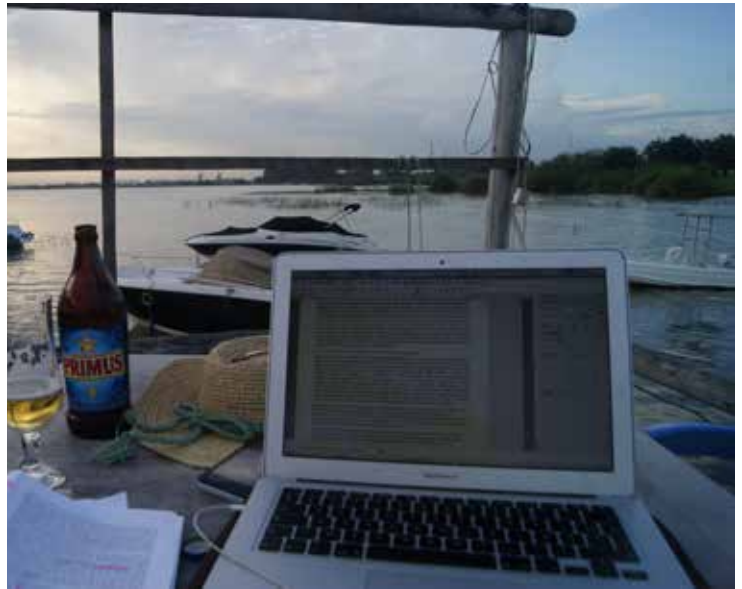
On a chronological note, sudden political changes resulting from the recent Burundian crisis are not reflected fully in the thesis, given that its body of work resides in an earlier time in which my research was undertaken and reported.<sup>9</sup>

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<sup>9</sup> I undertook my fieldwork in 2012 and 2013 in a period considered to have been relatively calm; I submitted my thesis in September 2015, at the rise of the recent political crisis. The corrections were submitted in August 2016, with the conclusion given the partial inclusion of a political update, for this underlines the key limitations of the TJ process in promoting a democratic transition.

# Chapter 1

Aidnography of TJ Practitioners:  
Working, Researching and Living in  
Rwandan and Burundian 'Aidland'





# **Chapter 1: Aidnography of TJ Practitioners: Working, Researching and Living in Rwandan and Burundian ‘Aidland’**

## **Introduction**

For nine years, most of my professional and personal life has centred around two questions: how can a society recover from mass violence, and how can international aid support such a process? From my MA studies in Tokyo, an internship in London, and a consultancy in Kigali, through to my doctoral studies based in Brighton, these two questions have orientated my life. I have worked on and researched the transitional justice (TJ) processes in Rwanda and Burundi throughout this time, but my occupation, location and positionality have changed.

In my doctoral research over the past three years (2011-2014), I have used ethnographic methods to form a ‘thick description’ of policy negotiation and implementation in the TJ field by observing the everyday of TJ practitioners and their professional practices in Rwanda and Burundi, who I define as local and expatriate individuals involved in the implementation of TJ in one of the two countries. Throughout this research, I have been confronted with, and acted on, many practical choices that have had important ethical, emotional and epistemic dimensions. My journeys between policy-orientated and academic research have been triggered in part by my personal frustrations with the tensions between the claimed and the tangible contributions of a theoretical discourse, as well as by its problematic translation into policy and practice. Thus, my research is driven by my individual professional journey. Both the research object and process reflect my personal search for meaningful engagement with these issues, and reflection on this is brought to this methodological chapter.

While in the field, I built on the networks formed through my previous professional experience, and I benefited from the relatively small size of the TJ and aid environment in Bujumbura and Kigali. I quickly gained access to research participants, and thence to TJ meetings, activities and interviews, and I collected numerous documents related to the policies under scrutiny. In preparation for fieldwork, I complied with ethical guidelines required by my university and covered some of the literature about qualitative research methods in post-conflict countries. Most of this literature promotes a ‘do no harm’ approach, using strategies

*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*

that do not expose informants to any risk because of their implication in the research (that is, their security and psychological wellbeing, particularly in the case of vulnerable informants and sensitive contexts). Despite such preparation, I still felt under-equipped to deal with the many ethical challenges presented.

Beyond my personal experiences, the questions driving the research are not limited to an analysis of the technicality, professionalisation or efficiency of aid and TJ; they also aim to reveal how and why international efforts to support TJ policies give no recognition to the politicisation in the processes and the complex social realities that shape TJ efforts – both of which are heavily marked by colonialism and violence. In the case of Rwanda, my research asks why the Rwandan population, and genocide victims in particular, were given so much responsibility for establishing accountability for their own suffering. It implicitly questions why no better protection was provided for the people unjustly condemned through gacaca courts for genocide crimes. Why did aid actors enable such injustices to take place in the name of reconciliation, accountability and the rule of law? Why did international supporters and donors turn their backs so readily from confronting the contradictions of gacaca once the process was under way?

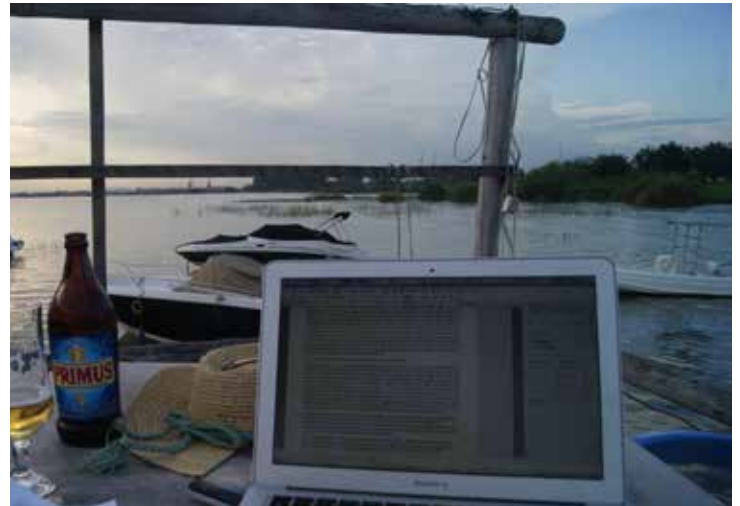
There are similar questions in the often-neglected case of Burundi. Why do international actors keep lobbying, in spite of the apparently limited benefits, for mechanisms not welcomed by authorities? Why do aid actors disseminate such a simplistic and idealistic vision of truth and reconciliation to an already resilient Burundian population? Why do so many actors maintain that a Truth and Reconciliation Commission will bring accountability while there is the context of continuing political instability and extrajudicial killings in Burundi? Why expect that the current regime will deal genuinely with crimes of the past when it does not deal with those of the present?

The discussions with my research participants, based on these kinds of sensitive questions, entailed serious ethical concerns, particularly when dealing with people affected directly by the conflicts and genocide. The resulting challenges faced in fieldwork encouraged me to reflect retrospectively on previous working experiences, and reflect critically on methods for post-conflict research. I engaged with the limited reflection that exists academically on emotions in empirical research in war-torn societies. Analysing how emotional responses are silenced in both academic and policy-orientated research in conflict-affected regions, I

developed an analytical framework to deconstruct these conventions that exclude emotionality and normative commitments from the research process.

Following postmodern epistemologies (e.g., Foucault 1982; Foucault 1977; Sylvester 1994), I reject the idea that researchers can credibly protect their research from the influence of their own underlying emotions and normative commitments, and instead promote the idea that such commitments should be made plain in research. I consider that it is only by acknowledging this that a researcher can continually and effectively construct and deconstruct their understanding of the research object.

In this methodological chapter, I document the data-gathering and data-analysis processes by detailing the theoretical, conceptual basis of the ethnographic methods I employed, as well as pragmatic steps and ethical and epistemic implications. In the first section, I focus on the data-gathering process by defining my methodology conceptually and theoretically; describing how I gained access to my field site and what type of information I gathered, and how I complied with official ethical guidelines that proved to be inadequate for dealing with the challenge faced. In the second section, I discuss my reflexive processes and the positionality emanating from my previous working experiences, the emotional dimensions of my fieldwork, and the resulting construction of my epistemic framework, and I do so with some reflection on this inadequacy of mainstream ethical guidelines in post-conflict contexts.



## Section 1.1

Data-Gathering Process: Ethnography of Aid in Post-Conflict Contexts



Legend: Top left Mass graves visit,  
Gitega Province - Burundi  
Right : Ntamara Church, Genocide  
Commemoration  
- All © Astrid Jamar

## 1.1. Data-Gathering Process: Ethnography of Aid in Post-Conflict Contexts

### 1.1.1. *Aidnography of Transitional Justice: Theoretical and Conceptual Framework*

In this first section, I describe the theoretical and conceptual framework that constitutes my research methods by defining in turn ‘aidnography’, ‘practitioners’, and ‘everyday practices’. ‘Aidnography’ is a term derived recently to describe the increasing use of ethnographic methods to research aid practices. From a general perspective, Hammersley and Atkinson (2007, 3) consider that ethnographic data collection

usually involves the researcher participating, overtly or covertly, in people’s daily lives for an extended period of time, watching what happens, listening to what is said, and/or asking questions through informal and formal interviews, collecting documents and artefacts – in fact gathering whatever data are available to throw light on the issues that are (the) emerging focus of inquiry.

This definition of ethnography implies that the researcher approaches his or her research participants by entering their everyday life rather than reporting from “a context created for the researcher” (*Ibid.*, 3–4). With an “embrace of multiple techniques” (Wolcott 2008), I have hence gathered rich qualitative data to develop an understanding of the everyday of TJ practitioners involved in two particular TJ processes in Rwanda and Burundi. Creating a “thick description” of these TJ processes, my thesis aims to “clarify what’s going on in such places, to reduce the puzzlement” (Geertz 1973, 16). Based on “small but very densely textured facts”, I explore “the meanings that particular social actions have for the actors” under inquiry (*Ibid.*, 25 & 27). Specifically, I look into the everyday activities of TJ practitioners at the professional and private levels: such as their work duties, usual and unusual professional practices, trajectories and motivations, lifestyles and habits, and power and hierarchical dynamics, as well as examine their understanding and approaches to the TJ process.

As ethnography of aid, the aidnographic data collection is therefore unstructured and undergoes a redefining process along every step of the research. By giving attention to how individuals working on aid-dependent TJ processes relate to each other and their everyday practices in terms of power, agency and structures, my research constitutes an ‘aidnography of TJ practitioners’ and this analytical position has been adopted through both the gathering and the analysis of dense qualitative facts in these areas. At a conceptual level, applying ethnography to the field of aid can help us to deconstruct and deepen an understanding of concepts and practices associated with this field (e.g., Crewe and Harrison 1998, 14-19).

This approach was initiated by scholars who pushed anthropology beyond the “traditional role” of cultural brokerage that had been gained in the aid industry (Escobar 1991; Ferguson 1990). Introducing aidnography, Gould highlights that ethnography turned out, as an in-depth qualitative approach that privileges “agency over structure, experience over theory, and diversity over uniformity” (Gould 2004, 264), to be an ideal research tool for looking at the aid industry. From a general description of aid practices, Gould (2014, 6) also notes that

Aid works through individual and corporate agency, and its actors are embedded in matrices of complex social relations. The true nature of these relations is typically obscured by ideologically defined subject positions (benefactor, donor, expert, partner and recipient). Furthermore, the forms of social awareness within which this vocabulary makes sense are contradictorily embedded in and disconnected from domestic (i.e., national) contexts.

TJ practitioners, in aid-dependent countries such as Rwanda and Burundi, are operating within similar structures, and exercising agency in contexts marked by legacies of colonisation and conflict, as well as their practices resulting in complex social relations among them. An aidnography of TJ practitioners can therefore bring more clarity to the professional practices that are taking place in the global fields of aid and TJ while embracing their local socio-political realities.

While the term ‘aidnography’ emerged only in the last decade, ethnography of aid has a longer history. One of the first and most prominent pieces was James Fergusson’s research into a rural development programme in Lesotho. Arguing that “even a ‘failed’ development project can bring about important structural changes,” he considered “the actual transformations that were brought about by the project were in no way congruent with the transformations that the conceptual apparatus planned” (Ferguson 1990, 275). More recently, ethnography of aid has put forward a focus on intermediaries coined ‘aid brokers’ – aid practitioners who interact and negotiate with beneficiary groups on the implementation of development policies (Bierschenk, Chauveau, and Olivier de Sardan 2000; Lewis and Mosse 2006). These pieces of research supported theoretically and methodologically my scrutiny of TJ practitioners as key intermediary actors whose agency and role are crucial in designing and negotiating the implementation of TJ policies.

As the first to promote an actor-orientated approach to research on development, Norman Long (1992) suggested looking at the interactions of social local actors in which agency and power operate. Long (1992: 20) considered that

Social actors are not simply seen as disembodied social categories (based on class or some other classificatory criteria) or passive recipients of intervention, but active participants who process information and strategise in their dealings with various local actors as well as with outside institutions and personnel.

Within this perspective, agency refers to the social interactions through which one individual operates within given contexts and power structures. Expanding on this, Lewis and Mosse (2006, 13) observe that such an actor-orientated approach opens up “the study of intermediary actors ... operating at the ‘interfaces’ of different world-views and knowledge systems, and reveals their importance in negotiating roles, relationships, and representations.” Borrowing from Bruno Latour’s understanding of social and institutional realms, they developed the concepts of development ‘brokers’ and ‘translators’ by considering that “all actors (and not just the sociologist) produce interpretations and powerful actors offer scripts into which others can be recruited for a period” (Lewis and Mosse 2006, 13). In this sense, development brokers and translators, as intermediaries who implement development policies, “prove themselves by transforming the world in conformity with their perspective of the world” (Latour, 1996, 194-195 cited in Lewis and Mosse 2006).

Continuing the ethnographic scrutiny of aid workers, Raymond Apthorpe coined the term ‘Aidland’, as an environment with “its own mental topographies, language and discourse, lore and custom, and approaches to organisational knowledge and learning” (Apthorpe 2011, 199). A group of scholars have continued to expand this literature about Aidland, to form an emerging paradigm of aidnography (e.g., Mosse 2011; Denskus 2014; Fechter and Hindman 2010). Among these authors, Fechter (2010, 2) has justified the approach on the basis that the scholarship on development “often neglect(s) the day-to-day experiences of those doing aid work. In the rush to offer either prescriptions or critique, the human actors who transform policy into projects are neglected.” She suggests “that the structure of the work itself influences the outcomes of development.” Following this same conceptual framework, I aim to demonstrate how the everyday practices and experiences of TJ practitioners are influencing policymaking and implementation in TJ – and hence its outcomes.

Harrison (2013, 264, 274) has challenged the concept of Aidland for being almost narcissistic, by taking the focus away from the problems addressed by development practices, and failing to focus on the impact of the geopolitical shift in aid. While taking into account her critique of self-centred aidnography, this thesis confronts daily work practices with the complex realities in which they intervene – and how technocratic nature of aid helps to disguise its complexity.

Most Aidland studies have placed the emphasis on expatriate aid workers, their ‘technical’ role, mobility and parochial culture. In contrast, my research of Aidland expands out to a wide range of individuals connected to each other by the policies on which they work: the implementation of the gacaca courts in Rwanda and the negotiation over the TRC in Burundi. My definition of TJ practitioner includes any individual whose professional obligations have to do with these two processes, including: heads of mission, project coordinators, representatives of aid agencies (multilateral and bilateral donors), diplomats (political officers, heads of governance/justice, ambassadors), activists, representatives of victim associations, consultants, and representatives of local authorities (judicial and executive sectors – see appendix for the list of organisations approached).

Having researched the everyday of TJ practitioners, I aim to establish how they operate and how they approach the consequences of mass violence in Burundi and Rwanda, which shape the contexts in which they intervene. Henri Lefebvre (1971, 197) considers everyday life as a social territory whose analysis “reveals its latent irrationality beneath an apparent rationality, incoherence beneath an ideology of coherence, and sub-systems or disconnected territories linked together only by speech.” Similarly, I aim to unpack how the everyday of TJ practitioners is organised, resulting from an apparently coherent policy and giving the impression of rational actions, yet obscuring incoherent interventions. The thesis demonstrates how individual experiences, professional obligations and personal understanding of TJ are crucial elements framing TJ processes.

In the same way that aidnography researches aid practices, aidnography of transitional justice seeks to clarify how aid-dependent TJ projects work in practice, and how policy models are constructed and then implemented. This is a crucial exercise for a field criticised for being too professionalised (see chapter 2). The thesis provides further empirical evidence of the processes of TJ professionalisation and technocratisation.

### ***1.1.2. Doing Research and Living in Rwanda and Burundi: Accessing Data through Fieldwork***

Building on my previous research experience (details in the second section), I have undertaken ten months of fieldwork based in Bujumbura, the capital of Burundi, with frequent travel to Kigali, the capital of Rwanda. Following Hammersley and Atkinson’s (2007, 1) understanding



of fieldwork, I have been “living with a group of people for extended periods ... in order to document and interpret their distinctive way of life, and the beliefs and values integral to it.” I have drawn on a range of ethnographic methods, including participant observation – that is: attending meetings, workshops, and sensitisation and training sessions about transitional justice; attending professional and festive official events that gathered TJ and aid practitioners; and conducting semi-structured individual and group interviews.

By entering the everyday of a specific group, it is only to be expected that different directions might be taken by the research schedule and fieldwork than planned, or that challenges would be faced (e.g., Fuji 2014). Initially, I decided to go for six months of fieldwork in Burundi and Rwanda, from August 2012 to February 2013. This initial fieldwork was heavily interrupted by a consultancy job that lasted longer than expected, and involved a lot of difficulties (see next section). I returned for a second stage of fieldwork from June to October 2013. As I had predicted, the follow-up of the gacaca process after its closure was almost non-existent. In contrast, the preparations for the 20th Genocide Anniversary were receiving important attention at both national and international levels. I returned for ten days to Rwanda in April 2014 to attend the main events of the genocide anniversary in Kigali; I aimed to observe how references were made to gacaca and how my research participants approached the post-genocide context at that particular moment.<sup>10</sup>

Throughout all these stages of fieldwork, I interviewed 70 people, and attended dozens of GRTJ meetings (le Groupe de Reflexion sur la Justice Transitionnelle or Reflection Group of Transitional Justice in Burundi; regular gatherings of around 30 different organisations, such as local and international NGOs, victim associations, UN agencies and donors dealing with TJ), internal NGO meetings, and academic and press conferences, as well as several training and sensitisation sessions. Furthermore, I shared innumerable informal discussions with key research informants over coffee, beers and days off. I have personally attended dozens of training sessions and workshops. Events that I did not attend were studied through the analysis of gathered textual and multimedia materials as well as through interviews with informants (participants, donors and organisers – see chapter 5). As described in chapter 6, I have received

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<sup>10</sup> On the way, I stopped in Burundi to organise brief update interviews with research participants. They all expressed severe concerns about the degradation of the security and political contexts over the preceding months (since the completion of my fieldwork). In parallel with reading in the media about the continuing degrading situation, this brief visit had an important impact on my understanding and analysis of data gathered within a calmer environment.

an important number of reports through fieldwork and I have been involved myself in the production of reports. I analyse these policy documents as social objects holding key roles in practitioners' everyday work. I additionally ran a 13-session workshop with TJ practitioners to create dialogue between the practice of TJ and its academic literature (see chapter 5).

I filled up dozens notebooks with handwritten interview transcriptions and field notes, and gathered thousands of paper and digital documents. Four elements have facilitated my access to data:

**1. Previous work experience in the field:** From 2008 to 2011, I worked with five organisations involved in the implementation of TJ in Rwanda and Burundi, through which I spent 12 months in the two countries and four months in a European head office. I gained contextual understanding and experienced the working patterns and lifestyles of TJ practitioners with various NGOs (see section 2). More importantly, this meant that previous colleagues were pleased to act as gatekeepers or direct informants. When I returned to undertake my doctoral fieldwork, this was particularly important in the case of Rwanda, where the gacaca process had finished just before my arrival in the region, and most stakeholders had withdrawn from the process earlier.

**2. Pre-existing connections with Rwanda and Burundi:** The post-colonial history shared by Belgium (my home country), Rwanda and Burundi led to many interactions among the three countries and their populations. My family (who have never been in the region) have close friends in Bujumbura and Kigali. I have known these friends since my childhood and they helped me to settle, hosted me on many occasions and provided important clues for my understanding of Rwandan and Burundian cultures. During high school, I also had a Rwandan penfriend who lost his parents during the genocide. Furthermore, I had a circle of university friends working in the two countries during my fieldwork who facilitated access to some diplomats and aid institutions (Burundi and Rwanda, being the main recipients of Belgian aid, offer many job opportunities to Belgian aid workers in the region). Despite all these connections, I regularly travelled with my Mexican passport in Rwanda to avoid complications with research clearance and visa procedures (officially longer only for Belgian citizens as a result of difficult relations between the two countries).

**3. The proximity of aid workers in living settings:** By living in Burundian Aidland, I benefited from a constant proximity to expatriates and the local elite working in aid, of which TJ practitioners are a part. Expatriate aid workers constitute a small network of foreign people,

particularly in Burundi, and frequent the same restaurants, bars and beaches. Most of my housemates in Burundi and Rwanda were expatriate aid workers. I also lived for several months with a Burundian family and a Belgo-Rwandan family (the family friends mentioned above) and all these ‘host parents’ also worked in the aid industry. Some informants were or had been my housemates; others were colleagues of friends, or friends of friends. I frequently spent time informally with some informants: I would be invited to TJ related events by bumping into someone in the bakery or at the swimming pool. In Kigali, given that I was not based in Rwanda and that the gacaca process was over, the situation was slightly different.

**4. The small numbers of TJ practitioners and relative openness to researchers:** In both countries, there are just a dozen or so organisations dealing with TJ matters. Therefore, ‘snowball sampling’ was relatively easy to employ to obtain contact information and meet members of most of the organisations under scrutiny. Moreover, a number of platforms regularly gathered various groups of TJ practitioners. The main platform was the Reflection Group of Transitional Justice in Burundi, which meets to exchange regularly around TJ matters. The group also has a mailing list about meeting invitations, policy documents and policy progress. Other academic circles sometimes also invite similar actors, such as the conferences at the Institute of Development Policy and Management (IOB), the University of Antwerp attended by Belgian NGOs operating in the region, or the Grapax Conferences that I attended in Brussels and Bujumbura (Groupe de recherche en appui aux politiques de paix – a research group financed by the Belgian Ministry of Cooperation with close ties to some INGOs working in Burundi and Rwanda).

These four entry points have played a crucial role in accessing and sourcing data. Most participants showed great interest in my research at initial contact. The opportunities to socialise with TJ practitioners, attend meetings and obtain a first interview were relatively easy to access. Discussing different cultures of ethics, Didier Fassin (2006, 523) underlines that ethnographic “participant-observation ... is characterised by its informality. It blurs the boundaries between research and life. Fieldwork is everywhere ... Obviously, all these heuristic moments should not be excluded as sources of information in a scientific investigation.” Similarly, it was through many informal discussions that I gained trust and valuable information. Beyond access, these discussions brought important insights about people’s positionality, aspirations and concerns.

Access to a deeper perspective of their everyday lives required a much larger commitment on the part of research participants. This immediately raised issues of trust, my role and the purpose and/or utility of the research (see Omidian 1994). Negotiating access was not just about the initial access, but an ongoing preoccupation throughout the research to gain observation permission, to access internal documents, and to gain sufficient trust to hear participants' personal positions (rather than a repetition of the official positions of their organisations). I frequently encountered implicit and explicit reluctance to hear about weaknesses and institutional limits, and, although rare, I was refused interviews (on the basis that the informant did not know enough about TJ, or that I had already interviewed another member of their organisation). Several people from authorities or diplomatic offices did not respond when I contacted them. During the time of my fieldwork, the Burundian authorities had no appointed representative on TJ matters; this left it unclear to me the people I should approach and created limited opportunities to engage with authorities. I was refused access to meetings, particularly diplomatic ones. The sensitivity of the context was certainly a key factor explaining such reluctance, on which I will expand in the next sub-section.

I chose all my research participants because of their professional experiences. Participants were drawn from national institutions, embassies, aid agencies, international and local NGOs, and victim associations involved in the negotiations over and the establishment of transitional justice in Burundi and Rwanda. I approached participants via email and/or telephone to arrange interviews. When emailing, I always included the participant informant sheet, and when seeking arrangements over the phone, I provided a brief description of the research. The appendix contains a list of the actors and institutions I approached in both countries.

I undertook semi-direct interviews with most informants (70 people), which lasted around 90 to 120 minutes. Many were interviewed twice and some up to six times. With key research informants, I encountered them so frequently that we never sat together for a formal and structured interview; rather we exchanged our different positions and experiences in everyday conversations (with the practitioners involved in the Summer School, for example). These key informants were coming from various background and positions (including diplomats, head of programmes and head of missions of local and international NGOs). The majority were interviewed individually. The few group interviews were organised under the initiative of the people I booked the interview with. The table shows the sample and type of individual interviewed:

**Table 1: Overview of interviewed sample**

Working at the time of the interview for/as		Among which	
Embassy	17	Expatriates	41
International NGO	21	Locals	29
Local NGO	14		
Aid agency	3		
Local authority	6		
Consultant	2	<b>Undertaken in/through</b>	
Academic engaged politically	2	Burundi	39
UN	5	Rwanda	29
<b>Total</b>	<b>70</b>	Skype	2

The discussions in semi-structured interviews were based on the following predefined themes: the career path of the interviewee, and what led them to work on TJ matters; the general mandate and programmes related to TJ matters of the organisation they worked for; their individual role and obligations; their opinion on the TJ process; in Rwanda, how they perceived gacaca's closure; in Burundi, how they perceived ongoing obstacles to the implementation of the TRC; and everyday difficulties. Depending on the context, I added specific questions, such as clarification on elements related to their work that I had heard about from other sources or the perceptions of their own organisation's programme. Every couple of months, I undertook update interviews with people who were happy to contribute to my research, asking for more details on the contextual progress and additional information according to re-tailored research questions. In Rwanda, some in position at the time of research had not been personally involved in the implementation of gacaca courts. I questioned them on the institutional position and their perception of the legacy of gacaca. I complemented this data with interviews I had undertaken in previous research projects, as well as by interviewing people who were previously involved in gacaca.

In Rwanda, most expatriates I interviewed in charge of justice and governance matters were not up-to-date on the gacaca situation as it was not part of their priority and/or they considered that the matter was closed. To move further in the discussions, I often had to explain the details of gacaca. While the need to do this was a good indicator of donors' disengagement, it meant that my comments would influence the discussions that followed. Similarly, I was often asked my opinion on particular points, or engaged in debates that brought in my own opinion. My negative description of the situation might have affected some discussions. In the presentation

of my analysis below, I have attempted to account for my own position and my influence on conversations with my research participants.

Throughout, I received spontaneously and gathered thousands of written documents. At every interview, I asked for a copy of documents mentioned in discussions and for publications and statements about TJ matters. I also gathered documents through Internet searches and received documents by email. In addition, I had gathered hundreds of documents in previous research projects. Gathered by Stef Vandeginste and Bert Ingelaere from 1994 to 2009, I was also given the loan of several boxes containing 543 policy documents related to the gacaca process. The documents acquired were varied: minutes of meetings; internal and unpublished reports; NGO publications; working papers, and policy, parliamentary and legal documents; media releases and press cuttings; speech transcriptions; programme documents; funding proposals; logical frameworks; job descriptions; NGO programme and monitoring reports for donors; internal monitoring and evaluation reports; aid agreements. Chapter 6 of this thesis reflects on the production of policy-orientated research reports. The other documents have been useful for identifying the official positions of institutions, the formation and use of concepts and narratives, and for explicit and implicit rules of validation as well as contextual information (e.g., Apthorpe and Gasper 1996, 6–9).

### ***1.1.3. Post-conflict Ethics: Sensitivity, Rapport and limits of ‘Do not harm’***

As mentioned in the introduction, the research aim is not only to look behind the technocratisation and bureaucratisation of TJ practices. A main aim is to highlight how and why international efforts deny the political and social realities that structure the evolution and outcome of TJ processes. By identifying current working patterns and structural obstacles, I want to open the ‘black box’ of TJ mechanisms to underline their limits. My research does not directly address the central aims of transitional justice; that is, identifying victims and people responsible for crimes, establishing the ‘truth’ about the conflict, and whether people have been reconciled or received reparation. The social, political and judicial dimensions around these questions are intrinsically related to what does concern my work by looking at professional practices that design and implement TJ policies. For these reasons, the research confronts a number of serious ethical concerns. This sub-section describes the official ethical procedures I complied with during fieldwork preparation and fieldwork. But as will be shown, these precautions turned out to have their limitations in dealing with the challenges faced.

In preparation of the obligatory ethical review process at my university, I followed the ethical guidelines of the Association of Social Anthropologists (ASA), and I complemented the ethical reflection with support from literature about research methods (for example, Association of Social Anthropologists of the UK and Commonwealth 2011; Sriram et al. 2009; Goodhand 2000; Camino and Krulfeld 1994). These guidelines implied that I should anticipate all the potential risks that research participants would be exposed to by taking part in the research. These precautions included paying particular attention to obtaining informed consent, maintaining confidentiality and ‘doing no harm’, as in striving not to aggravate the psychological wounds of vulnerable people.

The university team of the ethical review approved the research after requiring me to add more precision on how I would deal with my own security as well as with data related to malpractices and criminal acts. The Rwandan Ministry of Education did not consider the research required further ethical approval and I received the research clearance one day after submitting my application.

The nature of TJ and the fragility of my research contexts called for further political and psychological sensitivity. Some TJ practitioners, particularly local individuals, put themselves at substantial risk by fighting for truth, justice, accountability and reparation of past crimes. Their working environment is stained by diplomatic, political and competitive concerns demonstrated by intimidation and arrests of local activists, extrajudicial killings of political opponents and difficult relations between donors and authorities, particularly in Rwanda (e.g., Waldorf 2007; Longman 2011; Ghoshal 2010; Louw-Vaudran, n.d.; Soudan 2014a; Soudan 2014b). I wanted to ensure that their involvement in my research should not increase these risks.

The authoritarian nature of the political regimes in both countries would also create a suspicious and paranoid environment on both sides of research interactions (researcher-researched), particularly in Rwanda (Reyntjens 2011; Begley 2009; Thomson 2013). Given this, I expected that self-censorship and silence would occur often. I experienced implicit and explicit reluctance on the part of some potential respondents to engage with some parts of my research. My presence in some meetings was refused, many interviewees gave replies that contradicted themselves or offered irrelevant answers. Learning to navigate these elements was difficult and frustrating, particularly when I was listening to those who would not speak beyond the public discourse. I gradually learnt to rephrase my questions, search for alternative

entry points and accept that I would not obtain clarification or a coherent response on some dimensions. Such evasiveness and reluctance to be part of my research were also useful pieces of data towards understanding TJ professional practices.

Given such a context, I took a number of precautions to protect the research project and participants. The ethical guidelines of the Association of Social Anthropologists explicitly require the researcher to be fully transparent about research objectives and to obtain consent from all respondents (Association of Social Anthropologists 2011). This means the researcher must communicate all information likely to influence the willingness to participate. Ruth Krulfeld (1998, 24) notes that informed consent “is not possible for every bit of information we collect,” particularly in cross-cultural contexts. In my case, it was also unlikely that I would obtain research authorisation from authorities if I directly introduced my interest in the politicisation of aid, the inefficiency and incoherence of TJ practices, and institutional limits. The process for asking for informed consent was often challenging. It required me to balance different aspects of ethical concerns and frequently redesign how I presented my research so as not to jeopardise it.

More importantly, without maintaining confidentiality and anonymity, information could jeopardise the informant’s job, institution and, in the case of local activists, even personal security. Due to the small size of the community of TJ practitioners in these countries, maintaining confidentiality and anonymity was difficult, particularly through the writing process. Precautions included explicit discussion about confidentiality with the research participants; storage of field notes in a safe place in a password-protected computer; and references to interviews anonymised as far as possible in the writing process (Association of Social Anthropologists 2011, 4).

Most informants were interviewed regularly and were aware of the risks; and they certainly filtered the information they conveyed. In some cases, individuals asked me to not anonymise them and were willing to express their own position publicly (in all cases, these were practitioners who held different positions from the organisations they worked for). The interviews were not recorded with an audio-recorder but transcribed by hand. Despite such precautions, I often heard the request, ‘this is off-record’ – once, I was even asked to put my pen down. Some informants needed to whisper in their own office when they addressed a topic they found sensitive. Besides ethical concerns, previous research contractual arrangements included confidentiality clauses.



As Silke Roth (2015, 177) underlines with her methodological discussions of her research on aid workers, changing names is not enough to maintain confidentiality. The particular sensitivity and risk for critical voices in Rwanda and Burundi, and previous contractual obligations to confidentiality that tie me under agreement with previous employers has required me to pay particular attention on this matter. Even anonymised, or in vignettes that contain no contextual information, the socio-political dynamics described in this thesis are relevant to many aid-dependent contexts beyond my research. As a result, the description of each vignette in this thesis is after careful consideration of these elements and the amount of information required for the reader balanced against respect for the confidentiality of research informants.

In view of rumours that the Rwandan context was unfriendly to researchers (for example, Begley 2009; Hirondele News Agency 2008; de Lame et al. 2013; Jessee 2013; Nicaise 2013), I felt paranoid, especially when crossing borders and customs or when interviewing informants considered to be close to the regime. Due to fears that I might be expelled or could jeopardise my research, I introduced my topic with a lot of precaution, and refrained from exposing my critical position. Whenever I felt that could trust informants, however, I fully engaged in debates with participants.

Furthermore, due to the scale of violence in both countries, every Rwandan and Burundian national would have been affected in some way. Even though past violence is part of their daily work (on transitional justice), I had to remain cautious not to re-open old wounds and needed to set boundaries on the conversation when necessary (Goodhand 2000). Their experiences of the conflict sometimes emerged through discussions about their professional trajectory and their perception of TJ progress. Although the interviews were not directly addressing these experiences, a number of local practitioners explained that it was their experiences of the conflict that had led them to become interested in TJ matters. These included, for example, losing family members, witnessing or escaping from killing scenes, having family members involved in the perpetration of violence.

Even though the pieces of information that emerged provided clear indications that personal experiences strongly impacted on people's political positions and views about who was to be held responsible, I did not deter interviewees from sharing this information, and nor on the other hand did I seek to expose informants reluctant to address their own suffering. The need for caution in handling the emotions of respondents is a key feature of the literature (e.g.,

Goodhand 2000; Chandra Lekha Sriram et al. 2009). Methodological and ethical guidelines for social science research in sensitive contexts, including conflict-related research, require researchers to adopt a ‘do no harm’ approach. Most of this literature is concentrated on the elements mentioned above – strategies to secure the protection of informants and gatekeepers, to protect the data gathered, and to pay special attention not to aggravate the psychological wounds of vulnerable people.

That said, the most difficult and sensitive data gathered during fieldwork came from participant observation – that is, in activities organised by NGOs and authorities, such as: sensitisation workshops, some of which I found were considerably traumatic; visits to commemoration sites, with testimonies from participants explaining how they survived and how people were killed around them; a visit to a field in which bones and clothes from the mass killings in 1972 were poking up through the ground; or discussing the killings of high school students at commemoration sites. Among these difficult moments, the atmosphere at the Amahoro stadium for the 20th commemoration of the Rwandan genocide was extremely traumatic, being surrounded by people crying (including the person helping me with translation), screaming and being carried away by psychosocial workers. Though I had no direct responsibility for the reactions, nor control over the situations, I expressed sympathy with the people directly affected and found it difficult myself to digest the data, the emotions and the scenes.

As it affects in-depth engagement with research participants, ethnographic research ethically requires us to acknowledge the power asymmetries in play. As an extension of the approach to do no harm, this encourages researchers to empower their research participants, by giving them a voice through listening, writing and research dissemination (as detailed in the second part of the chapter, these premises have already criticised – e.g., Opie 1992; Behar 1996, 26). However, as Steven Sampson (2013, 1) highlights, all the precautions mentioned in this section assume that we as researchers hold more power, and “we have to act ethically”, “to compensate for our power.” For myself, it was not systematically the case that I was ‘the powerful one’ in relation to participants. TJ practitioners come from very different geographical, educational, social and political backgrounds. They have different experiences with the genocides and conflicts at the centre of the two TJ policies.

From international and local elites, to members of victim associations, my engagement with them implied various sets of power asymmetries and a consequent variety of ethical concerns.

For higher-level informants, my impression was that the image projected of me was of a young and inexperienced white woman, and, for some locals, of an overeducated, privileged ‘muzungu’ with financial means to fly to Burundi and frequent the fancy expatriate centres. Between these two extremes, the rapport created by the research led to various forms of relation, from friendship to hostility. This variety of power asymmetries also meant that adopting an ‘empowering position’ was not appropriate in many settings. Conversely, I felt myself to be the disempowered party on several occasions.

Looking into elites, Sampson (2013, 3) encourages different ethics when “studying up”, by exposing the privileged positions held by the elite rather than understanding the subalterns, “because elites have power and because the anthropological project is to reveal, to lay bare how power works”. His position supports my approach to engaging in debates with elite participants and encouraging them to ‘think outside the box’, rather than just give them a voice. I often felt guilty and challenged during fieldwork about not always positioning myself as the neutral observer. By gradually accepting my own positionality, I learnt to expose it with more ease and engaged progressively in more constructive ways to create a space for debates with research informants; through these exchanges I also aimed to encourage critical thinking towards their practices and listen to their reactions.

Finally, it is clear to me that an approach to do no harm fails to build resilience for the difficult experiences and to feel confident with my engaged position. I accumulated personal frustration, guilt, increasing feelings of powerlessness and had severe sleeping issues. This combination worsened during the fieldwork, and it took me to ‘break down’ on my return before I could create time for reflection. Among alternative approaches to the consideration of ethics, other scholars have brought attention to additional challenges and ethical implications in post-conflict contexts, as I will expand on in the next section.



## Section 1.2

Data Analysis Process and Reflexivity:  
Positionality, Emotions, Epistemology



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## **1.2. Data Analysis Process and Reflexivity: Positionality, Emotions, Epistemology**

While the previous section addresses the minimum requirements for ethical clearance, it demonstrates that these did not provide me with sufficient guidelines during my fieldwork. This second section goes beyond mainstream ethical guidelines by deepening the reflexive process according to the particular sensitivity of conflict-affected contexts. Research on TJ practitioners inevitably involves discussions about war, violence and suffering, and so is frequently charged with feelings of empathy, frustration and helplessness on either side of the interaction.

In order to address my own positionality, I reflected on my previous working experiences related to TJ in Rwanda and Burundi. In spite of these appointments being challenging for various reasons, a pattern started to emerge. Many of the difficulties (detailed below) were caused by the micro and macro politics of the research projects resulting from legacies of the conflict and the consequently sensitive contexts; these difficulties were not to be brought into the professional settings and to be kept at the personal level. Out of such reflection, I came to consider that emotional responses were not only inevitable elements but could also be accepted as channels to traditionally silenced empirical data, particularly in heavily charged post-conflict context.

As Kay Warren underlines (2006, 214), most social sciences (anthropology in this case) now widely acknowledge the researcher's position and the impossible objectivity.

Many anthropologists now embrace a more fluid, non-essentialised view of identity and recognise the partiality and interestedness of any observer's account of social life. As a result our studies incorporate the observer within the scope of the study. No longer is there an authentic or comprehensively true image of social and cultural groups, no singular language of protest and revindication, but rather partial, shifting, and clashing representations, each with its own paradoxes and erasures.

Still, emotional responses from both sides of the interaction are ignored in most academic literature with post-conflict contexts. I argue in this chapter that the (resulting and pre-existing) positionality and normative framework of both the researcher and the researched are consequently silenced within mainstream methodologies. In some academic literature, reflection on the role of emotions in research is given some importance, but there is only limited analysis of the impact, either on the research findings or the researcher personally (Dickson-Swift, James, and et. al. 2009; Kleinman and Copp 1993; Davies and Spencer 2010;

Hubbard, Backett-Milburn, and et. al. 2001). These authors underline and challenge how mainstream methodologies perceive emotional reactions as a threat to credibility and thus silence their impacts on the research process and outcome. These pieces of research on the influence of emotion in social work and emotionally sensitive labour have drawn increasing interest within social science research over the last two decades.

By perceiving emotions as a risk for credibility, mainstream approaches aiming to do no harm deal only with the avoidance of provoking negative emotions in the respondents involved in the research. Such a position does not take into account the innate nature of emotional labour in post-conflict research, and it also creates an additional filter over academically relevant data. Overall, I argue that silencing emotions has repercussions for the researchers and the researched at the individual level, as well as consequences for ethical and epistemic dimensions.

The next section reviews my reflexive process by first describing my previous working experience, which had a crucial impact on my positionality. Second, I unpack the different levels at which emotions are silenced, and underline how unexpected bias is thereby created. Finally, I support the call for post-modern methods by highlighting how positionality, emotional responses and epistemic framework are interrelated and affect the research object and process.

### ***1.2.1. Previous Working Experiences in the Field Framing my Positionality***

Throughout this thesis I refer to my previous working experiences with local authorities and INGOs dealing with TJ processes in Rwanda and Burundi. As discussed earlier, these experiences constituted key resources for securing access and for my understanding of the research object. Above all, reflecting on them formed the basis of my doctoral research, by framing my understanding and interest in this research topic; the experiences inevitably have methodological and epistemological implications for my research. Hammersley and Atkison (2007, 18) encourage the inclusion of “our own role within the research focus, and perhaps, even systematically exploiting our participation in the settings under study as researchers,” as this enables us to produce “accounts of the social world and justify them without placing reliance on futile appeals to empiricism, of either positivist or naturalist varieties.” Recounting how I previously approached TJ practices, the following paragraphs indicate how my personal experiences framed my doctoral research.

Through this chronological review, I briefly describe my roles and the difficulties faced, with limited opportunities to deal with them institutionally and the expectation to conceal them at the personal level. Throughout, I learnt to silence emotional challenges and consequently never gave them the attention they deserved in both academic and policy-orientated research in post-conflict settings.

I started to question the problems of aid coordination within peacebuilding practices during the research for my masters degree in Tokyo, Japan in 2007. In the exploration of practical obstacles in aid coordination, I focused on the implementation of gacaca. As explained briefly in the main introduction, I entered the field of practice through an internship within a Rwandan public institution (National Service of Gacaca Courts) in Kigali, Rwanda (Summer 2008). From within such an environment, I quickly figured out that coordination problems were not due to simply technical and pragmatic dimensions, but also to political and diplomatic ones. The first task I was asked to achieve was to summarise the Human Rights Watch (HRW) report about the Rwandan justice system that had just been released and had created a strongly negative reaction from the government of Rwanda. I was also asked to translate a letter of reply to INGOs about their critiques of the newly adopted 2008 gacaca law. These tasks put me in the front line to observe tensions between NGOs and Rwandan authorities.

Whereas my colleagues were relatively open to discussing their everyday challenges, there were many points of discussion that I did not dare to mention with them – for instance, the pro-RPF (Rwandan Patriotic Front)/pro-governmental position within the organisation (as displayed during the office celebration on Liberation Day by singing RPF songs and giving the floor to a former RPF fighter to recount how the RPF had liberated the country). I found myself in a difficult and sensitive position hearing narrations of violence and descriptions of complex relations with essential aid actors, gathering many contradictory perspectives on the process. Every day confronted me with politically sensitive events.

After completion of my studies, I interned in head office of an INGO to work on the data management of the few thousand files that had been gathered through the body's gacaca monitoring. An expatriate was initially hired to organise the database in Kigali, but the funding came to an end before the database could be completed. It seems there were a lot of logistical and political challenges in the process – for example, there were rumours that the data had been stolen from office computers in Kigali, and when I arrived, DVDs containing data had disappeared on their journey to the head office. I had to wait several weeks for new copies to

be transferred, enabling me to get started with the work. The time frame I had been given was insufficient for completing the database. Still, I read and sorted out hundreds of documents that contained material about violence and individual difficulties with the gacaca process. There were security and confidentiality concerns for making these documents public, as they contained names and locations of research informants, many of whom reported negative dimensions of gacaca. The project would later be abandoned. During this time at the head office, I observed strategic discussions about whether the Rwandan office should be kept open given the difficulty of the collaboration with Rwandan authorities.

I was then hired by another key INGO involved in the gacaca process to produce their last analytical report based on their previous two years of gacaca court observations. Reviewing 500 gacaca court transcripts from a legal perspective, this role based in Kigali put me in a great position to acquire a deeper knowledge of gacaca implementation. Again, a number of problems characterised this working experience. I was given a very limited timeframe to go through an immense amount of data. The project showed a kind of lethargy: after eight years of monitoring, it had made only a limited contribution to gacaca. There were different positions and disagreements within the local team and with the head office in a European country with regard to the gacaca process and the perspective the report should adopt. Major internal problems also existed in the form of allegations of corruption levelled at logistical and financial staff.

In retrospect, I also found it difficult to have to read genocide trials all day long. I had regular nightmares about dead bodies, I felt overwhelmed with the job, had difficulties with sleep and lost a great amount of weight. Whereas today all these elements seem entirely predictable within such a project, at the time they led to me suffering a ‘breakdown’.

The experience opened the door to me assisting a professor of applied theatre for reconciliation, looking into narrative analysis of these 500 gacaca trials featured in my previous role. This enabled me to further my understanding of frictions between truth-telling, reconciliation, justice and the societal stakes. I then decided to pursue research through a doctoral programme. These experiences had raised many questions, and the academic environment seemed the best for exploring them. After discussing my decision with a previous colleague, a semi-voluntary position in Burundi was created by two INGOs in line with my PhD research proposal while dealing with the application process.



During the six months in the new position based in Bujumbura, Burundi, I worked on three research projects looking at different dimensions of the TJ process: gender, sensitisation activity, and the role of the international community in the process. During the time, I attended GRJT weekly meetings, and many coordination meetings and conferences. I established a rapport with most of the people who would become informants for the doctoral research. It was, however, a laborious exercise to comply with the agendas of two NGOs and four different managers located in three different countries. It was once more a chaotic human resources situation. The head of mission of one NGO left the week after I arrived; the other head of mission was later expelled from the country by Burundian authorities. I was nonetheless able to observe the crucial re-dynamisation period of TJ, characterised by hope that the TRC project would finally be implemented.

Two years later, I thought I was in a good position to promote better research practices after identifying methodological problems in a number of policy-orientated projects. I also needed to gather more funding to continue my PhD. I was then hired for a consultancy, supposedly for 35 days spread over four months, based in Bujumbura in parallel with the fieldwork. I was in charge of methodological supervision for a regional qualitative research project on refugees' aspirations in the Democratic Republic of Congo, Burundi and Tanzania. In reality, I worked around 120 days and used every day off for the doctoral research.

As soon as I started the position, I experienced further difficulties sleeping. My first interviewee explained how he had fled South Kivu after his brother had been killed by his half-brother, who had also raped the interviewee's wife. The next interviewee related how her family had escaped after she was raped. Another came to me to alert me about weapons being brought into the camp. Once again, academic preparation (mainly through reading) for a conflict-sensitive context did not provide much help to deal with the emotional responses these interactions would create. I could not sleep and in the time awake was taking the opportunity to work longer and longer hours for several months.

Again, I allowed myself to become overwhelmed by the stress, and the physical and emotional fatigue – which worsened after contracting malaria. I also encountered problems with the project manager. During the last month of the first set of doctoral fieldwork, I was still dealing with harsh negotiations over payment and author rights. I felt vulnerable, given the small world of the aid industry in the region; some previous colleagues and research informants became involved in these discussions, which made it all the more complex. Returning home did not

leave the burden behind. For several months I had nightmares, sleeping issues, and would cry for no apparent reason. Finally turning to professional support, I was diagnosed with a 'burnout'. This abyss was the culminant point of experiencing the everyday reality of gaps between policy and practice.

All these experiences constituted preliminary pieces of research and have framed my personal understanding of general policy and of the working context of donors and NGOs. My positionality is characterised by an unclear placing as insider-outsider, and the experiences certainly brought my attention to practitioners as individuals, and to everyday tensions within teams, and how all these elements are related to structures and agency, power, and socio-political negotiations over technical knowledge.

These very personal elements are also brought forward here to illustrate how wider structures and war-torn contexts impact on individuals and their emotional responses. For instance, when I discussed my experience with practitioners close to me, several mentioned they had had similar experiences, as illustrated in this interview excerpt:

The burnout, it is something that happens to many people, they break down internally. You cannot go and say so to an ambassador [that you broke down]. Most people [expatriate aid workers] stay for two years. Or they become extremely pessimistic and cynical. At the end of my time in Rwanda, I was certainly in burnout without being conscious about it. It was a perpetual crisis (Interview with NGO worker, 2014).

The lack of guidance and deontology to approach difficulties of aid in post-conflict countries has already received some academic attention (Duffield 2010; Smirl 2012). In line with Duffield's (2010) analysis of risk management practices, I was briefed about security on arrival for most positions as an expatriate aid-worker/volunteer deployed in a post-conflict country. This involved travel, communication and evacuation procedures. While increasing my level of fear, it did not touch on how to deal with the job sensitivity, such as the vulnerabilities of colleagues or the difficult relationships caused by different experiences of violence.

To the contrary, I have been trained through all these experiences to filter out emotion. To be professional and credible, emotion must be left out, confined to the personal level. It is common knowledge that stress is part of the job, due to the contexts, deadlines and expectations from head offices and donors. There is insufficient institutional reflection, however, about how the content of the work and the legacies of violence affect everyday relational tensions. At a general level, the impacts of aid work on individuals' wellbeing, the

impacts of sensitivity on researchers, respondents and hence research, are insufficiently tackled; which leaves researchers with nothing but their emotional burden. Even if space is being gained for discussions today,<sup>11</sup> emotional responses are still silenced in most professional settings – yet they play an important role, as addressed in the following sub-sections.

### ***1.2.2. From Filtering Emotions to Un-silencing Emotions***

Through the reflexive process about our fieldwork, Chappuis and I, as fieldwork friends who both undertook research in relation to the conflict in Burundi, engaged in wider reflection about emotions and conflict-sensitive research methods. I unpack here how silencing emotions inadvertently affects different levels of research.<sup>12</sup> The manner in which emotional responses are relegated to the personal sphere, because they are considered a logistical challenge, underlines how emotions are deemed irrelevant. While acknowledging the role of the researcher's interpretations in social construction, emotional responses are not taken into account specifically. Indeed, scientific approaches and emotions have long been perceived as contradictory concepts within academia (Lutz and White 1986).

The treatment of emotion in professional working environments is often “downgraded to notions of female intuition” and consequently “the caring and affective aspect ... is denigrated to secondary status” (Hubbard, Backett-Milburn, and et. al. 2001, 122). When addressed, emotions do figure prominently in discussions of methodology, but these are not the emotions of the researcher. As mentioned in the previous section, the need for caution in handling the emotions of respondents is a key feature of the literature (e.g., Goodhand 2000; Mackenzie, McDowell, and Pittaway 2007). Despite the increasing focus on emotions in social science, and research as the object of enquiry, emotions expressed by researchers themselves continue to be treated with suspicion (Kleinman and Copp 1993, 2; Wood 2006).

Few authors draw attention to the contribution of their emotional reaction to research processes and outcomes. Indeed, given the dominant conventions governing academic and policy research, few authors could afford to take the personal and professional risk involved in divulging the actual role of emotional engagement in their research processes because this is

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<sup>11</sup> See e.g., <http://www.whydev.org/tag/well-being/>; <http://www.theguardian.com/global-development-professionals-network/2014/mar/03/post-traumatic-stress-disorder-aid-workers>; <http://trauma.blog.yorku.ca/2012/02/trauma-and-the-humanitarian-aid-worker/>

<sup>12</sup> From here, the section is based upon an article co-authored with Fairlie Chappuis (Jamar and Chappuis 2016).

perceived as a serious deviation from what are in effect idealised and unrealistic disciplinary benchmarks.

This approach, writing from an academic perspective within dominant methodologies, aspires to exclude the expression of the emotional dimensions of research, because of the normative implications these imply, expressed as a potential bias. However, this is also an approach that fails to exclude emotionality (and hence normative or methodological bias) completely, because even the acknowledgement of emotion introduces the possibility that the research has been polluted by its influence.

Relating specifically to war-affected contexts, research on emotion remains exceptional and scattered (Thomson, Ansoms, and Murison 2012; Begley 2009; Behar 1996; Nordstrom and Robben 1995; Wood 2006). Even when acknowledged, emotion is mostly perceived as a threat if it is not accounted for, a source of difficulty. According to Wood (2006, 384), emotional dynamics need to be mentioned because she is “persuaded that inadequate attention to them may lead field researchers to make errors in judgement that may have significant consequences for their research subjects as well as themselves.” Such a perception fully acknowledges the exchange of emotions between participants and field-researchers, but as a negative component that might lead to errors (rather than valuable data).

Drawing on our experiences, Chappuis and I aimed to contribute to the insufficient discussion of the emotionality of research in war-affected settings, by stressing the impact on the researcher, the ‘researched’, the research process and ultimately the outcome. We categorise the relationship between emotions and research, and the modes and impacts of silencing these at different interconnected levels: personal, methodological and conceptual on the one hand; researcher and researched on the other. Table 2 summarises the empirical examples drawn from our own research experience of how silencing emotionality impacts on each level of interaction (Jamar and Chappuis, 2016 forthcoming).

**Table 2: Conventions of Silencing**

Mode of Silencing	Emotional referent	
	Researcher	'Researched'
Personal	A.1. Professional obligation to handle emotions in the private sphere	B.1. No consideration of the effect on the informant, leading to 'emotional impunity'
Methodological	A.2. Emotions pose a threat to scientific objectivity	B.2. Emotional exchange interferes with data collection
Conceptual	A.3. Emotional responses affect normative commitments that frame research	B.3. Emotional responses as a subject of research

The table is discussed in detail in the article I have coauthored with Fairlie Chappuis (Jamar and Chappuis, 2016 forthcoming). The following lines summarise the relevance of the above table in relation to knowledge production in post-conflict contexts.

A1: The researcher is expected to keep emotional responses at the personal level.

B1: First, by ignoring the emotional responses of respondents, 'emotional impunity' places an enormous emotional burden on field-researchers to deal with the tensions created. Second, it creates the possibility of escape from their responsibility for the emotions that may be engendered in respondents by the research.

A2: Silencing emotional dimensions as part of methodological concerns results inadvertently in another type of bias.

B2: The emotionally charged data is frequently just left aside and not integrated into the data analysis, as considered irrelevant.

A3: While the normative commitment is openly acknowledged, its effect on the research produced is silenced: specifically, the fact that the report focuses on one single type of critique, due to normative commitments, is left unspoken for concerns of credibility and coherence.

B3: These emotional dimensions may well be the basis on which members of the community and practitioners will act. This also applies to the everyday practice of TJ. As elaborated below, I consider that un-silencing these effects of emotionality and the resulting normative framework through transparent methodologies will be more efficient for dealing with inherent emotions that are part of research.

### ***1.2.3. Call for Inclusion of Emotions in Post-Conflict Research Settings***

Chappuis and I consider that emotional sensitivity to the harsh realities of lived human experience at the centre of conflict-related research creates and encourages normative and political engagement on the part of researchers. Indeed, the point here is to do away with the idea of the researcher as a neutral instrument of the research process: it is as patently absurd to believe that the external researcher does not bring his own normative and political

predilection into the research context as it is to believe that normative and political predilections do not already exist within the individuals and communities under study.

In contrast to mainstream methodologies researching conflicts and violence, we support the post-modern call for an open acknowledgement of our positionality, by approaching social realities through the prism of power, the subjective nature of social relations and representation and hence rejecting the idea of an objective truth (Foucault 1982; Said 1995; Sylvester 1994). We argue that our emotionality shapes our normative commitments, which in turn become epistemic filters for our research, and that the same applies to the social actors at the centre of our research field.

The key authors defining ethnography and ethnography of aid are already embedded in post-modern epistemologies (e.g., Hammersley and Atkinson 2007; Lewis and Mosse 2006). Their approaches to reflexivity fully incorporate the notions of rapport, power, agency and hierarchies that define both the research process (through interactions between researchers and researched groups) and the researched environment (through interactions among the researched community); and how these dimensions affect the production of knowledge. However, their approaches fail to address emotions more deeply, which is particularly important to do within heavily charged post-conflict contexts. As a result, in ethical guidelines and requirements for research in war-affected regions, important gaps remain between ethical concerns and their emotional components.

If we begin from the premise that research in war-affected contexts is motivated fundamentally by the willingness to first understand better why people face such suffering, and then to question what could be done to alleviate this suffering, it is certain that the contributions of research are necessarily affected by our emotional response to the subject at hand and our normative perspective. Although this concern appears to emanate naturally from the above-mentioned literature, both academic and policy-orientated research have developed unspoken conventions that serve to silence emotions and their expression. If we accept that silencing emotions and normative frameworks provides a patently inappropriate epistemic basis for social science research in which the researcher is an inevitable social actor interacting with other social actors in the research setting, it makes sense to consider the emotionality that inevitably arises from such human interactions, both as an inevitable aspect of the research process, and as a potentially useful source of social information.

Indeed, as mentioned above, research approaches inspired by postmodern epistemologies across a range of social science disciplines have rejected the idea that researchers can credibly protect their research from the influence of their own underlying emotions and normative commitments, and have instead promoted the idea that such commitments should be made plain in research (e.g., Sanford and Angel-Ajani 2006; Behar 1996; Nordstrom and Robben 1995; Malkki 1995; Wood 2003; Thomson, Ansoms, and Murison 2012). If we accept the premise that emotionality contributes to framing the research endeavour, yet remains a conventionally silent influence, then the most reasonable response is to encourage transparency in both emotional responses and the consequent normative engagement in relation to the research object. In other words, because emotionality and its consequent normative commitments cannot be extricated from the research context, we ought to display transparency in writing and reporting this through a clearer interpretation of the research process and outcomes that constitute our production of knowledge.

In extension, the production of knowledge about TJ processes in highly sensitive contexts such as Burundi and Rwanda inevitably arises from a puzzling myriad of subjective experiences and perceptions of the conflict and its policy response. Within the field of TJ that aims to establish ‘truth’ and ‘accountability’, the multi-level interactions of different narratives are crucial in the reflexive process, through both collecting and appreciating the various interpretations and creating one’s own interpretation. Among the extended literature about the Rwandan genocide, several scholars underline the complex challenges of representation due to epistemic and political dimensions in the work examining memory within Rwandan society (Lemarchand 2007; Waldorf 2007; Longman and Rutagengwa 2004; Burnet 2009) and within academia (Ingelaere 2010; Eltringham 2003).

These pieces of literature underline that “divergent narratives are inevitable” (Eltringham 2003, 98, 108) when addressing a series of events as colossal and complex as the Rwandan genocide. Nigel Eltringham considers that, as researchers:

our representations of conflict are amalgams of multiple message fragments ... pieced together in a never-to-be-complete mosaic. Some fragments are observed or empirical, some intuitive, some specific to the conflict itself and some universal and abstract. Message fragments are potentially infinite, so the mosaic is constantly augmented and modified.... Still too few would admit that any attempt to describe or explain the Rwandan genocide of 1994 will encounter multiple perspectives, many of which defy synthesis.

It is only by exposing fundamental, shaping influences that we can discuss their relative impact on the research process, and also begin to understand what alternative forms of knowledge

they might bring. In practice, this affirmation translates into a much greater emphasis on methodological transparency.

This acknowledgement creates space for more pragmatic approaches that better balance the inherent and irreducible tensions typical of most research endeavours in war-affected contexts. This can help open space for more conducive discussions about pragmatic approaches by making clear why we prioritise a particular goal over another, and the nature of the trade-off to be struck in achieving a balance. It also holds the potential to create less polarised academic literature about Burundi and Rwanda, as well as their TJ processes. In my case, transparent methodologies, as summarised in this chapter, trace the way in which my experiences led me to narrow down my research objectives, as well as give emotionality the place it deserves in the writing of ethnographic vignettes throughout the thesis.

## **Conclusion**

This chapter detailed the data gathering and reflexive processes followed in the doctoral research. A description of conceptual and practical dimensions explained how I approached the everyday of TJ practitioners and ethical challenges encountered throughout. It described how mainstream ethics and methodologies provided insufficient guidance for the challenges that arose within both policy-orientated and academic research settings. Going through emotional ‘burnout’ as a result, I turned my academic attention to emotionality, and finally to how emotions are inherent and crucial elements of research at many levels, particularly in conflict-affected contexts.

From a methodological perspective, there is no single solution fit for all the ethical and emotional challenges encountered during fieldwork. However, Chappuis and I concluded that identifying challenges and providing transparency about strategies adopted and integrated into the research process are key elements for acknowledging rather than silencing emotions. In conclusion, I insist again that ethical concerns need to go beyond ‘do no harm’ principles, and pay more attention to ethical implications for TJ research and practices.

### ***Beyond Do No Harm***

Conventional research ethics require us to ‘do no harm’ (for example, Goodhand 2000; Mackenzie, McDowell, and Pittaway 2007). Given practical limitations for the protection of respondents, the conflicts of interest inherent to the assessment of harm, and the fact that



professional conventions systematically marginalise emotional experience, how can we as researchers credibly claim to respect ethical requirements to do no harm? More attention to the emotionality of the research experience would be one step towards taking greater responsibility for the potential emotional damage that research may do for both the researcher and the researched. On the one hand, research can affect the researcher personally. Dickson-Swift, James, Kippen, and Liamputtong (2009, 70–71) point to the “human costs” that emotional labour can inflict on researchers, including feeling “phoney”, emotions of guilt and self-blame, difficulties sleeping, anxiety, gastrointestinal upsets, and depression. Researchers may develop personal strategies to distance themselves from the data. However, such strategies may not be sufficient to protect the personal wellbeing of the researcher. On the other hand, silencing respondent emotions allows the negative emotions that research may have engendered to be conveniently ignored, a dimension particularly important for TJ practices.

In my case, going beyond ‘do no harm’ also implied finding grounds for engagement with research participants, and in future with a wider public audience. Following the example of Nancy Scheper Hughes (1995), some researchers have given increasing importance to their political roles as researchers (e.g., Sanford and Angel-Ajani 2006; Kalir 2006). This group of researchers challenges the idea that researchers must observe morally odious realities with feigned ethical neutrality in order to preserve an artificial theoretical distance. On this basis, they consider it is part of their obligation as subject-area experts to engage with the politics and policies of the real world. This type of reflection pushed, for example, Warren (2006, 229) to question herself daily about her contributions, not only to academic endeavour but to the plight of the research subjects central to her study.

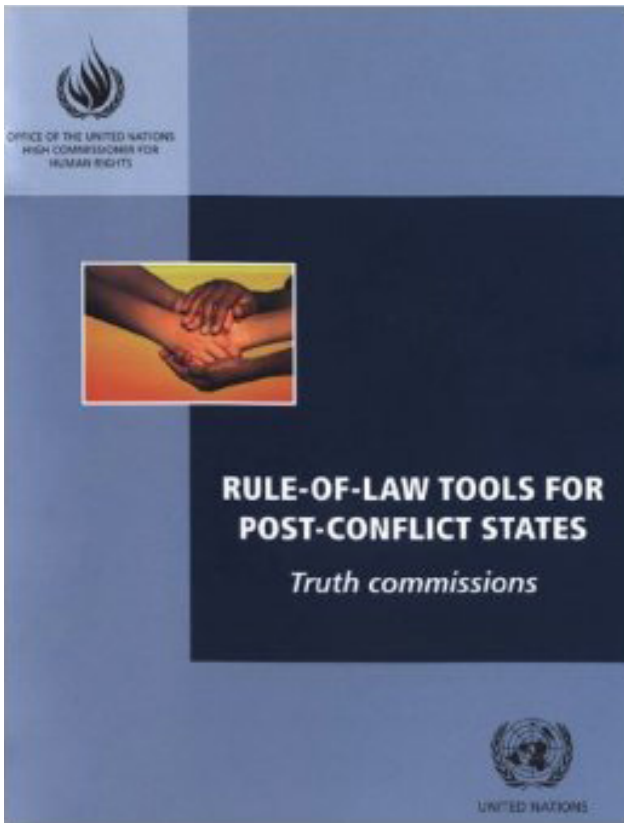
Among other reasons, the ethical challenges that confronted me, the encounters that I had with Rwandans and Burundians of impressive resilience and coping capacity, and the contributions of aid workers to a better understanding of these people’s challenges, motivated me to pursue the doctoral research and to seek a meaningful engagement with the research object. Through interviews, discussions and workshops with TJ practitioners, I tried to encourage a deeper and critical understanding of mainstream TJ concepts and mechanisms, and of the limits of current TJ patterns, and to inspire them to look at the wider structures and agencies of their work. These initiatives aimed to create a wider debate and encourage TJ practitioners to put their work focus on the communities they work with, rather than vernacularise TJ concepts with a

blurry discourse about international standards and working patterns promoted as the most efficient by the New Aid Paradigm and the TJ toolkit approach (as I elaborate in the next chapter). Some of these experiences are addressed in more detail in chapter 5, which also underlines difficulties entangled with engaged research.

### ***Ethics in TJ Practices***

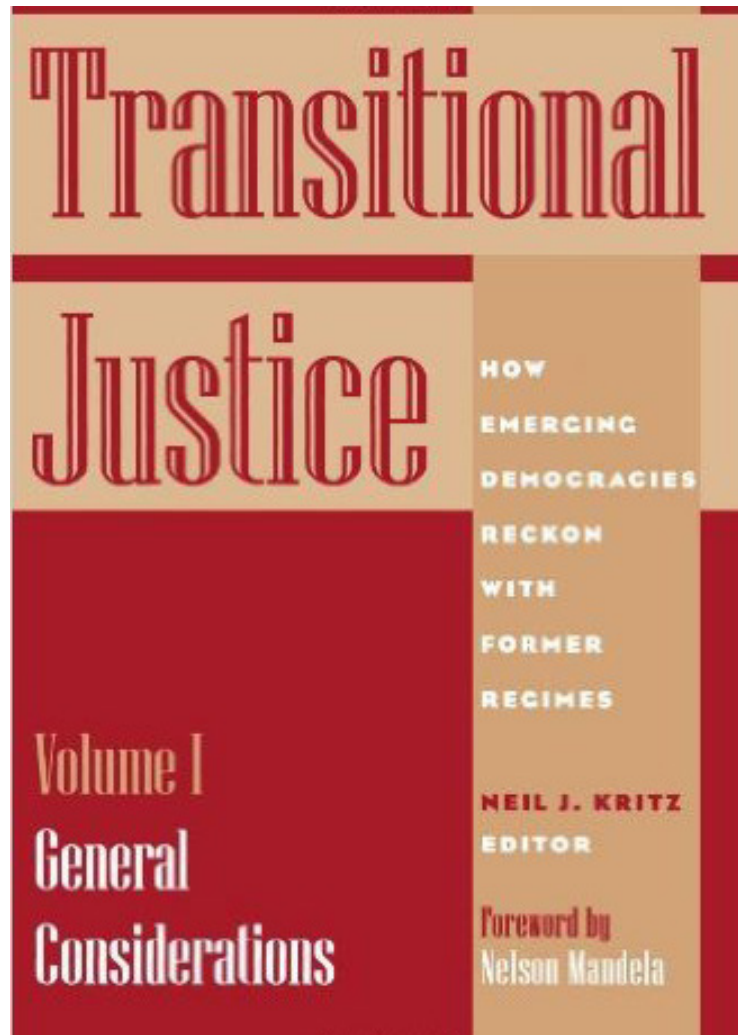
Beyond the ethical concerns related to TJ research, this reflection also brings to the fore crucial ethical shortcomings of TJ practices. In promoting traumatic storytelling, most TJ practitioners embraced purported benefits of accountability, truth-seeking, empowerment and cathartic effects for victims (see chapter 2). Such a simplistic vision nevertheless ignores complexities inherent in dealing with the past. TJ processes are also inevitably charged with a range of human emotions. A number of researchers have underlined the ethical issues implicit in this commodification of trauma narratives, with insufficient consideration given to people sharing their stories (Ross 2003; Colvin 2008).

Discussing the Guatemalan truth and reconciliation process, French (2009) observes that survivors' testimonies have been reformatted and censored to fit the discourse. She argues that this "may well inadvertently replicate dominant power relations that continue to tacitly disempower victims and thereby undermine transitional justice objectives." Reviews of these wider truth-telling processes in war-affected settings stress important unresolved challenges to current research approaches. It is simply not sufficient to affirm the usefulness of voicing the suffering of vulnerable people by undertaking and publishing research. Traumatic storytelling may be useful in contributing to public accountability, but requires immense effort from victims – too often without the promised cathartic effects and expected material reparations (for example, Shaw 2015). In other words, TJ practices should not be considered immune from potential harm caused to their 'beneficiaries', and should get more serious about ethics.



## Chapter 2

Unpacking the TJ Toolkit Approach:  
Scrutiny of its Ideology, Claims, and  
Implementing Channels



## **Chapter 2: Unpacking the Transitional Justice Toolkit Approach: Scrutiny of its Ideology, Claims and Implementing Channels**

### **Introduction**

While the field of transitional justice (TJ) is still debating its own definition, animated discussions also deal with the relevance of specific tools associated with the field and what these claim to achieve. Contemporary TJ scholarship addresses this evolution and underlines the conceptual crisis that this very young field is going through (e.g., Corradetti, Eisikovits, and Rotondi 2015; Buckley-Zistel et al. 2013). Within these debates, several authors use the concept of ‘toolkit’ to denounce the ‘one-fits-all’ and ‘tick box’ dimensions of the TJ practices today (Hinton et al. 2010; C.L. Sriram and Pillay 2010; Hazan 2007; Shaw, Waldorf, and Hazan 2010; Lefranc 2010; Andrieu 2013).

With different degrees of criticism, these authors underline that a preformatted set of solutions has been promoted globally by some key international actors (such as the International Centre for Transitional Justice, ICTJ, and the UN Office of the High Commissioner for Human Rights, UN OHCHR) to nations in ‘need’ of dealing with their violent past, and suggest that such a toolkit approach gives insufficient attention to local and historical specificities. These authors provide, however, a limited description of what the TJ toolkit entails, or how it is implemented.

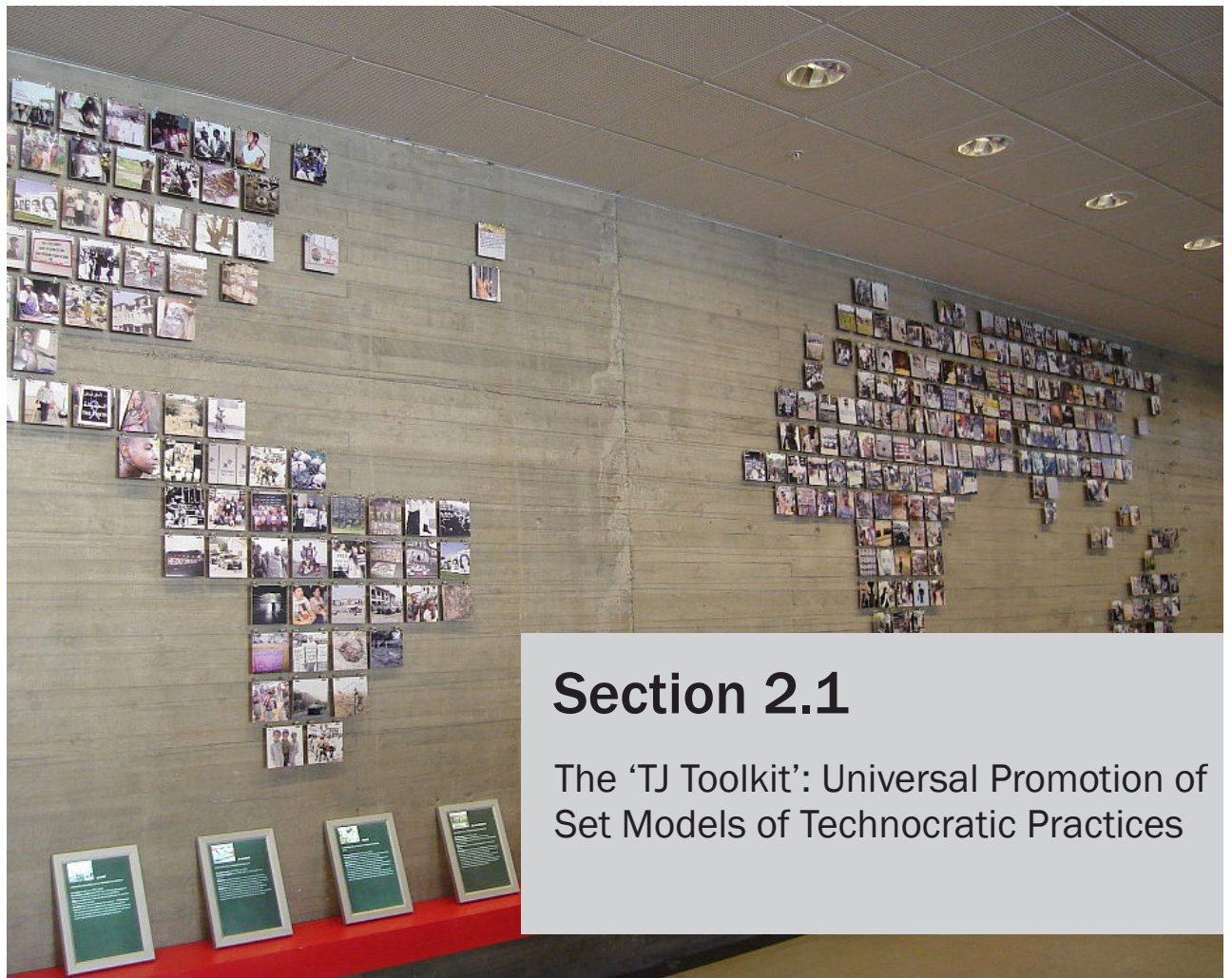
This chapter aims to unpack the consolidation of the ‘toolkit approach’ as well as to provide the theoretical background for scrutinising the implementation of the resulting aid-dependent TJ practices in following chapters. Through such scrutiny, I highlight the ideological and pragmatic dimensions of the implementation of such toolkit approach. The chapter addresses the following questions: How was the TJ toolkit consolidated? How can the TJ’s entanglement in aid structures be analysed?

Such literature review defines a theoretical framework to scrutinise the implementation of the ‘TJ toolkit’ within localised contexts – in this case Rwanda and Burundi. Considering TJ as a collection of aid-dependent practices, my research draws on critical development studies (e.g., Escobar 2011; Ferguson 1990; Mosse 2005; Duffield and Hewitt 2013). This leads me to argue that the current implementation of TJ is taking place through patronising practices – focusing on technocratic efforts using Western concepts and institutionalised mechanisms, while giving

limited attention to the local political and micro-social dynamics inevitable to an implementation within contexts affected by conflicts.

The first section highlights the ideological and pragmatic dimensions of such toolkit approach. To do so, I underline how (i) TJ ideology and (ii) the resulting policy framework, were framed globally and brought into the Burundian and Rwandan context. I put these theoretical and empirical discussions in perspective with critical TJ and development literatures. In the second section, I turn my attention to development studies to deepen the understanding of TJ practices as absorbed by aid structures and entangled in the global agenda to render international aid more efficient, the New Aid Paradigm. I also review the existing critique of the New Aid Paradigm and its relevance to study TJ implementation.





## Section 2.1

The 'TJ Toolkit': Universal Promotion of Set Models of Technocratic Practices



## 2.1. The ‘TJ Toolkit’: Universal Promotion of Set Models and Technocratic Practices

At the global level, the main organisations supporting TJ internationally consolidated a preformatted approach to ‘deal with the past.’ This involves a set of mechanisms, associated claims and benefits promoted universally. The academic scrutiny of the toolkit approach is a critical review of such instrumentalist and technical approach. Despite limited exploration on what the toolkit approach entails, a number of authors have nonetheless highlighted the risks associated with this approach. As the most consolidated definition, Shaw and Waldorf (2010, 3) introduce the TJ toolkit as such:

Transitional justice has grown over the past twenty years into a normalised and globalised form of intervention following civil war and political repression. It embodies a liberal vision of history as progress, a redemptive model in which the harms of the past might be repaired in order to produce a future characterised by the non-recurrence of violence, the rule of law and a culture of human rights. This vision is put into practice through a set of legal and mechanisms and commemorative projects – war crimes prosecution, truth commissions, purges of perpetrators, reparations, memorials – that is conceived as a “toolkit” for use all over the world.

Through reviews of TJ implementation in various contexts, their edited volume underlines limitations of such a normalised approach due to disconnections from local priorities and practices. Describing a ‘cookie-cutter’ approach, Sriram and Pillay (2010, 7) equally consider that it “will lead to the creation of certain bodies simply because this is what is done in other post-conflict situations, without consideration of any demand for it or its purpose and legitimacy.” Hinton (2010, 7) sees the toolkit approach as “metaphors that depict international actors and local elite as engineers ... who have the expertise and knowledge to rebuild the ‘broken society’ or ‘failed state.’” Based on empirical scrutiny of TJ practices, these editors of the volumes interrogate ideological assumptions of TJ to understand how mechanisms actually work in specific contexts.

These introductions to the TJ toolkit highlight normalised and globalised perspectives on how to deal with the past. Underlined is the global dissemination of a preformatted manner of approaching a violent past; the authors highlight the limitations of such an approach to be adopted and implemented into various local contexts – despite the discursive claim of TJ practice to be adapted to local contexts. They all denounce the liberal ideology that claims that ‘harms of the past’ and a ‘broken society’ can be repaired with expert knowledge, a process through which internationals and local elites are depicted as ‘engineers’ (see also Hazan 2010; Andrieu 2010). Simply put, these authors establish the basis of seeing the TJ toolkit approach

as a technocratic one insufficiently sensitive to historical, political, social, and cultural specificities.

With the aim of expanding this literature, I consider that the TJ toolkit contains ideological and pragmatic dimensions that obscure different normative frameworks, ulterior agendas of organisations involved in TJ processes, and the individual positions of their members and beneficiaries. I scrutinise the implementation of TJ interventions in order to explain frictions between norms, policy and practices, the role of knowledge, bureaucracy and the socio-politics in place. Development studies, and particularly anthropology of aid, therefore provide a useful lens for the exploration of TJ practices, as a field scrutinising critically the implementation of aid programmes for several decades. In turn, I review below the ideological and pragmatic dimensions of the institutionalisation of TJ.

### ***2.1.1. Transitional Justice Mechanisms and Concepts: Consolidation of an Imperial Ideology***

I argue that the toolkit approach is an ideological, if not theological, guide for action that defines the aims that should be pursued through TJ mechanisms: a broken society seeking truth, justice, reconciliation and reparation. These moral commitments are formulated in a discourse embodied in various global policy documents, the institutional framework TJ mechanisms, as well as sensitisation tools and activities. With some nuances, all these elements define the principles, claimed aims and normative framework of TJ practice in line with the toolkit approach as described in general below and specifically for Rwanda and Burundi in the next chapter.

### ***2.1.2. An Ideology is Born: TJ as Palliative Measure for Democratising Nations***

Transitional justice first came onto the international agenda through reflection over how Latin American and European countries experienced political transition from authoritarian rule to democracy. This was achieved through various conferences organised jointly by scholars and activists involved in these transitions (Albon 1995; Kritz and Mandela 1995; Siegel 1998). The term ‘transitional justice’ was not used at the time of these initiatives; it was created later to “summarise these debates over how successor regimes should deal with the human rights abuses of their authoritarian predecessors” (Albon 1995, 42). All these conference reflected



on practices, and the moral, legal and political dimensions of accountability processes for dealing with past repression (Arthur, 2009).

The book published in 1995, *Transitional Justice – How Emerging Democracies Reckon with Former Regimes*, edited by Neil Kritz, documents these discussions. The three volumes have dozens of contributors, including key figures such as Nelson Mandela, key human rights INGOs, such as Human Rights Watch and Amnesty International, and TJ pioneers such as Ruti Teitel, Priscilla Hayner, Naomi-Roth Arriaza and Diane Orentlicher. The book consolidates the paramount efforts that were undertaken at the time to reflect globally on how transitional nations could deal with legacies of wide-scale human rights violations committed by previous regimes.

Out of these debates and as summarised in Kritz's edited book, a growing consensus emerged to consider that "a) the state is obligated to provide compensation to victims of egregious human rights abuses perpetrated by the government, and b) if the regime which committed the acts in question does not provide compensation, the obligation carries over to the successor government" (Kritz and Mandela 1995, xxvii; see also Siegel 1998, 439). TJ was considered a necessary step to end the chapter of authoritarianism and build up the foundations for democracy.

By the late 1990s, a limited set of mechanisms had been consolidated to 'deal with the past': truth and enquiry commissions, judicial prosecutions, institutional reforms and vetting (the process through which people responsible for crimes were expelled from public institutions). These mechanisms form the basis for the TJ toolkit. However then, both policy-orientated and academic debates still questioned which mechanism would be best or what where associated benefits (Siegel 1998, 433). It is also important to recognise that TJ processes at the time were seen as a result of political bargain in politically fragile contexts; fearing that actors exiting the regime would still be a source of risk for democracy and peace. This fragility of the political context is a reminder that truth and reconciliation commissions (TRCs), as founding mechanisms of TJ, were first elaborated as palliative measures when trials were not seen feasible (see Lefranc 2008a, 2008b). The perception of TJ as set of bargain, palliative or least-worst measures gradually faded in favour of being seen as the most optimal solution.

### ***2.1.3. Conceptual Consolidation of the field: Institutionalising Claimed Benefits***

As the result of the debates mentioned above, accountability, deterrence, reparation and retribution became the four main goals pursued by the TJ. Specifically, Teitel (2000, 7) describes the process based on these activities: investigations establishing past wrongdoing; reparatory projects vindicating rights abused in the past; and transitional constitutionalism and administrative justice reconstructing political order. These goals were believed to contribute to larger objectives such as national unity, reconciliation and economic development (Zalaquett 1995). By the beginning of 2000s, there is almost-consensual vision supporting the set of five mechanisms and associated benefits. Following the experience of the South African TRC and the increase in intra-state conflicts, particularly on the African continent, TJ was also imported to post-conflict contexts (not only post-authoritarian and not always ‘transitional’ towards democracy), and extended to non-legal dimensions.

I enumerate briefly the benefits attributed to truth-seeking and judicial measures as relevant for my empirical analysis (gacaca perceived as a hybrid mechanism that includes truth-seeking and judicial dimensions and the TJ policy framework in Burundi including both judicial and truth-seeking mechanisms even though no progress had been made in relation to the judicial mechanism in the latest case). Truth-seeking mechanisms such as truth commissions, truth and reconciliation commissions, and commissions of enquiry became among the most common mechanisms devised to establish facts about human rights abuses committed during periods of conflict or repression. It is claimed they: promote the acknowledgment of responsibility (e.g., Kritz 1995); encourage reconciliation through participative establishment of truth, and demand for pardon (Minow 1998); support victims to heal from past suffering as a result of cathartic effects (*ibid.*; Hayner 2010); and alleviate current conflicts relating to the interpretation of the past. They also supposedly support victims to manage the material dimensions of loss (Hayner 2010), and deter the state from future abuses (Zalaquett 1995).

International criminal tribunals, national trials, military courts and special/hybrid tribunals are among the main mechanisms pursuing judicial prosecutions for crimes committed by previous authoritarian regimes or former belligerents. In relation to judicial investigations and criminal prosecutions, it has been claimed that they: establish juridical truth and individual responsibility (Teitel 2000); provide justice for the victims and their survivors, especially those directly affected by grave violations of human rights (Siegel 1998); alleviate the pain of victims by releasing the truth and punishing the perpetrators (Minow 1998); contribute to the

consolidation of democracy by restoring confidence in its mechanisms, strengthening the rule of law and providing legitimacy to the new regime (e.g., Orentlicher 1991; Teitel 2000); and dissipate calls for revenge (Orentlicher 1991). It has been argued that these processes can thereby contribute to reconciliation (e.g., Kritz and Mandela 1995; Albon 1995; Roht-Arriaza and Mariezcurrena 2006).

Authors who make these claims consider some limits associated with these truth-seeking and judicial mechanisms. Prosecutions and trials are usually restricted to the most serious crimes – it is not usually possible to prosecute all suspected individuals because of the high numbers of cases and limited capacities. The lack of political will to prosecute ‘big fish’ is also a probability, due to the risks these people might present to the political fragility of new regimes (Orentlicher 1991; Zalaquett 1995). Further, the criminal responsibility of incumbent political and judicial actors, and the lack of independence of judicial institutions, have been listed as potential obstacles to impartial justice (Kritz and Mandela 1995; Zalaquett 1995). Still further, trials could provoke “revenge, rather than ending the cycle of revenge” (Minow 1998, 122). In spite of these risks, proponents of prosecutions continue to encourage their implementation. They present these risks as common side effects of trials.

With regard to truth-seeking mechanisms, authors who support the benefits mentioned above also acknowledge that limits of time, human and financial resources do not enable investigation of all violations committed (e.g., Hayner 2010; Popkin and Roht-Arriaza 1995; Allan and Allan 2000; Minow 1998; see Mendeloff 2004 for a critical review of this literature). They appreciate it is necessary for the scope of truth commissions to be selective in the events and themes that would be covered – it being impossible to reach all events and victims. Due to security risks and fear, witnesses, victims and perpetrators may not be willing to testify openly. Furthermore, the sensitivity of certain topics can revive trauma or create strong emotional reactions from people testifying to what they have witnessed or suffered (Minow 1998; Hayner 2010; Allan and Allan 2000). Hayner (2010, 5-6) notes that initiatives also create expectations, from civil society and the population, that are impossible to realise. Nonetheless, authors in favour of truth-seeking initiatives consider that these concerns should not be the basis for neglecting truth commissions.

By the beginning of 2000s, an extended literature (see next section), mainly written from a legal perspective, has addressed the pro and cons, as well as the moral, political and legal dimensions of the five mechanisms. The resulting almost-consensual vision supporting the set

of five mechanisms and associated benefits. Such a vision and its claims were consolidated and formed what today constitutes the ‘toolkit approach’. Overall these authors played a crucial role in the consolidating the field conceptually as a set of mechanisms to achieve a set of aims to deal with past. Such vision still has a strong impact on the UN position on TJ and its promotion of mechanisms around the world (e.g., United Nations, Security Council 2004, 6-7). In other words, dealing with past has been promoted as an institutional approach that requires putting in place certain types of mechanisms to achieve the above mentioned benefits.

#### ***2.1.4. Increasing Critical Conceptual and Empirical Research***

In parallel of the promotion of such approach to the field of practice, the academic field of TJ has increasingly produced critical reviews and created vivid debates about both existing academic literature and the field of practice. The critiques question and/or underline the limits of its conceptual framework (French 2009; Verdoolaege 2006; Burnet 2009; Clark 2008; Fletcher and Weinstein 2002; Ingelaere 2007; Lefranc 2008a; Rosoux 2014), its empirical practice (to name a few, Hinton et al. 2010; Shaw, Waldorf, and Hazan 2010; Alcalá et al. 2012; Shaw 2007; Selimovic 2010; Subotic 2009; Gibson 2005; Ross 2003), the global expansion of its field of practice (e.g., Nagy 2008; Subotić 2012; Lefranc 2010; Madlingozi 2010), and the general theoretical framework, specifically the foundation claims of the field from politico-legal and philosophical perspectives (e.g., Leebaw 2008; Bell 2009; Andrieu 2010; Mutua 2015; Naftali 2013).

In opposition to the optimistic first group of scholars supporting the idea that ‘justice’ and ‘truth’ have inherent benefits in transitional processes, the critiques have underlined the problematic terminology – and hence the difficult implementation – of concepts such as ‘justice’, ‘truth’, ‘individual responsibility’, ‘pardon’, ‘forgiveness’ and ‘reconciliation’. These form part of a terminology that is widely debated from a conceptual perspective, due to the vagueness and malleability of their meaning and the value of concepts constituting TJ policy frameworks.

In relation to judicial mechanisms, the meaning of justice has been reviewed in various contexts. With the example of international war crimes tribunals, Clark (2008, 332-333) notes that “justice is a contested concept; it has no uniform or universal meaning.” She argues that “perceptions of justice are fundamentally shaped by a variety of factors, including personal experiences and group membership. It is often impossible, therefore, to establish any broad

consensus that justice has been done.” Similarly, in relation to the International Criminal Tribunal for Yugoslavia (ICTY), Johanna Mannergren Selimovic (2010, 59) argues that this international tribunal failed “to convey individual justice” by focusing on “factual truth” – because the process could not provide a space for victims to confront their different subjective experiences and narratives. These two authors underline that the establishment of judicial mechanisms necessarily entails a selecting process; it does not systematically lead to a feeling of justice, and it does not hold the capacity to deal with the different dimensions of truth.

In relations to claims that judicial mechanisms involve the identification of individual responsibility, Clark (2009) questions whether this is possible and/or desirable. Individualisation of guilt “is limited to punishing only a few select individuals who carried out the most egregious acts or ordered their followers to do so” (L. Fletcher and Weinstein 2002, 605). Fletcher and Weinstein (*ibid.*, 588) consider that:

There is no reason to make the assumption in the context of accountability for mass violence that the ‘truth’ will produce the intended epiphany. The theory implies that trials will facilitate approbation of the perpetrators and rejection of the political agenda that produced the criminal acts. Yet, the truth is constituted by multiple facts, each of which is vulnerable to distortion, denial, rationalisation, and refutation.

All these authors underline that judicial initiatives are limited in the case of mass violations. These necessitate selecting what crimes should be addressed and who should be held responsible. The authors question the feasibility, desirability and credibility of achieving ‘justice’, as well as underline the falsely positive assumptions that have been associated with the concept of justice.

The capacity of judicial mechanisms to achieve purported aims (namely deterrence, healing and reconciliation) has been widely criticised. Laurel Fletcher and Harvey Weinstein (*ibid.*, 592) affirm that “there are no empirical data to suggest that trials deter war crimes or gross human rights violations.” As Leebaw (2008) suggests, neither the ICTY nor the ICTR has been “effective as a response to vengeful or volatile emotions” since reprisal killings took place in both Rwanda and Kosovo following the creation of these international courts.

Clark (2008, 340) argues that “reconciliation does not begin in the courtroom.” But (if possible and desirable) it must arguably begin at the level of the individual. Clark (2009, 31) later comments that even if it is claimed that “easing of tensions through the meting out of impartial justice can create the conditions for a return to peaceful relations on the ground. Similarly, Selimovic (2010) underlines, “the problem is, however, that the ICTY is not perceived on the

ground as dispensing impartial injustice”. Applying this observation to judicial measures in wider contexts suggests a questionable link between reconciliation and justice.

Even the most supportive authors of judicial mechanisms consider the risk that TJ can reawaken trauma (e.g., Minow 1998). Taking this critique further, Fletcher and Weinstein (2002, 593) consider that the hypothesised ‘therapeutic’ nature of criminal trials for victims is based on a simplistic view of psychotherapy. An important number of authors also consider that trials are not sufficiently victim-orientated (Hazan 2007, 117; Leebaw 2008), and are therefore unable to heal the trauma of people affected by the conflict.

The critical research underlines the conceptual issues with the term ‘truth’. For instance, through a perception survey of South Africans, Gibson (2005, 351) observed that most of his respondents “accept the truth and reconciliation process as a necessary evil.” He (*opcit*, 355) observed, however, that “the collective memory that the TRC promulgated is not widely accepted.” Looking at the Guatemalan case, French (2009, 95, 106) assesses a need for “a more self-conscious engagement with the complexities of discursive forms and multiple epistemologies” in research narratives told by survivors in a TRC, because of the often overlooked political dimensions (see also Henri 2005). In other words, truth-telling entails various perceptions of truth while the officially-established ‘truth’ does not acknowledge the inherent partiality of the fact-gathering process, nor the political nature of the exercise.

The limitations of truth-seeking mechanisms to achieving trauma healing, reconciliation and reparation have also been highlighted. Several authors have contested the relevance of TRCs to deal with trauma caused by crimes under scrutiny at a TRC (Shaw 2005; Hamber and Wilson 2002). Studies of individuals who have been involved in TRC processes demonstrate the limited cathartic effect at the individual level (Shaw 2007; Hamber and Wilson 2002; Wilson 2000, 2003).

Specifically, Hamber and Wilson (2002, 36) consider that “Nations do not have collective psyches that can be healed, nor do whole nations suffer post-traumatic stress disorder and to assert otherwise is to psychologise an abstract entity that exists primarily in the minds of nation-building politicians.” From the perspective of victims, Ross (2003, 337-338) notes that research on trauma explicitly recognises “that telling may ‘reawaken’ memories of trauma, with negative effects for the individual.”

Looking at the case of a support group for victims in post-apartheid South Africa, Colvin (2008) highlights the commodification of traumatic storytelling. After discussions with members of the organisation, he considers that:

The victims should not have to do so much work for so little gain. Traumatic storytelling has not brought them reparations, it has not eased their poverty, it has not forced perpetrators to confess or beneficiaries to admit their own liability. Only on occasion has it seemed to ease the psychological effects of trauma. More often than not, after the brief ‘intervention’ – at the TRC or monthly meeting – they are left to go home alone, with little follow-up support (*ibid.*, 174).

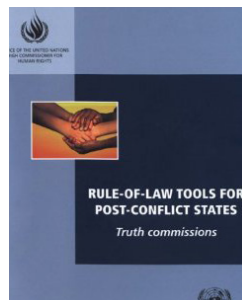
This underlines the limited overall benefit for victims in testifying if truth-seeking mechanisms are based on demanding efforts on the victims’ part. Authors have also argued that truth-telling is not especially valued by every culture. Through analysis of Sierra Leone’s TRC, Shaw (2007, 206) observes the project was not in line with the local culture but, rather, articulated around a ‘global knowledge’ that “naturalised the project of truth-telling as a tool that would cut through conspiracies of silence, create accountability, restore voice and dignity, ‘talk out’ trauma and rebuild the nation.” Such an example illustrates frictions between the global TJ discourse and local practices in terms of claimed and actual benefits of truth-telling.

Whether truth-seeking mechanisms can support reconciliation has also been examined. Through the analysis of how the reconciliation discourse was built in the South African hearings, Annelies Verdoolaeghe (2006, 75) observes that “these hearings were designed to be extremely victim-friendly, and also this was contradictory to the manifest constructionism of the testifiers’ discourse” – this is because the emphasis on reconciliation dismissed the feeling of revenge and hatred expressed in victims’ testimonies. This leads her (*ibid.*, 75) to define the South African TRC as an “ideological state apparatus” that functions predominantly “by ideology to sustain the power of the ruling class” rather than respond to victims’ suffering. Furthermore, the process by which truth is sought, told and established has been heavily constrained by the political contexts (e.g., Wilson 2001, 2003; Tomuschat 2001).

These critical commentaries contradict the claims that truth-seeking and judicial mechanisms can contribute to the establishment of justice, truth, national reconciliation, construction of a collective memory or healing of trauma from past repression. The meanings of justice and truth are inherently different according to the groups of people involved in TJ processes and their experiences of human rights abuses and violence. It is the political discourse of ruling authorities during transitions that construct this overarching vision of unifying justice and truth. Ultimately, these pieces of research nuanced or argued against claimed benefits associated to these TJ mechanisms. This critical literature is an important contribution to

understanding the limitations of the global TJ approach in specific contexts. It brings attention to the wider ideological and conceptual models.





## Section 2.2

Translating TJ in Policy: Promotion of a Holistic Vision



## 2.2. Translating TJ in Policy: Promotion of A Holistic Vision

Whereas the critical scholarship has highlighted many limits of TJ mechanisms, practice-orientated institutions – such as ICTJ, IJR, the Swiss Peace Foundation (swisspeace) and Impunity Watch (IW) – continue to promote these approaches to various post-conflict contexts. Specifically, a group of academics and semi-practitioners have supported a ‘holistic vision’ at the global level. These include, for instance, Duthie (2008), Orentlicher (2007), Joinet (United Nations Security Council 1997), Mani (2008), Lederach (2001), Hayner (2010), Minow (1998), Boraine (2006), de Greiff (2009; 2013), and others. All these authors have a foot in academia and a foot in practice through different channels.<sup>13</sup> This section underlines that such vision gives the impression that the critiques of TJ practices have been taken into consideration. They hence provide similar but stronger assumptions, and argue for the complementary of aims to lead to set aims through various mechanisms. I review here how such vision impacted the field of practices and how critical literature address such institutionalisation and technocratisation of TJ.

Roger Duthie, senior associate in the ICTJ research unit, (2008, 293) summarises the holistic vision:

A strong case can be made that the most effective approach to transitional justice is a holistic or coherent one, meaning one that includes not only criminal prosecutions but also truth telling, reparations and institutional reform. Even a holistic and coherent transitional justice programme is not pursued in a vacuum, however, but within a broader transitional and peace-building context.

In other words, Duthie argues that TJ should be approached with the set of four mechanisms (truth-seeking, judicial measures, reparation, institutional reforms) in order to deal with a legacy of repression, for the sake of reconciliation, respect for human rights and strengthening of the rule of law.

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<sup>13</sup> Pablo de Greiff is the first and current UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, he was previously head of research at ICTJ, this after an academic career (<http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/PablodeGreiff.aspx>). Roger Duthie is a senior associate in the ICTJ research Unit (<https://www.ictj.org/about/roger-duthie>). Diane Orentlicher has been involved in the field since the premise of the field, she worked United Nations Independent Expert on Combating Impunity (<https://www.wcl.american.edu/faculty/orentlic/>). Alex Boraine was the deputy chair of the South African Truth and Reconciliation Commission, he founded ICTJ and acted as its director until 2004 (<https://www.ictj.org/about/alex-boraine>). Priscilla Hayner is a co-founder of ICTJ and seen as one of the most eminent expert on Truth and Reconciliation Commissions; she worked for the UN and Ford Foundation (<http://www.cassese-initiative.org/global-education/summer-schools/faculty/9-global-education/89-hayner-bio.html>). Louis Joinet is a French Human Rights Lawyer who wrote the principles Joinet including the four pillars of TJ working closely with the UN (see below).

In his attempt at ‘theorising TJ’, Pablo De Greiff (2012) also supports a holistic vision. He connects the key TJ mechanisms to three general aims (without being limited to them): civic trust, reconciliation and democratisation. According to him, TJ practice is an indirect support of these aims when applied in parallel, thanks to bidirectional relationships between aims and mechanisms. He summarises his vision as such:

A first exercise in abstraction allows one to argue that the elements of transitional justice share two ‘mediate’ aims, namely providing a complex type of recognition to victims and promoting civic trust. Abstracting yet again allows one to argue that a comprehensive transitional justice policy also has two ‘final’ aims, namely promoting reconciliation and strengthening democracy. This theoretical construct, then, is supposed to ground the claim that transitional justice is a ‘holistic’ concept (*ibid.*, 65).

For De Greiff, the effort of theorisation has been a conceptual scrutiny that defines more clearly the conceptual connection among aims and mechanisms. De Greiff (2013, 6) acknowledges the risks that policy makers understand TJ measures “as a range of interventions from which they can pick and choose, and to trade off one against another.” He considers such perceptions reflect “the still unsettled state of ‘holistic’ or ‘comprehensive’ transitional justice policies.” A “selective application of transitional justice measures is misguided and why the frequently observed tendency to trade off one measure against others is inappropriate” (*ibid.*, 32-33). While accepting a number of critiques, De Greiff’s holistic vision of TJ also leads to a depoliticisation of TJ practices (arguing that TJ failure results from haphazard implementation – *ibid.*, 36), and sees political bargains as detrimental rather than inherent.

Kora Andrieu (Andrieu 2013) notes that De Greiff’s attempt at complete theorisation of TJ is seriously affected by his inability to overcome normative generalisations, which she considers to be an obstacle towards a concrete evaluation of TJ’s effects. Reviewing critically the holistic approach in the case of Sierra Leone, Rebekka Friedman and Andrew Jillions (2015, 144) argue “the idea that a complementarity of means emerged organically in the Sierra Leonean context is somewhat odd, given the admission by those involved that there were a series of attempts to pre-empt problems and harmonise the relationship between the SCSL and the TRC during the initial stages of the postconflict processes.” They (*ibid.*, 147) criticise the assumed complementarity of means, as it enabled “global policy makers to be satisfied with asserting that different mechanisms of transitional justice are mutually reinforcing as a way to avoid triggering legitimate and important political debates over the compromises made in order to achieve peace without the rigorous critical interrogation of their computability and functions.”

In line with these authors, I consider the holistic approach is insufficient in providing stronger conceptual foundations to the field of TJ practice. Indeed, why would truth-seeking would be more efficient implemented along with other mechanisms, if it has inherent limitations. The holistic re-conceptualisation of the field by policy-orientated scholars seems to respond to a search for legitimisation of current claims and approaches, rather than an honest scrutiny of its foundation or a real attempt to go beyond the tools and associated claims of the TJ toolkit approach.

Tricia Olsen, Leigh Payne and Andrew Reiter (2010a; 2010b, 4) acknowledge that many claims associated with TJ mechanisms remain unproven, unpacked and untested. Using quantitative research methods (based on a database of TJ implementation in relation to human rights and democracy indicators), their work provides important nuances in relation to key TJ claims. They highlight limitations and even potential harm in implementing just one mechanism. Their analysis supports that transitional countries performed better in terms of democracy and human rights with specific combinations of TJ mechanisms. Their findings (Olsen, Payne, and Reiter 2010a, 996) “do not concur, for example, that trials and truth commissions, or amnesties, and truth commissions produce positive results. Instead, only two combinations work: (1) trials and amnesties, and (2) trials, amnesties and truth commissions.”

It therefore supports partially the holistic approach as promoted by the ICTJ. On the basis of their quantitative research methodology, their research offers a more robust exploration of TJ processes and actual benefit of complementarity. On the other hand, their research questions are framed under the same assumption of the field: questioning to what extent a set of mechanisms have achieved a set of predefined aims. It does not therefore think outside the TJ toolkit approach – i.e., critically questioning why specific contexts lead to better democratic transitions beyond the implementation of TJ mechanisms, unpacking the nature of complementarity, and questioning what TJ actually does if not promoting claimed aims. This is as if political transitions and human rights records can be reduced to the implementation of TJ mechanisms rather than to other societal and political factors.

Overall, these authors supporting a holistic vision have integrated some lessons from the critiques discussed above by promoting a victim-centred and holistic approach, acknowledging the limits of the mechanisms and difficulties of the contexts, and encouraging approaches adapted to the specific contexts of implementation. They believe in the interconnectedness and complementarity of interventions to achieve the goals. Even though

the holistic approach promotes itself as being practice-orientated and not a to-do list, it is questionable to what extent this conceptual knowledge is transferable to practice beyond just being a new policy discourse.

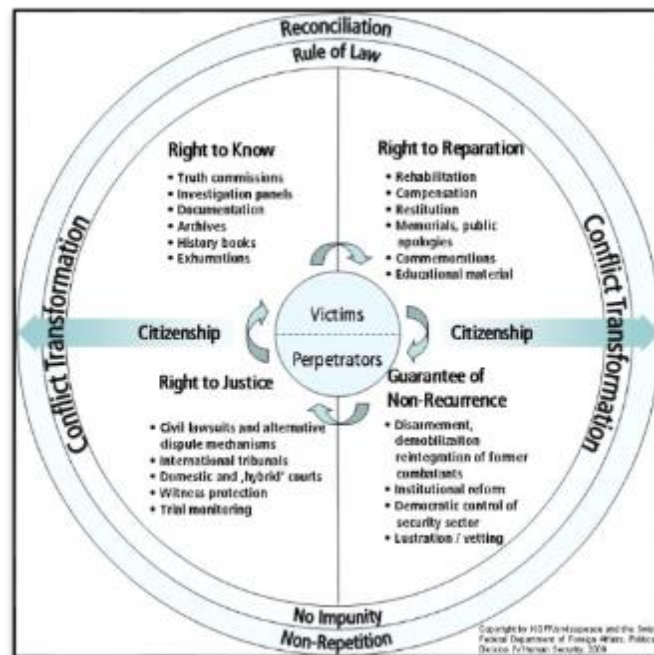
Furthermore, such re-conceptualisation of the field seems to respond to a search for legitimisation of current claims and approaches, rather than an honest scrutiny of its foundation. As pioneers of the fields, many of these authors promoting a holistic vision are part of the network at the origin of both the field of practice and the academic field. They have strong connections with NGOs and UN institutions that were created as a result, such as ICTJ, IJR, IW, sections dealing with TJ within the UN and UN OHCHR (see footnote 5). Consequently, their holistic vision has had a strong impact on the field of TJ practice today, particularly De Greiff. Indeed, as the first and current UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, he is a direct promoter of the TJ global discourse and a porter of the TJ toolkit to various local contexts.

### ***2.2.1. The Holistic Vision Framing TJ Practice***

I establish in the previous section how the toolkit approach creates a conceptual framework that links together TJ aims and mechanisms. Despite existing nuanced on what such approach entails, the holistic vision translates the TJ discourse into practices by promoting the implementation of these mechanisms: criminal prosecutions, truth-seeking, reparation, institutional reforms and lustration programmes – others would also include memorialisation initiatives (e.g., De Greiff 2012). Still they, all promote a set of mechanisms to deal with the past and achieve similar set of societal aims.

A number of policy institutions observed through my fieldwork (particularly in Burundi such as Impunity Watch, Swisspeace) elaborated their work around the four TJ pillars (or ‘principles against impunity’) elaborated by Louis Joinet: the right to know and the right to truth, the right to justice, the right to reparation, and guarantees of non-recurrence of human rights violations (United Nations Security Council 1997). Swisspeace illustrates its approach dealing with the past based on Joinet principles with the following chart used in their workshop with TJ practitioners (that I received it myself during a workshop with the international community in Burundi in 2011).

## Illustration 2: Joinet Principles as illustrated by Swisspeace



At a pragmatic level, such vision is consolidated and presented through various policy documents. For instance, the OHCHR published a series of booklets that provide guidelines to post-conflict countries on their way to implementing TJ measures: national consultations, prosecution initiatives, truth commissions, vetting, hybrid courts, reparations, amnesties, and mapping the justice sector and monitoring legal systems. Many organisations and local sections of OHCHR used them to frame their work, often translated into local languages. The documents are used in discussions with policy makers, used to train local TJ practitioners, and help to structure sensitising activities with beneficiaries. Many policy reports are structured around these aims or pillars.

From a pragmatic perspective, this holistic vision then frames the discourse, the policy models, and the agenda of national political actors. Through meetings, visits, training, technical support and distribution of manuals, these organisations had a strong impact on how local policy-makers would define their own TJ policies. The TJ toolkit is the preformatted approach adopted by most local TJ policy makers at every step of the implementation, from policy writing, sensitisation, programme management, to interactions with victims and alleged perpetrators. It reflects the fact that the consideration of what should be done to deal with past

crimes is initiated by preformatted and technical solutions – even though if TJ global actors claim that the holistic vision enable them to avoid one-size-fits-all solutions.

### ***2.2.2. Critique of Global TJ Technocratisation***

In parallel of seeking for a more coherent field, most severe and recent critiques have addressed deeper problems related to the current professionalisation, bureaucratisation and ‘lawyerisation’ – dimensions that I capture as the technocratisation of the field. The critical authors have predominantly looked at the global level and global dissemination of TJ (Lefranc 2010; 2008a; Subotić 2012; Naftali 2013; Rubli 2012).

Sandrine Lefranc (2008b, 68) writes that TJ was established through the creation of a professional network rather than the conceptualisation of good practice. She considers that the global network came opportunistically to this new market to offer services such as meetings, lobbying towards donors, inquiries, and handbooks for universities and practitioners. Lefranc later notes (2012, 5 – author's translation) along the same lines that:

The expression of TJ is not only a sum of experiences, but also a category constructed voluntarily by experts engaged in a professional movement, since often, an experience of political militancy, on the edge of academia. TJ does not travel upon the basis of its own virtues, but because it is carried, transported internationally, modelled at the same time, by actors and groups... The expression hence crystallises an organisational process within an international environment of TJ professionals, the constitution of an expertise. ...The production of specialised organisations ... contributes to provide a common language and tools for different actors of the sector of international intervention.

In different pieces of work, Lefranc (2008a; 2008b; 2010; 2012) considers that the consolidation of TJ results only from the creation of expertise and a network that supports it for professional opportunities. This rather negative portrait of TJ is based on her attempt to trace how Latin American experiences have travelled around the world. Even if her discussion provides limited empirical support, it is insightful in the way it unpacks TJ expertise, knowledge and technocratisation of its practice.

Similarly, Jelena Subotic (2012, 123) underlines how the professionalisation of TJ impacted on NGOs’ interventions, which today tend to favour what is perceived as political success rather than “the ‘old’ basis” of the pursuit of justice and truth. She (2012, 118) denounces the ‘lawyerisation’ of TJ as the “use a legalistic frame to portray their claims as universally objective and uncontroversial because they rely on human rights standards.” Beyond just promoting TJ discourse as an expert knowledge, I also observed through my fieldwork that

international organisations tend to base their position on international standards of TJ, somehow conferring a legal and universal value (see chapter 5).

Through research into the TJ process in Burundi and on the wider TJ literature, Sandra Rubli (2012, 17) denounces the way in which the current global approach has enabled TJ to be achieved by bureaucratic means:

... Reconciliation, rule of law, democracy and peace can be externally engineered. As a policy, transitional justice follows a managerial logic where projects need to be planned, implemented, monitored and evaluated. Although promoters of transitional justice are increasingly talking in terms of adapting policies to the local context, the normative content of their transitional justice policies are rarely actually discussed with local actors.

Such an observation leads Rubli (2012, 17) to underline the resulting depoliticisation and professionalisation of TJ:

By avoiding the difficult discussion about what justice and reconciliation mean in certain contexts, transitional justice is thus depoliticised and appears as an uncontested idea. Following a teleological logic, this transitional justice conception promotes a Western inspired model of justice. If local mechanisms do not resonate with a liberal tradition of accountability, they are considered to be second-best, illegitimate or backward.

Through a scrutiny of TJ professionalisation and technocratisation, these authors address the ‘social fabrication’ of the technocratic knowledge produced through interactions of TJ professionals working closely in a global network that promote the legal and universal claims and hold TJ together as a field of practice. Through such observations, these critical authors also underline the unintended effect of such an evolution of TJ.

In summary, the field of TJ has evolved to acknowledge its limits, to distance itself from solely political and institutional approaches, and to integrate social dimensions with an emphasis on victims. The development of TJ has enabled a consequent reflection on the necessity and priorities for dealing with past crimes. Despite the existence of these numerous pieces of critical research, the international organisations that promote practices globally do not seem to engage in the debate and do not absorb the critique efficiently. Introducing a special issue on global and local approaches to TJ, Kimberly Theidon (2009, 296) underlines that “local engagements with international discourses, institutions and actors produce unexpected outcomes.” My research aims to draw further attention to the unintended effects and limited capacities of the much-praised TJ toolkit (e.g., Fergusson, 1990, 275).

While seeking to understand the everyday life of these professionals, my empirical analysis in following chapters illustrates what is taking place behind the public scene, what side effects emerge and how they remained silenced. I also argue that the preformatted approach became

*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*



so self-evident that obstacles were blamed on the local context with almost no reassessment of the mechanisms' pertinence and benefits. The toolkit approach is not only a set of mechanisms and associated benefits. It entails important ideological and pragmatic dimensions which predefine the concepts and claims, institutions and types of activities that will be in place in order to 'deal with the past'. As a new endeavour consisting of a set of concepts and mechanisms in need of implementation channels, the TJ toolkit has been gradually absorbed by aid structures via existing means of aid implementation.

### **2.3. The TJ Toolkit Approach and Aid Structures**

By clarifying what the TJ toolkit approach entails, I draw attention to the importance of global aid actors. In this section, I extend my theoretical framework to development studies in order to analyse empirically how aid structures impact on TJ practice. The TJ discourse perfectly fits the evolution of neoliberal practices in development and liberal peacebuilding agenda, putting an emphasis on democracy, human rights and the rule of law (see e.g., Uvin 2007). Indeed, with its emancipatory discourse, the claims associated with TJ mechanisms embrace these objectives. Commenting on the nexus of TJ and development, de Greiff (2009, 34) describes them as "sprawling fields characterised by fuzzy conceptual borders and by both internal and external dissent." Although there are ongoing separate debates on the nature and pertinence of TJ and development, there has also been increasing academic focus on the nexus between these fields. The debates about the TJ-development nexus revolve around two key questions: the extent to which TJ mechanisms should incorporate measures to address economic crimes, and the extent to which TJ mechanisms can deal with socio-economic inequalities and tensions between groups. I do not address these questions and focus instead on another perspective of the TJ and development nexus, the implementation of TJ mechanisms by aid-dependant practitioners.

Scrutinising the implementation of TJ interventions, the critical literature on development studies therefore represents a useful lens for the exploration of TJ practices. First, I briefly review the wave of critics of aid practices that led to the creation of the 'new aid paradigm' and its principles for efficiency. Second, I describe in more detail the components of the new aid paradigm and its impact on TJ practices. The third sub-section consolidates the critical perspectives of scholars unconvinced by the new aid paradigm, who denounce the side effects of accompanying technocratisation and depoliticisation. Understanding this new aid paradigm

is crucial to grasping the wider process of the technocratisation of aid structures, in which TJ implementation became an integral part.

### ***2.3.1. The New Aid Paradigm: ‘We Know What Went Wrong and How to Fix it’***

For two decades, development studies have been concerned with questions relating to its success and failures. Van de Walle (1999: 341) observed aid agencies’ longstanding “appetite for self-examination”, but witnessed a watershed characterised by an “unusually large number of attempts to grapple with the problems of aid, particularly in Africa” at the end of the 1990s. This led to a broad literature trying to understand the failure of aid. Some authors considered that most obstacles lay in the context in which aid operated (e.g., Cassen 1994; Lancaster 1999; Alesina and Dollar 2000), whereas for others, the policy models were problematic themselves (see below). The first group pointed out the following elements behind aid inefficiency: the problem of governance and corruption, insufficient effort from donors for significant changes, incapacity of recipients to absorb the amount of money entitled, disastrous policies, and incompetence. According to these authors, these problems virtually ensured that aid would have limited long-term impacts (see e.g., Van de Walle 1999, 342 – 350).

The second group, instead of putting the blame on the local context, addressed the limits of concepts, models and structures through which aid is delivered. Arturo Escobar (1992), for example, condemned the development project because it resulted from Westerners’ supremacy, which defined what modernity was, and what underdeveloped meant (see also Sylvester 1999; Duffield and Hewitt 2013; Kothari 2005b). Mosse (2004, 4) summarises the view of this more critical perspective: “like those of colonial rule, development’s rational models achieve cognitive control and social regulation; they enhance state capacity and expand bureaucratic power ... ; they reproduce hierarchies of knowledge ... and they fragment, subjugate, silence or erase the local, all the while ‘[wishing] these political effects out of sight’ through technical discourses that naturalise poverty, objectify the poor and depoliticise development” (also see Ferguson 1990; Maxwell 2005). In relations to the field of TJ, Tshepo Madlingozi (2010, 211) similarly denounces how TJ “entrepreneur reinforces her status as the authoritative knower who is ordained to teach, civilise and rescue the benighted, hapless victim.”

Despite strong disagreement on the causes, these two paradigms of development, along with development practitioners, consensually agreed on aid inefficiency. They could only observe that aid efforts had not provided the expanded development progress as, in many cases, the situation of ‘developing countries’ worsened over the last four decades. This led to a major aid reform being put in place from the 2000s. Such reform is embodied in global aid programmes and declarations such as the Millennium Development Goals, Accra, Paris and Busan declarations (as described below). Such evolution has been coined by a few critical scholars as the ‘new aid paradigm’ (Renard 2007), ‘new aid agenda’ (Killick 2004) or ‘new aid approach’ (Molenaers and Renard 2008).

According to Renard, “the general mood is upbeat: aid didn’t work in the past, but we know why and have found ways to do things better” (Renard 2007, 6). This critical turn caused three types of conceptual change in aid delivery: 1) Contemporary aid practice is framed by a culture of management for results; 2) There has been a ‘technocratisation’ of aid, producing particular programme toolkits, lexicons and guidelines for best practice; and 3) It calls for an implementation through a participatory approach in which NGOs and civil society organisations emerge as new essential actors. In other words, measurable and efficient aid is perceived as a technical exercise that should be designed by experts in equal partnership with civil society.

During my fieldwork, only diplomats and representatives of aid agencies frequently referred to this new agenda in discussions and interviews. They were in the front line of actors who had to deal directly with these new rules on how they would organise their funding agenda and implementation. By describing the overall development and peacebuilding agendas in Rwanda and Burundi, chapter 3 illustrates how these new policy frameworks have shaped policies in the two countries. Chapter 4 shows how they play politically, and have shaped policy discourse for various political purposes. Ultimately, as I demonstrate in the empirical chapters, this new approach to aid has affected how all aid-dependent TJ practitioners must operate in their daily work. I now elaborate on each of these components in turn and underline the impact on TJ practices.

### ***2.3.2. The New Aid Paradigm and its Principles Impacting on TJ Practice***

#### **Management for Results**

Due to observed inefficiencies in aid delivery, development agencies and forums – such as the Organisation for Economic Co-operation and Development (OECD), UN agencies, the World Bank, IMF and key bilateral donors – have adopted a number of declarations, delivery instruments and modalities to improve the delivery of results. The United Nations Millennium Declaration was adopted by 189 UN member states in 2000. Through this blueprint, donors and recipients committed their nations to a new global partnership to achieve eight particular millennium development goals (MDGs): combating poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women by 2015.<sup>14</sup>

Set up in parallel by the International Monetary Fund (IMF) and the World Bank (WB), poverty reduction strategy papers (PRSP) were established at each national level to ensure the delivery of these goals. The PRSP, which became a key element of the new aid paradigm, “contains an assessment of poverty and describes the macroeconomic, structural, and social policies and programmes that a country will pursue over several years to promote growth and reduce poverty” (IMF, 2012).<sup>15</sup> The implementation of PRSPs involves certain modalities of relationships between (and among) donors and recipients that were agreed on in the Paris (2005), ACCRA (2008), and Busan (2011) declarations summarised by the OECD:

It is now the norm for aid recipients to forge their own national development strategies with their parliaments and electorates (ownership); for donors to support these strategies (alignment) and work to streamline their efforts in-country (harmonisation); for development policies to be directed to achieving clear goals and for progress towards these goals to be monitored (results); and for donors and recipients alike to be jointly responsible for achieving these goals (mutual accountability).<sup>16</sup>

As this quote indicates, signatories consider they should strengthen their efforts “to achieve concrete and sustainable results” (Fourth High Level Forum on Aid Efficiency, 2011: 3). The OECD suggests that “this involves better managing for results, monitoring, evaluating and communicating progress; as well as scaling up our support, strengthening national capacities” (Fourth High Level Forum on Aid Efficiency, 2011: 3). This is relevant as it frames the policy contexts in which transitional justice is negotiated and implemented among national

<sup>14</sup> <http://www.un.org/millennium/declaration/ares552e.htm>

<sup>15</sup> International Monetary Fund, “Poverty Reduction Strategy Papers - Fact sheet”, available at <http://www.imf.org/external/np/exr/facts/pdf/prsp.pdf>, 2012.

<sup>16</sup> [http://www.oecd.org/document/18/0,3343,en\\_2649\\_3236398\\_35401554\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html)  
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government authorities, donors, international organisations and the civil society. The next chapter describes how the PRSP and poverty reduction strategies fully incorporate TJ matters in their agenda.

As a donor representative told me in Burundi, if TJ is part of the poverty-reduction strategy, they had an obligation to follow it up. In the case of Rwanda, Hayman addresses extensively how this new agenda affected the relations in between Rwandan authorities and donors (Hayman 2009; 2008). For instance, while she considers the ‘ownership’ agenda to be an overall success, she observes limitations resulting from a different understanding of ownership by various actors, and different reactions of donors towards the Rwandan political context (Hayman 2009, 595). Furthermore, she underlines how the success of ownership is placed between government and donors, as opposed to a “national or country ownership where the main locus would be an interaction amongst government and people” (*Ibid.*, 597). Ultimately, these key concepts of the new aid paradigm impacted how donors engaged with others and reshaped power dynamics between donors and recipients, beyond shaping national priorities.

### **Aid technocratisation**

In order to adhere to these modalities, logical frameworks,<sup>17</sup> objectively measurable indicators and a range of monitoring and evaluation approaches have been promoted as essential tools for any organisation that aims to receive financial support from main donor agencies (Holvoet and Renard 2007; see also any funding document). Such instruments changed not only aid negotiation processes between recipients and donors, but also the types of policies and programme, as their objectives and implementation are constrained by short-term measurability and monitoring requirements (see e.g., Nijs and Renard 2009; Rombouts 2006; Killick 2004). Most of the national institutions, international and local NGOs working on TJ, being dependent on international donors, have to comply with these technocratic requirements of the new aid-delivery paradigm.

The new aid paradigm has created a new lexicon to describe its key dimensions; the specific terminology (such as harmonisation, alignment, ownership, and so on) is conveyed through most policy papers. Along with the capacities needed to comply with bureaucratic modalities, increasing attention is given to information and knowledge exchange. The Busan Declaration

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<sup>17</sup> A logical framework is a table required by most donors to demonstrate the connections between the objectives, activities and indicators of an aid project.

(Fourth High Level Forum on Aid Efficiency 2011, 6), for example, insists that a focus should be put on the country level to “strengthen the capacities of all relevant stakeholders to make better use of this information in decision-making and to promote accountability.”

At the global level, international aid agencies (such as the UN, International Monetary Fund, OECD, UK Department for International Development, European Commission, and others) are increasingly producing guidelines to share best practices, lessons learnt, and advice to implement the new modalities. The importance placed on capacity-building and knowledge exchange have had an impact on the type of activities TJ organisations have put in place to engage with their constituency and beneficiaries – emphasising training and sensitisation, as discussed in chapter 5. Furthermore, the gradual technocratisation for aid efficiency has also increased the bureaucratic obligations and modified the reporting system for TJ practitioners. While this has required them to place an emphasis on technocratic dimensions, it has also drawn them away from core discussions on how to deal with the past (see chapter 4). The critique of the toolkit approach and TJ professionalisation can be directly related to this wider trend in development practices promoting guidelines for best practices. Social anthropologists who have been looking at development practices for decades (Long, Escobar, Mosse, Fergusson, Olivier de Sardan) have already provided extensive analysis to underline issues of technocratised and bureaucratised aid, as I expand on in following chapters.

### **New Partnership: Equal and Inclusive**

The new aid paradigm claims to promote an equal relationship between recipients and donors (see e.g., Third High Level Forum on Aid Efficiency 2008, 2). NGOs and civil society organisations are also given unprecedented importance in the harmonised framework, even if they have been part of the development landscape for several decades. Thanks to their purported flexibility and representation of people’s interests and subsequent proximity to the population, they are considered to be useful for compliance with the ownership objective (Second High Level Forum on Aid Efficiency 2005; for critical analysis of the approach see e.g., Rombouts 2006, 7).

This additional emphasis on civil society organisations was perceptible in my empirical research, as I demonstrate in the following chapters. In discussions with government institutions, collaboration and support to civil society were often raised as safeguards (particularly in the case of gacaca), as well as a way to grasp and comply with population needs

(as illustrated in the case of the tripartite committee for the National Consultations in Burundi). In everyday practice, however, the policymaking and policy implementation, the hierarchical division, and the difficult relationships between national institutions, donors agencies and NGO, all remained important obstacles to equal partnership (discussed in chapter 4). The empirical chapters further unpack how relationships with civil society organisations were actually complex and not necessarily responding to claimed aims. The visions of civil society organisations are not homogeneous, nor representative of the ‘population’s perception’, as addressed in chapters 5 and 6.

### ***2.3.3. Unconvinced by the New Aid Paradigm: Technocratisation and Depoliticisation***

Some authors have criticised the new aid paradigm, arguing that it is based on inherent contradictions and simplistic perceptions. Summarising critics in line with what I capture as three components of the new aid paradigm (management for results, knowledge exchange and equal partnership), the following paragraphs argue that this technocratic approach enables complexity to be hidden and contextual specificities to be ignored, and attempts to make measurable what is, in reality, intangible.

Among the risks associated with this approach, Phillip Quarles van Ufford, Ananta Giri and David Mosse highlight (2003, 9) that “the ambition to manage more and more and have macro impacts may have the effect of creating a world in which, in fact, less is manageable; one in which there is a palpable growth of ignorance and uncertainty.” Molenaers (2007) considers that programmes can be neatly monitored only because the technocratic approach provides clear, concrete and controllable schemes. She (*ibid.*) draws attention to the danger of this: the supposed feasibility of reform produces:

the illusion one can buy change, and the risk of exaggerated donor optimism. It also leads to turning a blind eye toward failure, a continuous search for fixable and manageable problems, and a disregard for political consequences or pre-conditions for certain reforms.

In a sense, these authors imply managerial optimism and that the accompanying new instruments do not constitute a good guide for actions but are, in reality, interpretative tools to render policies manageable and enable flexible interpretation of the outcome. From an ethnographic perspective, François Giovalucchi and Jean-Pierre Olivier de Sardan (2009) observe that the use of logical frameworks in practice is disconnected from its theoretical model (most projects encountered through my ethnographic research were part of logical frameworks due to donors’ requirements). For many aid workers, it serves at best as a

controller of coherence. They also, however, underline the risk of depoliticisation and of undermining the complex social reality in which aid projects are taking place. Their analysis nuances the very critical perceptions of technocratic tools, while also supporting other criticisms of the managerial approach to aid (Giovalucchi and Olivier de Sardan, *ibid*).

The negative impact of indicators of audit cultures and their instrumental capacities to manipulate knowledge have also been denounced (for a general perspective on audit culture, Strathern 2000; Shore and Wright 2015; about development practices, see Nijs and Renard 2009, 17-18; Anders 2015). The results-based approach gives an emphasis on accountability, while it neglects “evaluative analysis and, in particular, the broader, more institutional and systemic issues.” In line with the use of indicators, knowledge is seen as “the framing and reframing of policy that links interventions and outcomes, rather than the practical testing of implementation modalities” (Giri, van Ufford, and David Mosse 2003, 9).

Specifically within the practice of human rights, Sally Engle Merry (2011, 201) considers that the results-based approach introduces “a form of knowledge production in which numerical measures make visible forms of violation and inequality that are otherwise obscured.” However, the way in which indicators are named, selected, measured and evaluated relies on decisional processes that are hidden by these numbers. Merry (*ibid.*, 201) ironically compares such approaches to witchcraft – as they have “the power to guide the flow of supernatural forces for good or harm. ... Technology that exercises power but in a variety of ways, depending on who is using it for what purposes.”

Looking into the impacts on practice of such technocratic knowledge, a number of authors underline the risk of silencing political dimensions. Holvoet and Rombouts (Holvoet and Rombouts 2008, 593) denounce how monitoring and evaluation (M&E) practices lead donors and recipients to “both adopt a skewed technocratic approach, vigorously neglecting the fact that M&E takes place within a socio-political setting that can heavily impinge upon it”, and hence resulting in the denial of ‘politics’. Through an analysis of the peace process in Sri Lanka, Jonathan Goodhand and Oliver Walton (2009,13) assert:

Peace processes are moments of change when the new rules of the game and one’s position in the game are decided. ... External interventions in these so-called ‘charismatic moments’ of politics are ineluctably political and cannot be reduced to generalisable technical exercises.

In other words, the technocratisation of aid enables external actors to pretend that they do not intervene on the political level, thereby ignoring the inherent political nature of the transition



– which is often a requirement donors impose on themselves, as I observed in fieldwork. The creation of such a technocratic lexicon and practices has depoliticised practical choices by claiming to be universal, rational and technical. The new aid paradigm, as a search for efficiency, enables international interventions increasingly to hide behind a technical agenda the complexity of the social reality on which they intervene. The unpredictability of their intervention remains controlled within the managerial agenda without dealing with the social and political side effects of their interventions, which will be discussed in the empirical chapters.

In terms of TJ programmes and policies that support reconciliation, truth-establishment, accountability and reparation, they are also implemented in highly bureaucratic environments. I observed that most actors pretended to limit themselves to technical support; their results are mainly evaluated on the basis of technocratic indicators. TJ interventions, therefore, were assessed according to how many people were trained in reconciliation methods, or by so many perpetrators being judged by such jurisdictions, but the quality, the real outcome and benefit for victims, is too rarely integrated in official policy evaluation processes.

Looking at the dynamics of negotiation among institutions, the empirical chapters (4, 5 and 6) explore how power relationships have impacted on the establishment of TJ in Burundi and Rwanda. Exploring the implementation of TJ in two distinct contexts, the research illustrates similarities in actors' working patterns, mandates, procedures and use of buzzwords, but also attends to the different power dynamics and policy processes framed by the above-mentioned dimensions. In this way, my research contributes to our understanding of how this new aid paradigm operates in practice and impacts on the nature or core of aid-dependent projects.

## **Concluding Remarks – Setting my Theoretical Framework**

The main aim of this chapter has been to situate my own research within the current debates of both TJ and development studies. I have consolidated the critique of the TJ toolkit approach, of TJ professionalisation and of how TJ practices have been absorbed by aid structures and the parallel development of the New Aid Paradigm. This chapter has demonstrated the relevance of critical development research to look into aid-dependant TJ practices. The existing critiques of the TJ toolkit approach reject its one-size-fits-all perspective and encourage stronger attention to local dynamics, the political nature of TJ, and the inherent contradictions between

the overarching aims (namely accountability, reconciliation, trauma healing, reparation, strengthening of rule of law, democracy and sustainable peace).

Ultimately, such a literature review leads me to define the TJ toolkit approach as: an ideological and pragmatic guide for actions used by TJ practitioners while looking into options to deal with a violent past in a particular context. By presenting the TJ toolkit, international practitioners present a set of aims and mechanisms to local authorities, and civil society. Such a guide should help TJ practitioners in any specific context to elaborate the plans of action at ideological, institutional and pragmatic levels. NGOs and newly established institutions then translate them into programmes, projects and animation tools for their constituencies and audiences. The toolkit approach is thus the dissemination of a discourse, a set of mechanisms, and a set of claims that are implemented through aid-dependent structures.

I have highlighted how TJ practices around the world promote a positive emancipatory discourse to help societies and victims emerging from violence to recover from past sufferings, to strengthen the rule of law and to build sustainable peace; while in reality have an implementation that takes place in complex social realities, creating major frictions between policy and practice. These dimensions obscure the inherent socio-political battles about representations of the past, behind technocratic terms. I argue that by trying to fix a society affected by irreparable experiences, frictions are inevitable. Such an approach, with its inevitable issues and without attention to dealing with them, is morally questionable. Madlingozi (2009, 225) addresses the problems of TJ experts:

A well-travelled international cadre of actors – what I have called transitional justice entrepreneurs – theorise the field; set the agenda; legitimise 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 organisations’; and ultimately not only represent and speak for victims but ‘produce’ the victim.

Ultimately, he (*ibid.*) argues that “the knowledgeable experts and on the other side black victims who need saving – re-enacts and perpetuates the civilising mission of the past centuries.” As illustrated throughout this chapter, research on aid practices around the world denounces the negative impacts of the professionalisation and technocratisation of the international aid sector. It also indicates that this evolution is affecting aid-dependent processes, including TJ: by enabling depoliticisation and silencing unexpected outcomes.

The empirical chapters illustrate in more detail how TJ practitioners implement a set of activities that reinterpret, negotiate and disseminate the TJ toolkit approach, by organising

training sessions, sensitisation campaigns, lobbying, report production and research, and supporting civil society. Prior to such an analysis, the next chapter provides the historical and contextual background necessary to understand how gacaca and the TRC came into the Rwandan and Burundian contexts, but also how the TJ policy framework had been built around the TJ global discourse and modalities emerging from the New Aid Paradigm in the two countries.

# Chapter 3

Dealing with the Past: Responses to and Burdens of Violence in Current Socio-Political Affairs



All - © Astrid Jamar

## **Chapter 3: Dealing with the Past: Responses to and Burdens of Violence in Current Socio-Political Affairs**

### **Introduction**

Alongside other critical scholars of TJ policy and practice, I reject the one-size-fits-all perspective of the toolkit approach, and encourage stronger attention to localised contexts and the political nature of TJ (as presented in the previous chapter, e.g., Shaw, Waldorf, and Hazan 2010; Hinton et al. 2010; Alcalá et al. 2012; Rubli 2012). Before I scrutinise empirically the impact of the toolkit approach in the following chapters, I explain here how the Burundian and Rwandan TJ policy models have been moulded to the global ‘toolkit’ approach yet implemented in very specific political and historical contexts. As I also describe how TJ is part of wider peacebuilding and development strategies intended to respond to the specific past of mass violence – as prescribed by the New Aid Paradigm. While these reconstruction programmes claim to be about ‘fixing consequences of the past’, I argue that interpretative battles over the past are mainly reflective of current politics. This chapter addresses the following questions: How are specific TJ models framed according to the global TJ toolkit approach? How does the specific political and historical contexts frame TJ policies in Rwanda and Burundi?

Both the gacaca process and the Burundian TJ process have been influenced by the TJ toolkit approach in terms of language, mechanisms, ideological claims and pragmatic implementation. Following the prescriptions of the TJ toolkit approach, these two models both pursue grand ambitions, such as fighting impunity, consolidating reconciliation and establishing truth. The associated processes received strong technical support from international donors and NGOs, which has important repercussions on the policy framework and implementation process. Furthermore, as presented in the previous chapter, a wide literature already illustrates the frictions between the gacaca policy and Burundian TJ discourse and practice – implementation of these models have been beset by a range of problems (in relation to gacaca, see e.g., Ingelaere 2012; 2010; Waldorf 2010; 2008; Burnet 2014; Stef Vandeginste 2012; in relation to Burundi 2010; 2011a; Rubli 2013; Taylor 2014; 2013b).

At the same time, the two TJ processes addressed in the thesis are part of wider Rwandan and Burundian reconstruction strategies and socio-political contexts. Numerous other policies (articulated in key strategy documents such as Vision 2020 in Rwanda and Vision 2025 in Burundi) have been produced to deal with the consequences of mass violence and related poverty in the two countries. These national strategies promote economic development, poverty reduction and peacebuilding while embracing ambitions in the areas of human rights, democracy, social development, gender and environment, including TJ dispositions.

Despite the ambitious, emancipatory policy discourse enshrined in Vision 2020 and Vision 2025, the long history of human rights violations and mass violence still mark heavily current socio-political contexts in the two countries. The implementation of these policies is not simply dealing with the past for a better future – as it is often suggested. Implementation is entangled in socio-political complexities resulting from a violent past and the consequent battles over interpretation in current politics. Whether strengthening the ‘rule of law’, rebuilding the judicial systems, defining politics of memory, or conceiving development strategies, all these ambitions are affected by the legacies of mass violence.

Between the past and the future, the present is conventionally perceived as the moment to redress injustice inherited from the past, particularly when looking at memories of violence (Jewsiewicki 2004). However, in the present, the past also potentially constitutes a burden (see e.g., Rosoux 2006), which severely affect current politics; including relations between donors and recipients. Given the predominance of aid in political affairs in the two countries, the legacies of mass violence have inevitably affected the relations between recipients and donors. In a different context, (of French and Algerian relations,) Valérie Rosoux (2001) explores the role of the past in international relations. She observes (2001: 452-454):

To identify the impact of the use of the past in foreign policy, one should focus on the tension existing between past choices and the burden of the past. [...] Although the recounted elements are often distant in time, all official referrals to the past often, in reality, are barely concerned with the past: they essentially reflect the present. It is in accord with current political objectives that the official memory selects historical events it judges to be relevant. In this regard, the proponents of official memory perceive the past as convenient tool to support their views rather than an unchanging story. [...] By playing with the meaning, protagonists attempt to establish a narrative that can promote reconciliation between different parties (author’s translation, *Ibid.*).

Dealing with the past is therefore about more than responding to violence of the past through TJ and other peacebuilding and development policies. The people involved in the reconstruction of the two countries are also constrained and challenged by burdens of the past that emerge in everyday life – which then reflect on current politics. Equally, TJ and other

reconstruction policies are marked by memories of violence involving loss, mourning, trauma and resultant economic disparities. Today's challenging political dynamics are also affected by these burdens of the past, including problems within political parties which are mostly divided in Burundi; the repression of civil society and media, extrajudiciary killings, and the consequences of mass displacement. In both Burundi and Rwanda today, human rights are still widely violated and many past violations remain unresolved issues (e.g., Rubli 2013).

On the basis of these premises, this chapter, for each country in turn, traces the global influences of the TJ toolkit on each TJ model, its integration into local dimensions, the wider peacebuilding and development strategies in which TJ fits, and how it has been affected by the wider political contexts.





## Section 3.1

Introducing the Peacebuilding and Development Framework in Rwanda



Legend: Top Vision 2020 Shop in Ruhengeri - © A Jamar, Middle: Solar Panel Installation in Rwanda, Walt Ratterman - Creative Commons, Right: Military in Volcano Park - © A Jamar



### 3.1. Introducing the Peacebuilding and Development Framework in Rwanda

#### 3.1.1. *Gacaca Model, the TJ Toolkit and its Implementation*

Discussions about the gacaca policy and legal framework started in the late 1990s, coinciding with the period during which the TJ toolkit approach was being consolidated internationally. Rather than being a direct result of the toolkit approach, the gacaca policy framework was affected by the same global trends that framed the TJ toolkit approach itself. This includes key normative trends: it was considered that impunity was not an option; truth-seeking and judicial mechanisms were promoted as complementary to dealing with different levels of retribution and reconciliation. The gacaca model was innovative in compiling truth-seeking and judicial dimensions within one mechanism that had been implemented in each community in Rwanda.

The gacaca legal framework also fully embraced the claimed relationship between the implementation of these mechanisms with the set aims consolidated in the TJ toolkit approach as the aims defined in the preamble illustrate. The preamble of the 2004 gacaca law indicates that the process was put into place because of “the necessity to eradicate forever the culture of impunity in order to achieve justice and reconciliation in Rwanda, ... [to enable] rapid prosecutions and trials of perpetrators and accomplices of genocide, not only with the aim of providing punishment, but also reconstituting the Rwandan Society” (*Official Gazette* 2004).

Some 60 per cent of the gacaca budget came from international donors. The significant involvement of external actors influenced the policy model, its aims, the type of actors involved in the process and the preparatory activities put in place, following the pattern of the new aid paradigm: technical support, sensitisation, training and monitoring, accompanied by bureaucratic obligations towards donors (see empirical chapters 4, 5 and 6). For example, Ananda Breed (2014, 104) describes how one of the billboards displayed around the country prepared (or sensitised) the Rwandan population:

Gacaca hoardings across the country advertised the slogan ‘Tell what we have seen, admit what has been done, and move forward to healing.’ The images on the national hoardings were from *The Liberating Truth*, depicting a wide-eyed (traumatised) woman and collages of a man whose hands are collapsed over his head (perpetrator), a schoolroom and a gacaca assembly, in the backdrop of a fire.

This simple slogan embraces the global discourse around the benefits of truth-seeking: the victims shall tell their trauma, the repented perpetrator shall confess and beg pardon (as part

of gacaca law procedures), and this will lead to healing and reconciliation. Another of the sensitisation billboards (picture below) similarly illustrates an image of what was expected of gacaca practice: an engaging audience to witness the truth-telling, perpetrators to confess their crimes, and Inyangamugayo<sup>18</sup> to lead the process with integrity. In a line at the bottom-left, gacaca's mantra is indicated in Kinyarwanda, 'Ukuri Ubutabera Ubwiyunge' (Justice, Truth, Reconciliation): truth and justice shall bring reconciliation. The influence of international aid is also noticeable, with the logos of the Belgian Technical Cooperation, UNDP, and the SNJG in the right bottom corner.



**Illustration 2: Gacaca Sensitisation Billboard**

While the preamble of the gacaca law refers to international and national legislation and Rwandan culture, and hence creates the illusion that gacaca practices are embedded in legal international standards and Rwandan traditions of conciliation, literature about gacaca has extensively debated these dimensions. The gacaca courts have attracted important attention in the academic arena, with hundreds of publications referring to it. Research addresses different facets of the process, including: legal analysis and due process (Digneffe and Fierens 2003; Corey and Joireman 2004; Waldorf 2006; Longman 2006); the political and social influences of the RPF, the performative nature of gacaca courts, reconciliation, justice and truth seeking

<sup>18</sup> People elected within their communities to act as judges in gacaca courts

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; (Ingelaere 2009; Reyntjens and Vandeginste 2005; Burnet 2009; Waldorf 2010; Breed 2008; Breed 2014) and donor involvement (Jamar 2012; Schotsmans 2011; Oomen 2005; Petersen, Samset, and Wang 2009; Hayman 2007; Gready 2010; Meyerstein 2007).

The few researchers who have studied the actual implementation of gacaca have identified various positive and negative dynamics with respect to the timing and dynamics of the genocide in specific locations. For example, with the mandate to analyse social and legal dimensions, monitoring NGOs have identified the following issues: the difficulties of Inyangamugayo to apply gacaca law (collecting data about crimes and alleged perpetrators, and organise and rule on trials), specifically failing to respect the principle of presumption of innocence, limited verification of evidence, incorrect categorisation of crimes and penalties, false accusations and corruption, and involvement of political actors in the process. All these elements have been considered to have been aggravated by the acceleration of the process in 2007<sup>19</sup> (Avocats Sans Frontières 2006; 2007a; 2007b; 2010; Penal Reform International 2003; 2006; 2007b; 2008; 2010).

Based on his research in Sovu, Max Retting (2011) observed the presence of lies, half-truths, silence and personal revenge. Lars Waldorf (2010, 189) reminds us that gacaca evolved over its lifespan, “as it ran the gauntlet of legal amendments, official pronouncements, shifting priorities, donors’ worries, NGO critiques, practical hurdles, and local resistance.” Reviewing the evolution and implementation, he considers that “local responses to gacaca have challenged those foundational assumptions in critical ways, frustrating claims that gacaca has promoted truth, justice and reconciliation” and that donors have been dismissive of these local responses (*Ibid.*, 201).

A number of authors underline how the local practice of gacaca was affected by national politics in various forms (Ingelaere 2009; Longman 2009; Thomson and Nagy 2011; Burnet 2014). The imposition of Hutu guilt, victor justice and political intrusion have also been mentioned as key limits of the gacaca process. Leslie Haskell and Lars Waldorf (2011, 51) underline that “in the period leading up to the RPF victory and the months that followed, the RPF killed approximately thirty thousand civilians, most of whom were Hutu.” However, while initially included in the Organic Law No. 40/2000 (Jan. 26, 2001), “the National Service

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<sup>19</sup> To comply of the many closing dates of the gacaca process (later postponed), the rhythm of judgments had been accelerated, one monitored reported to have observe a court ruling over 19 cases in one day during that period. Even though the rhythm slowed down when the closing was postponed, it has irreversible impacts on judgments quality.

of gacaca jurisdictions removed jurisdiction after individuals in pilot jurisdictions had called for justice for RPF crimes” in 2004 (Ibid. p53-54). The vast majority of these crimes have never been examined by the gacaca or another court.

Furthermore, it had been argued that the wide definition of genocide crimes and the unclear definition of the notion of accomplice also contributed to the imposition of ‘Hutu guilt’ (See e.g., Retting). For instance, Longman (2009, 310) considers:

In gacaca, even the most minor offenses by Hutu against Tutsi, such as pillaging, were being adjudicated and could result in imprisonment, while Rwanda’s legal system pursued almost no cases of Tutsi attacks on Hutu, even cases of major massacres. As a result, gacaca reinforced ethnic divisions in Rwanda, even as the government made open discussions of ethnicity taboo.

In relation to general dynamics driving the gacaca process, Ingelaere observes (2009, 518) “the general vectors of the ‘truth’ emanating from this new power constellation”:

The setting in which the search for the ‘truth’ in the gacaca courts takes place is twofold. On the one hand there is a new political regime that came into place after the genocide in 1994. This regime is the outcome of military victory and the total defeat of the incumbent regime. It entails that the victor usurped power and has thus all political space available to manoeuvre its transitional justice policies and vision of the past and the future.

At the same time, the local dynamics also played a role. Both Burnet and Ingelaere find that the micro-dynamics of gacaca varied from one community to another (Burnet 2014; Ingelaere 2004). On a more general level, Ananda Breed (2014, 198) considers that the actual practice of gacaca contributed to the construction of a New Rwanda as promoted by the RPF regime:

the inoculation and weekly ritual of gacaca staged nationally (beyond the data collection courts to actually trying the perpetrators of the genocide) between 2005 and 2012 has been a part of a national memory machine to produce rwandanicity, or the unified Rwandan identity devoid of the ethnic identities of Hutu, Tutsi, and Twa.

Others have commented positively on gacaca courts, such as Nicola Palmer (2014, 242) considering that “gacaca is a legitimate, albeit imperfect, channel through which losses that occurred during the war have been publicly resolved” (See also Kanyangara et al. 2014; Pozen, Neugebauer, and Ntaganira 2014).

Several scholars looking into the relation between donors and Rwandan authorities take gacaca as a key example (Oomen 2009; Petersen, Samset, and Wang 2009; Hayman 2007; 2010; Da Camara 2001– see analysis below). Much of the writing about the gacaca process underlines the significant involvement of donors and external actors in the policy (Longman, 2006, 226; Reyntjens and Vandeginste, 2005, 108; Waldorf, 2010, 189; Schotman, 2011). The role of donors and civil society in relation to gacaca has been researched but not addressed

comprehensively: each piece of research looks only at a short period of time, with a focus on a particular set of actors (Schotsmans 2011; Oomen 2005; Hayman 2008; Meyerstein 2007; Da Camara 2001; Jamar 2012).

All these studies denounce the difficult negotiations between donors, authorities and civil society. For instance, through the analysis of LIPRODHOR monitoring of the gacaca process, Paul Gready raises the risks of detrimental aid dynamics within a political context that constrains civil society (Gready, 2009). Martien Schotsmans analyses the donors – international NGOs’ relationships with regard to the gacaca monitoring. She observes a contradiction between donors requiring NGO monitoring of gacaca. All these pieces of research underline the micro-social negotiations in implementation, and the macro level through interference of politics. I add to this an intermediary level of analysis with my empirical focus on TJ practitioners (including Rwanda authorities, and NGO and donor representatives) that played a crucial role in the implementation of gacaca.

At the international level, a number of judicial initiatives have been put in place to deal with the consequences of the Rwandan genocide. In November 1994, the UN Security Council established the International Criminal Tribunal for Rwanda (ICTR) to try high-level organisers of the genocide. In addition, on the basis of universal jurisdiction, some trials of genocide suspects have taken place in front of national justice systems of Switzerland, Belgium, and the US. Serious crimes began to be judged by the Rwandan National courts in 1996 (e.g., Reyntjens and Vandeginste 2005). Even at this level, political dynamics affected the nature of justice pursued: there was no prosecution of RPF crimes at the ICTR (Peskin 2011) and there were important diplomatic repercussions after French and Spanish judicial authorities issued warrants for high-ranking RPF officers for alleged crimes committed in 1994 (e.g., Vidal 2007; Chrétien 2009; Simon 2015). In relation to the French and Spanish attempts at justice for RPF crimes, Haskell and Waldorf (2011, 54) observe that “both cases have been labeled ‘politically motivated’ by the Rwandan government and largely ignored by the international community” and are unlikely to lead to any prosecution.

This particularly ambitious TJ project in Rwanda had been framed by the same ideological and pragmatic dimensions that shaped the toolkit approach. On paper, the policy includes all these dimensions of the holistic approach, relying on the complementarity of different mechanisms to achieve the variety of TJ aims (reconciliation, accountability, reparation, democratisation). As the literature review here underlines, the gacaca process and wider TJ

agenda had, however, been heavily impacted by various political agendas (RPF politics, community dynamics, donors, NGOs, authorities, global consolidation of international justice agenda). By integrating more than just national politics, through an emphasis on everyday practices, my research brings more attention to the problems associated with the policy model as well as power dynamics among implementing practitioners.

### ***3.1.2. The Wider Reconstruction Programme***

Even if gacaca remains an exceptional process, it is part of an ambitious policy framework and of institutional structures that respond to the wider consequences of the 1994 genocide and the historical events leading to it. The wider frameworks of reconstruction, peacebuilding and development led to the creation of a number of policies and institutions that characterised and affected socio-political dimensions in Rwanda. The key strategic document, Vision 2020, defines a set of objectives to be achieved by 2020 for the country to recover from its tragic past:

Since 1994, the Government of Rwanda has stabilised the political situation, whilst putting the economy back on track with considerable assistance from development partners. However, the challenges remain daunting. ... Economic growth, alone, is not sufficient to bring about the necessary rise in the standard of living of the population. To vanquish hunger and poverty, growth must be Pro-Poor, giving all Rwandan's the chance to gain from the new economic opportunities. Vision 2020 aspires for Rwanda to become a modern, strong and united nation, proud of its fundamental values, politically stable and without discrimination amongst its citizens (Republic of Rwanda 2000, 6).

Vision 2020 covers many social, economic and structural dimensions where progress is needed to result in a united and developed Rwanda. Specifically, four types of key aims (or pillars) are presented: 1) Reconstruction of the nation through good governance; 2) Transformation of agriculture and the development of a private sector; 3) human resources development; 4) regional economic integration and cooperation. These have been translated into actions plans through the Poverty Reduction Strategic Paper (PRSP) for 2005 to 2007, the EDPRS for 2008 to 2012, and the EDPRS II from 2013 to 2017, which are key instruments of the New Aid Paradigm to render aid more efficient and coordinated. These strategies are ambitious policy frameworks that are seductive when taken out of the political context, implementation problems and unintended side effects.

At the national level, a number of structures and institutions were established to coordinate and implement these strategies, such as the External Finance Unit, the Aid Coordination Unit, the Development Assistance Database and the Rwanda Governance Board. To ensure their

implementation at other levels, the Joint Action Development Forum (JADF) was put in place at the district level. Linkages to lower administrative levels were through *Imihigo*, performance contracts, in which heads of district, sectors, cells and households commit to implementing specific elements of Vision 2020. Furthermore, donors and international organisations (including NGOs) were required to sign a memorandum of understanding with each national institution they cooperated with to ensure coordination and efficiency (see chapter 4 for an analysis of the ‘political bureaucracy’ associated with these structures).

Specifically in the area of reconciliation, civil education and rehabilitation, the public sector Justice Cluster was created in 2004 and reorganised in 2007 to establish the current Justice, Reconciliation, Law & Order Sector (JRLO). As part of the Governance Sector Working Group, the JRLO initially brought together 14 institutions, and currently 12 institutions.<sup>20</sup> It aims to strengthen the rule of law to promote good governance and a culture of peace. It is also a base for the harmonisation, prevention of duplication of aid projects and the sharing of information (Government of Rwanda and UNDP 2007), as well as for the harmonisation, alignment, ownership and management-for-results part of the aid efficiency agenda described in the previous chapter.

Among these institutions the National Unity and Reconciliation Commission (NURC), created in 1999, had to “organise and oversee national public debates aimed at promoting national unity and reconciliation of Rwandan people” (Parliamentarian Law no. 03/99 of 12 March 1999).

The organisation of Community Work (TIG-Travaux d’Interet General) was put together to contribute to the reintegration of prisoners, as those whose confessions have been accepted by gacaca courts would contribute to the reconstruction of the country and their neighbourhood.

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<sup>20</sup> At his creation it included, the Ministry of Justice (MINIJUST), Ministry of Internal Affairs (MININTER), Ministry of Foreign Affairs and Cooperation (MINAFFET-Ministere des Affaires Etrangeres et de la cooperation), Ministry of Defence (MINADEF), Supreme court, National Service of the gacaca court (SNJG), National Unity and Reconciliation Commission (NURC), National Human Rights Commission (NHRC or CNDP for Commission Nationale des Droits de la Personne), Rwandan Demobilisation and Reintegration Commission (RDRC), Ombudsman, Prosecutor, Work for General Interest (TIG -Travaux d’Interet General). At the time of the writing, some institutions were closed down (the TIG, SNJG, RDRC); others changed due to the restructuration of Rwandan authorities. See <http://www.minijust.gov.rw/about-us/justice-sector/organization-of-the-sector/?L=0>

The Ingando Camps,<sup>21</sup> Imihigo,<sup>22</sup> Itorero schools,<sup>23</sup> the umuganda (community work undertaken once a month), were also initiatives for the production of ‘ideal’ Rwandan citizens working for the sake of the country’s development and supporting “good values”. Andrea Purdeková (2012; 2011) and Jenifer Melvin (2012; 2010) note a number of frictions between these policies and their practice. In relation to Ingando, Jenifer Melvin (2010, 940) observes:

The Ingando curriculum’s neglect of target-free discussion about opposition parties, the value of divergent viewpoints or any critical assessment of the political system in Rwanda becomes all the more pertinent when viewed within the context of the country’s political landscape. Particularly troubling are recurrent accusations of repression, intimidation and violence inflicted upon members of political parties at the hands of the RPF and its proxies.

Similar observations lead Purdeková (2011, 44) to describe Ingando as “a state-organised rite that is permeated by and reflects wider social dynamics and power constellations, and is ultimately meant to serve grand social engineering purposes.” In their analysis, both authors draw parallels between the practice and policy models of all these reconstruction initiatives (including gacaca). They have in common their foundation in re-created traditions that encourage participation, ‘authenticity’ and ‘adaptation to the local’ (see e.g., Purdeková, 2011, 5-6). They also argue that these policy models have seduced the development community, which has provided strong financial support. More importantly, these initiatives are the cornerstone of the regime’s legitimacy at the political level, holding together and inculcating a specific perception of Rwanda being destroyed by colonialism and the genocide, but then saved and renewed by the RPF.

This long list of reconstruction initiatives illustrates the sophistication of the planning in terms of social engineering: umuganda, ingando, itorero, gacaca, etc., are implemented to the lower level of authority, the umugududu (village), in order to frame how people should organise

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<sup>21</sup> The NURC defines Ingando as “A civic education activity that has facilitated the smooth reintegration of former returnees, X-FAR, provisionally released prisoners back to their communities.” A place that provided “forums to Rwandans to come to terms with their past by facing history, forging a common vision for a united future.” <http://www.nurc.gov.rw/index.php?id=81>

<sup>22</sup> Performance Contract – “Imihigo is the plural Kinyarwanda word of Umuhigo, which means to vow to deliver. Imihigo also includes the concept of Guhiganwa, which means to compete among one another. Imihigo describes the pre-colonial cultural practice in Rwanda where an individual sets targets or goals to be achieved within a specific period of time. The person must complete these objectives by following guiding principles and be determined to overcome any possible challenges that arise” <http://www.rgb.rw/governance-innovations/imihigo/>

<sup>23</sup> The NURC defines Itorero as “homegrown initiative inspired by the Rwandan culture that was formerly a traditional Rwandan school to instill moral values of integrity, and capacity to deal with ones problems”. It “has today been revived to promote values of unity, truth, culture of hard work and avoiding attitudes and mindsets that deter development all aimed at speeding up the attainment of Vision 2020, MDGS and EDPRS”. <http://www.nurc.gov.rw/index.php?id=81>



themselves for the sake of development. A number of scholars have analysed these policies and structures put in place to respond to the genocide (e.g., Holvoet and Rombouts 2008; Hayman 2008; Hayman 2009; Hayman 2010; Ansoms and Rostagno 2012; Debusscher and Ansoms 2013; Debusscher and van der Vleuten 2012). While describing the implementation of aid architecture (resulting from the new paradigm) and overzealous development policies in Rwanda, they all acknowledge frictions between aims and outcomes, and the risks of neglecting political dynamics with a focus on technocratisation.

Reviewing the Vision 2020 halfway through its implementation, An Ansoms and Donatella Rostagno underline two sides of the story in the Rwandan development process. First, the ‘new Rwanda’ has “obtained a positive assessment of achievements in the fields of education and health”. However, it is unlikely that Rwanda will reach the goal of eradicating extreme poverty by 2015. They note “the strong economic growth is concentrated in the hands of a small elite, resulting in a highly skewed developmental path. The majority of smallholder farmers appear not to fit into the government’s vision of a ‘modern Rwanda’.” At the political level, Ansoms and Rostagno also note (*Ibid.* 433):

the evolution of political governance indicators is also less promising. ... Vision 2020 is supposedly based on a strong decentralisation process. Ten years on, the institutions have indeed been decentralised, yet overall power lies even more with the central authorities. In reality, then, decentralisation has been mainly a top-down process and it has not allowed for a bottom-up translation of the local needs to the national level.

Other analyses of the Rwandan development process have also stressed the role of the donor community that supports these policies. Despite a high level of financial and technical support, Eugenia Zorbas (2011) notes that donors have expressed unease and even criticism. She identifies a number of factors that explain this paradoxical situation in which Rwanda is aid-dependent, yet retain a high level of policy independence - heavily influenced by the genocide guilt felt by donors (see below), as well as donors’ desire to see an African success. Similarly, Rachel Hayman observes (Hayman 2008) that donors expressed clear concerns and frustrations about certain policies such as gacaca but continued to support these processes. She considers that the divergences within and among donors created negotiating spaces for Rwandan authorities.

Indeed, there were strong inconsistencies within donors’ approaches to Rwandan politics and their readjustment of aid programmes. Hayman (2007, 21) reminds us that:

Belgium hold cold diplomatic relations with Rwanda after 1994, was concerned about negotiating a new programme framework while Rwandan troops were deployed in the DRC contrasted with

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the remarkable continuity in projects on the ground... The Netherlands has been prohibited by its parliament from providing budget support because of concerns about governance in Rwanda, and which froze aid for the elections, has provided increased support for the justice sector. Norway, which emerged as a key new donor after the genocide, reduced its bilateral programme due to Rwanda's regional belligerence and concerns about human rights abuses, but continues to provide aid through NGOs and acts as a silent partner in the local government and justice sectors.

She (*ibid.*) concludes “this divergence created aid management problems for the government but also created space in that the aid continues to flow from multiple sources despite the official pressure.” While concerns were expressed, donors have not been able to address them effectively. On the contrary, I demonstrate in the following empirical chapters that the Rwandan authorities have managed to increasingly silence criticism from donors and international and local civil society organisations. Analysing the causes of the genocide, Uvin (1998) denounces how “political and ethnical amnesia” in aid distribution fuelled the genocide by giving no attention to dynamics related to politics and ethnicity. In the post-genocide period, donors continue to ignore and/or not address appropriately the politics involved in the policies they support. Despite donors’ concerns being expressed, Zorbas (2011, 114) notes:

the Government of Rwanda can largely continue to define and pursue its own preferred development strategy, which does not fundamentally improve the lot of the poor and vulnerable nor does it alter the conditions of structural violence. This represents a failure of development in its mandates for both welfare and peace.

Overall, this research about aid-dependant reconstruction and development in Rwanda demonstrates the limited capacities of an emancipative policy discourse and technocratic efforts to fix a ‘broken society’. Indeed, such research demonstrates how the development community has contributed in the projection of initiatives that promote reconciliation, unity and development by ignoring or not addressing appropriately the politics involved. Purdeková (2012, 205) argues that “Development is perceived as a common bounty to be achieved, not as an uncertain process producing new inequalities and divisions, accompanied by the emergence of struggles and resistances, empowerments and exploitations.” Inadvertently, these policies may have created new inequalities and divisions that are not addressed. At the same time, all these analyses of current development and aid strategies make references to the past, and the challenges caused by the past. They all brought attention to how these processes are affected by current politics and a particular narrative about the past.

### ***3.1.3. Legacies of Past Violence in Current Socio-Political Affairs***

The analysis above gives insights into how the very ambitious Rwandan structure established to deal with the past inevitably has to deal with the burdens of the past as well. Based on this literature that addresses frictions between the policy models and their implementation, I clarify in this section how the projects responding to the consequences of decades of conflict and the genocide are affected by the very same past. I reiterate the crucial causal relationships (even if often discontinuous) between the current political scene, legacies and instrumentalisation of the past that the frame political dynamics in play through these reconstruction, peacebuilding and development efforts. I first review the past is being instrumentalised in current political affairs; I then describe how international donors are constrained by their mistakes of the past.

#### **Politics and Instrumentalisation of the Past**

In Rwanda today, the Tutsi-dominated RPF controls economic, political and security power, with the only real opposition coming from political actors in exile. The legitimacy of the RPF power is consolidated around their successful reconstruction, securitisation and development of Rwanda. The regime has been frequently praised for its successes and criticised for its pitfalls. The subject of Rwanda's political evolution is highly controversial among both scholars and the international community. Donors, even sometimes internally, are divided on whether to consider Rwanda as a success story or not (Hayman 2008; Pottier 2002; Mamdani 2002).

On the positive side, the RPF regime has been praised for successful infrastructure development, the stabilisation of security within Rwanda's borders since the late 1990s (despite Rwanda military involvement in DRC – see below), promising economic development in terms of gross domestic product, providing access to education and health care to the population, and limiting corruption. At the same time, severe critique underlines the authoritarian nature of the regime (e.g., Reyntjens 2004; Reyntjens and Vandeginste 2005), the impartiality of judicial authorities (e.g., Human Rights Watch 2008; Amnesty International 2010b), the RPF military intervention in the DRC that prolonged the Rwandan conflict outside national borders (Prunier 2009; Reyntjens 2009), attacks and extra-judiciary killings of opponents in exile (Human Rights Watch 2014b), and the difficult context for civil society organisations and the political opposition – constituting very weak or inexistent, independent

media, human rights, freedom of speech and associations (e.g., UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association 2014).

During my fieldwork in 2013, the alleged support of the RPF to the rebel group M23 active in eastern Congo was mentioned as a serious concern by many international actors and led several donors to cut funding in Rwanda. As a group of Rwandophone rebels in DRC, the M23 was then one of the most active rebel group in Eastern Congo (e.g., BBC 2014b). These apparent contradictions make sense by unpacking how the RPF gained legitimacy and imposed a strict interpretation of the past.

The political legitimacy of the RPF is articulated around a specific interpretation of the 1994 genocide: one in which the colonial power divided Rwandan people, the génocidaire regime destroyed the country, the RPF came to save it, and enabled unity, reconciliation and development along with the return of Rwandans in exile (see e.g., Kagame speech at 20th commemoration of the genocide).<sup>24</sup> In line with the legitimacy-building detected in reconciliation policies, Melvin considers (2010, 939):

By connecting these social factors to the previous genocidal regime, the current government is able to strengthen its attempts to eradicate them and make progress towards building a nation that is unified with a singular identity sans division or ethnicity. Moreover, bad governance in the colonial and post-colonial era and the violence it espoused justifies the criminalisation of genocide ideology, revisionism, divisionism and trivialisation of the genocide; accusations of which have been made against suspected génocidaires as well as political opponents, journalists and members of international non-governmental organisations.

Similarly, Barbara Oomen (2005, 901) argues that the Rwandan government captured history and instrumentalised it for domestic and international political purposes. At the national level, this discourse or political vision held by the RPF led to the creation of a legal framework that criminalised ethnicity and divisionism through the adoption of laws forbidding ‘sectarian and genocide ideologies’. Many have argued that these laws are an efficient political tool to manipulate the legacies of the past and to neutralise government critics, especially as their definition of what genocide ideology and divisionism means is vague (Amnesty International 2010a; Reyntjens 2011). It has been argued that this legal framework has been used politically and has severely affected democratisation and the development of an independent civil society. Those who do not support the discourse and attempt to challenge it have been repressed and/or arrested (Amnesty International 2010a). An illustrative example is the case of Victoire Ingabire, the president of opposition party FDU-Inkingi. She is a Hutu who returned to

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<sup>24</sup> <http://www.kwibuka.rw/speech>

Rwanda after 16 years in the Netherlands. She was arrested after she mentioned problems with Hutu victims while preparing her candidacy to the presidency campaign in 2010. She was condemned to eight years of imprisonment for charges that subsequently changed in her trials (Amnesty International 2010b).

Reyntjens underlines how the RPF regime eliminated all critical voices at the national level through military control, political use of the legal framework, the infiltration of civil society and intimidation. He concludes (2011):

Externally, the RPF has successfully cordoned off the arenas of massive human rights abuse in Rwanda and the DRC and imposed a monopoly on the reading of history. In combination with the moral high ground achieved through the genocide credit, this has made the regime nearly unchallengeable for the international community.

The politics of knowledge production by the RPF has been addressed extensively (see also Pottier 2002; Lemarchand 2007), describing these processes and their implications. While the legitimacy of the regime relies on its military victory and socio-economic success, opening up to different interpretations of the past is seen as a risk which could undermine their power, but also put them under judicial enquiry for the war crimes committed in Rwanda and later in the DRC. At the same time, this projection of ‘success story’ has been facilitated by the failures of international donors prior to, during and after the genocide.

### **International Aid and Past Failures**

The instrumentalisation of guilt towards international actors was accompanied by an aversion to criticism (e.g., Hayman 2008; Pottier 2002; Reyntjens 2011). In a speech to donors, President Kagame affirmed: “[i]t is therefore sometimes uncalled for, that we become subjects of endless lectures of how we should manage ourselves. We know what is best for us. No one should pretend that they know better than us what we need for ourselves.”<sup>25</sup> Interviews with representatives of the SNJG demonstrated that this anti-interventionism discourse was also adopted by officials within gacaca negotiations: “the international community is responsible for what happened and is expected it to pay, it has no right to criticise” (Author’s Interview with SNJG representative, July 2008).

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<sup>25</sup> Speech by President Kagame at the 9th Government of Rwanda and Development Partners meeting, 4th November 2010.

Extensive research has looked into the causes of the Rwandan genocide and has addressed the roles of the international community, pointing out multiple aspects such as: the responsibility of Belgian colonial rule for institutionalising ethnic difference; the provision of financial and military support to the Habyarimana regime; a general disregard for the socio-political realities of the country; the UN mission's failure to stop the massacres; the withdrawal of Belgian blue helmets (e.g., Barnett, 2003; the problematic and political role of Opération Turquoise of the French military beyond its claimed humanitarian mission (e.g., Dallaire); and the passivity of the international community in general (Uvin, 1998). These legacies define the current context in which donors' representatives and diplomats must work when discussing and negotiating aid policy with Rwandan authorities. It has created various sentiments of guilt and obligation and led to support for peacebuilding and reconstruction on the donors' side, and blame narratives on the side of the Rwandan authorities.

Through an examination of Belgian official representations of history in former colonies, Rousoux also addresses the representation of the Rwandan genocide (Rousoux, 2006). She lists actions undertaken and motivated by the desire of Belgium to admit the unfairness of the past (*Ibid.*, 168–169). Interviews with donor representatives confirmed that the strong financial support of the justice sector in Rwanda, and particularly of the gacaca process, are related to the official willingness to address past mistakes. However, the Rwandan authorities used to their advantage the guilt expressed by international partners to justify aid without interventionism. Thus, donors have been caught in a catch-22, being discouraged to voice concerns in regard to political authoritarianism and human rights abuses because of their mistakes of the past - and hence repeating the same mistakes. All these elements of the past and current politics sets in the context in which the discussions over the gacaca process took place.

### ***3.1.4. Ten Years Later, at the Closure of the Gacaca Courts***

As I illustrate throughout the following empirical chapters, a number of donors and aid-dependent actors have been involved throughout the decade of gacaca implementation. Their positions have changed, and their approach and support towards gacaca have been adapted accordingly. Even though the Rwandan government continually postponed the closure of

gacaca courts,<sup>26</sup> the long-expected closure did finally take place in May 2012, a few months before I started my doctoral fieldwork. During the first phase of fieldwork (November 2012), I quickly identified crucial contradictions between the public discourse, with the praise of good numerical and technical success, versus the discovery of a number of unresolved problems. On the one hand, the closing ceremony organised by Rwandan authorities in June 2012 and the adoption of the terminating law drew a line under the process. It appeared that the TJ toolkit had been successfully applied – through the implementation of set mechanisms for a set of aims. Therefore, the problem of transition and the consequences of the genocide have been dealt with. On the other hand, I gathered scattered pieces of evidence suggesting the gacaca process was not as closed as this discourse suggested. In this section, I present the public discourse about the closure of gacaca courts, and the provisions of the Law ‘No25/2012 of 15 June 2012 terminating the National Service in charge of follow-up, supervision and coordination of the activities of gacaca jurisdictions’ (terminating law). I also expose the remaining problems I identified, the limited attention of donors towards the closing process, and provide an overall conclusion in regards to the gacaca process. The following sub-sections address in turn the closing of gacaca courts, the problems created by gacaca and supporters’ reactions towards the gacaca closure.

### **The Official Closing Ceremony and Legal Framework**

From an official perspective, the organisation of a closing ceremony and the adoption of the gacaca termination law imply that the litigation of genocide crimes was a problem that had been dealt with – at least for perpetrators within the country (as ongoing efforts are made to extradite alleged perpetrators from outside of Rwanda). To symbolically mark the closure of gacaca courts, Rwandan authorities organised a closing ceremony on June 18, 2012. At the closing ceremony, President Kagame stated: “the value and effectiveness of gacaca will be measured against the record of other courts, principally the International Criminal Tribunal for Rwanda [the ICTR]. The ICTR has tried about sixty cases, cost 1.7 billion dollars and left justice wanting. Yet, at significantly less cost, the gacaca process has had the highest impact in terms of cases handled, and has delivered justice and reconciliation at a much higher scale [dealing with at least two million cases]” (Kagame 2012). He further stated that the gacaca

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<sup>26</sup> From the beginning of the process, Rwandan authorities constantly announced new closing dates of the gacaca process; this had negative impacts on Inyangamugayo capacities, forced to speed up their trial pace in 2007, and the perspectives of monitoring NGOS (See Jamar 2012, 84-85 for more details).

process “has been a period when we sought to reunite our nation, inspire confidence in the administration of justice and hold each other accountable for our actions (*Ibid.*).” In other words, he justified the success of gacaca by reiterating its aims and comparing it with the costly and limited ICTR.

When I met a Dutch diplomat in January 2013, who explained her support to gacaca had finished following their funding of a qualitative evaluation research in 2012 (the report discussed in chapter 6 – section VI.3.3.), I was given a copy of the speech by Jan Pronk, a former Dutch politician invited by Rwandan authorities to attend the gacaca closing ceremony. In line with Kagame’s speech, it reads:

The judicial procedures have been implemented with dignity and honour. Gacaca has proven itself as an honest way to achieve justice, including acquittal when justified, and reconciliation. The system was not perfect. It couldn’t be, if only because of the countless numbers of victims and perpetrators. Moreover, some questions will remain, for instance those concerning the relation between personal reconciliation and national reconciliation, and – more difficult – between forgiveness and reconciliation. However, there is no doubt in my mind: the gacaca proceedings have made an essential contribution to the rebuilding of the nation, based on justice, peace and non-discrimination (Pronk 2012).

The two speeches affirm gacaca’s success in terms of judicial process and associated aims, namely justice and reconciliation – equally in technical and ideological terms. Even if the Dutch politician acknowledged some limits of gacaca, these were due to the nature of the genocide and the high numbers of victims, and the complexity of the reconciliation processes. Other socio-political dynamics entangled in the implementation of gacaca, and the Dutch government’s responsibility as donors, are not questioned. No other donors agreed to give a speech at the closing ceremony – because besides the sensitiveness of the gacaca process, relations between Western donors and Rwandan authorities were difficult due to the M23 crisis<sup>27</sup> at that time (author’s interviews with donors’ representatives, 2012 and 2013).

While academic literature debates the nature of success (see e.g., Kanyangara et al. 2014; Pozen, Neugebauer, and Ntaganira 2014; e.g., Thomson and Nagy 2011; Burnet 2014), most practitioners that I met during my fieldwork agreed with Kagame and Pronk that gacaca was over, and that the ‘transition’ of TJ complete. The gacaca courts were closed, and the wider political agenda had moved towards rebuilding the nation economically and socially. Such a

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<sup>27</sup> In 2012, the UN accused Rwanda to support the operation of the M23, rebel mouvement in DRC. In response, a number of international donors suspended their funding and overall the relationships between Western diplomats and Rwandan authorities were tense (e.g., US cuts military funding: <http://www.bbc.co.uk/news/world-africa-18944299>; Germany, Netherlands, UK <http://www.aljazeera.com/news/africa/2012/07/20127281579389961.html>).



position and the wider political context left limited space to carry on advocacy for the follow up of the closure of gacaca courts.<sup>28</sup> The closure process had been widely mediatised. While this suggests the end of the process, the provisions of the terminating law suggest otherwise.

The title of the terminating law (see above) strengthened the illusion that outstanding problems were being dealt with. However, the law provides for transferring gacaca's competence to prosecute, hear and judge crimes of genocide perpetrated against Tutsi and other crimes against humanity to classic courts and Abunzi (institution of local mediators dependent on the Ministry of Justice and created in 2006) (Official Gazette 2012, Art 4-7). The law further indicates that these institutions can open new cases and undertake a review of gacaca cases when: an accused was found guilty of killing someone later found alive; when more than one person has been condemned for the same crime without complicity between the accused; when new incriminating information for a person acquitted is found; for decisions ruled by a gacaca bench found to have been corrupted (Art 10); re-rule on cases for an extradited person sentenced by gacaca courts (Art 8), and organise auctions of belongings of perpetrators found guilty for crimes against property that have not yet paid the victims (Art 14, 15, 17). This law provides an official acknowledgement that the gacaca process entails judicial mistakes that need to be dealt with, that some matters related to gacaca court decisions have not yet been implemented and need some follow up.

### **Direct Legacies of Gacaca**

During my first phase of fieldwork (October 2012), it was still unclear for the people I interviewed how the judicial authorities would interpret the gacaca termination law and how it would unfold. Some informants, particularly NGO staff, were concerned with regard to the consequences of the gacaca process, the lack of support for people still struggling with the process,<sup>29</sup> and the transfer of gacaca competences to other institutions on the basis of the gacaca terminating law. In later period of fieldwork (February 2013 and June to October 2013), it appeared that donors were not involved in the implementation of the closing law and that no additional measure (other than passing the law) had been undertaken by Rwandan authorities.

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<sup>28</sup> Some efforts have been put in place to file all the gacaca archives under the supervision of the National Service for the Fight Against Genocide (SNGL – Service National de Lutte contre le Génocide).

<sup>29</sup> For instance, one interviewee mentioned one family tried to obtain without success a copy of the gacaca court decision that acquitted their relative so he could be released. One organisation counted more than 500 people in detention for genocide crimes whose cases had never been ruled still open after the gacaca closure (Interview, Rwanda, November 2012).

These approaches to gacaca closure and moving support to other matters showed that no efforts were being put into following up on social and legal issues identified in their monitoring reports of gacaca (false accusation, false testimony, judicial mistakes, corrupted acquittals, unfair decisions and imperfect justice – see *Avocats Sans Frontières* 2006; 2007a; 2007b; 2010; *Penal Reform International* 2003; 2006; 2007b; 2008; 2010).

Local NGOs could not publish their last reports on the population's perceptions because of all the other problems they were facing with Rwandan authorities (see chapter 4). At the same time, other human rights issues (freedom of speech, freedom of association, support to M23 during my fieldwork, muzzling of civil society and political opposition, political use of the law against genocide ideology), were taking over the agenda of the organisations that had previously formulated concerns about the gacaca process.

With regard to the transfer of competences, one person involved in Abunzi training expressed concerns to me about partial transfers of Inyangamugayo competencies to Abunzi. He considered that 1: the population was already confused about the roles of Abunzi and Inyangamugayo; 2: Abunzi already had too much to deal with, and 3: being involving in auctions for the implementation of gacaca decisions for crimes against property seemed to be contradictory to their conciliating role (Interview, Kigali, Rwanda, November 2012). Furthermore, two Rwandan lawyers I interviewed explained that they had tried to bring gacaca cases for review to classic courts without success. Further research will need to evaluate the repercussions of the termination law over the longer term.

### **Donors Turning their Backs on Gacaca**

My research brings the role of international donors and aid-dependent practitioners under critical scrutiny. Researching the initial phases of the gacaca process, I gathered extensive material illustrating the high mobilisation of international and national actors to put together the gacaca courts, to write the best legal framework, with the best safeguards to address and balance most concerns from both social and legal perspectives (see chapter 6). During all stages of my fieldwork (in 2012 and 2013), I observed, however, a strong disinterest in the aftermath from donors who had supported gacaca, who were mostly unaware of the terminating law and considered the gacaca process to have finished (I should note that individual reactions to my research were various – including positive ones and a couple of donor representatives expressing concerns about gacaca aftermath).

Gradually, donors had reduced their political and financial support to organisations critical of gacaca. This led to a gradual disengagement and deterioration of relations between the various initial supporters of the process (see e.g., Jamar 2012). Today, donors I interviewed do not think they have a responsibility; nor that anything should be done about the legacy of gacaca. But without donors and international aid, the gacaca process would never have reached its proportions – ruling on over 2 million cases in less than a decade.

The discrete way in which the Rwandan authorities passed the closing law meant that these changes passed almost unnoticed. According to diplomats I interviewed, the law was not mentioned in the closing ceremony, nor discussed with donors before being adopted. Given the ubiquity of aid in the Rwandan public sphere, and the previously strong involvement of the international community in gacaca, the absence of donors during and following gacaca's closure is important to underline. All donor representatives I met during fieldwork had no intention of monitoring or investigating further the outcome of gacaca.



## Section 3.2

Introducing the Peacebuilding and Development Framework in Burundi



Speech for CSLP II Workshop - Jean-Marc Ferré Creative Commons, Pierre Buyoya signing peace agreements - Pierre Buyoya Creative Commons

## 3.2. Introducing Burundi Peacebuilding and Development Framework

While Burundi has not received as much attention as Rwanda in the media and academic scholarship, the ‘faux-jumeau’ (non-identical twin) followed a different but related path of mass violence and later reconstruction efforts. I review here how the global TJ toolkit approach influenced the Burundian TJ model. I then describe the wider reconstruction strategy of which TJ is part and challenges in its implementation. The final part of the section underlines how challenges in implementing these reconstruction strategies are due to the legacies of the past in current socio-political affairs. In contrast with Rwanda scholarship, there is an overall consensus that Burundian regime has had limited success in terms of development, infrastructure, public service and TJ.

### *3.2.1. Burundian TJ Policy Model and the Toolkit Approach*

In Burundi, discussions over TJ mechanisms started through the peace negotiation process in the late 1990s, based on the premises of the TJ toolkit approach, as well as its ideological and pragmatic components. The global influences are easily palpable in terms of discourse, mechanisms, claims and implementation channels. As prescribed in the Arusha Peace and Reconciliation Agreements for Burundi (APRA, 2000) and the Truth and Reconciliation Commission (TRC) law (République du Burundi 2014), the TJ policy framework includes a truth-seeking mechanism, judicial prosecutions, institutional reforms and reparations. Fifteen years later, however, the TRC had not yet been put in place, and the future of the judicial mechanisms is even more unclear. The 2014 TRC law indicates that it will be guided by the following aims: “establish truth, national reconciliation and re-establish victims’ dignity” (Article 5).

The Arusha agreements included three mechanisms: an international inquiry, a National Truth and Reconciliation Commission (NTRC – later renamed Truth and Reconciliation Commission, TRC) and a judicial mechanism (Arusha Peace and Reconciliation Agreement 2000, Protocol I, Chapter II, Art. 6 and 8).<sup>30</sup> These mechanisms aim to establish truth, promote

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<sup>30</sup> In the APRA, an International Criminal Tribunal for Burundi (such as the ones established for Rwanda and the former Yugoslavia) was considered to undertake judicial prosecutions against the main perpetrators. Through discussions with the UN, the International Judicial Commission of Inquiry was dropped as perceived as a duplication of the TRC for truth-seeking purposes, and due to great critique towards the ICTR and ICTY, it was alternatively considered that a special chamber could be established for dealing with judicial dimensions at a national level. Since 2010, it has been implicitly agreed that the judicial mechanism will be put in place after the TRC.

reconciliation and pardon, and order indemnification or restoration of disputed property, “to rewrite Burundi’s history so that all Burundians can interpret it in the same way”, and to establish responsibilities and judge and punish perpetrators of the most serious crimes (Arusha Peace and Reconciliation Agreement for Burundi 2000, Protocole I, Chapter II, Articles 6 and 8).

In 2004, a first TRC law was adopted but never implemented. A look into the drafting process partially explains why. A practitioner involved in the process explained to me that discussions about the National Truth and Reconciliation Commission (NTRC) law started through the normal institutional process in early 2003. Several civil society associations started to collaborate on a joint analysis of legislative texts and institutional lobbying to promote stronger neutrality of the commission and protection for victims. Later in 2003, when the senate intensively questioned the government of Burundi on the bill during the first Q&A session in commission, the latter closed the discussions and pledged to produce a further revised version.

In reality, nobody was appointed to revise the law and the legislative process was frozen for several months until the UN Security Council responded to Burundi’s request for an International Judicial Commission of Inquiry (IJC). One of my informants explained that the government of Burundi misunderstood the UN correspondence and considered that the adoption of the NTRC law was a condition for the IJC. It then resumed the legislative process and the law was finally adopted in December 2004 with limited revisions (Interviews with local practitioner, Bujumbura – 2011 and 2012). The UN mission then came to evaluate conditions for the IJC. Its report, known as the Kalomoh report, recognised a duplication of the role of the IJC and the NTRC and suggested concentrating on a NTRC and judicial mechanisms (UN Security Council 2005).

This anecdote shows that the Burundian TJ agenda was driven by the willingness to comply with international requirements during the initial phases, and not necessarily by domestic concerns. Once the law was adopted, the TJ process proceeded uneasily, with difficult negotiations among the authorities, UN representatives and civil society organisations (Stef Vandeginste 2011a; Stef Vandeginste 2012; Taylor 2013b). The process was also marked by many periods of inaction. As a way to move forward, national consultations were organised from 2007 to 2010 to gather views of the population with regard to TJ mechanisms (see chapter 6). The negotiations resumed in 2011 when a technical committee was appointed by presidential order. Strong critiques from opposition parties and civil society slowed down the

legislative process. An updated TRC law was finally adopted in May 2014. Its mandate is defined: “the Commission is guided by the aim of establishing the truth, national reconciliation and recovery of victims’ dignity” (République du Burundi 2014 Author’s Translation). This legal and policy framework clearly refers to the set of mechanisms and claims promoted by the TJ toolkit approach.

Traces of this understanding of TJ following the toolkit approach goes beyond simply the policy framework. Many of the activities and analysis organised and produced by local and international NGOs were also fully supporting the claims associated with this set of mechanisms. Through my fieldwork in Burundi, I observed many times how the toolkit approach had been used in practice – as illustrated by this calendar page, used a sensitisation tool, see chapter 2 for further examples.

### Illustration 3: TJ sensitisation material produced by an INGO for Burundi:

**RCN Justice & Démocratie**

**La Justice Transitionnelle**

Au lendemain de conflits et de violations massives des droits humains, la demande de justice est importante et requiert la mise en place de mécanismes exceptionnels. La justice transitionnelle est une étape de transition vers la démocratie. C'est un processus qui vise la manifestation de la vérité et la réconciliation nationale. Des mécanismes judiciaires et extrajudiciaires permettent de mieux connaître et écrire l'histoire, de reconnaître les droits des victimes, et de confronter les responsables à leurs actes. Enfin, des institutions doivent être réformées afin de prévenir la répétition des abus.

**Ubutungane bubereye mu bihugu  
biriko biva mu ruhagarara**

Inyuma y'ibihwe vy'intabara n'ihonyangwa ry'agateka ka zina muntu k'urugero runini, abantu baba bakeneye cane ubutungane ariko ugasanga inzego zibijwe zarengeye ntizishobore guhangana n'amabi menshi aba yakozwe. Ubutungane bubereye mu bihugu biriko biva mu ruhagarara bubaho kugira butegure igihugu kugira gishikire intwari rusangi. N'ingendo irondera gushika k'ukugaragaza no kumenya ukuri n'ukumywanisha abenegihugu. Harategakaniwe inzego z'ubutungane n'izitari z'ubutungane kugira hamenyekane ivyabaye, handikwe kahise, bubahirize abakozweko n'intabara kandi abakozwe ivyaha babibazwe. Harategakanywe kandi gutosora no kunagura inzego kugira ukudahana ivyaha biranduramwe n'imizi.

**JANVIER 2012**



LUN	MAR	MER	JEU	VEN	SAM	DIM
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23/30	24/31	25	26	27	28	29

The calendar was produced by an international NGO with funding from two European donors to distribute to local partners. The first page, January, defines TJ in French and Kirundi with an illustration on the right-hand side. The main text translates as follows:

In the aftermath of conflicts and mass violation of human rights, demanding justice is important and requires the implementation of exceptional mechanisms. Transitional justice is a step towards democracy. It is a process that aims for the establishment of truth and national reconciliation. Judicial and extraordinary mechanisms enable us to better know and write history, to recognise victim's rights, and to confront the perpetrators to their crimes. Finally, institutions must be reformed to prevent the repetition of abuse (Author's translation).

The text in the speech bubble (only in Kirundi) translates as follow: “We need truth, justice, reparation, institutional reforms and reconciliation so we can live in a country of milk and honey”. The calendar is a typical example of the toolkit approach. The structure and text contains the set of mechanisms and aims of the toolkit approach with an adaptation to the local culture (using the local language, the drawings and the reference to milk and honey). It conflates the automatic relationship in between TJ mechanism and its claimed benefits: democracy, reconciliation, accountability and non-repetition. The content of the calendar is based on a UN OHCHR leaflet on TJ for Burundi produced in French and Kirundi.

These examples also underline, though less explicitly, that the implementation channels are typical of the toolkit approach: INGOs work in collaboration with local partners through the organisation of sensitisation and training for the local partners and population. I argue that such an approach has limited capacity to deal with the past, and creates false expectations of the capacity of these mechanisms, by promising an ideal transition without adequately addressing key socio-political issues reflected in the difficult and slow institutional process.

I establish in the previous section how the toolkit approach creates a conceptual framework that links together TJ aims and mechanisms. Despite existing nuanced on what such approach entails, the holistic vision translates the TJ discourse into practices by promoting the implementation a set of mechanisms to deal with the past and achieve similar set of societal aims (criminal prosecutions, truth-seeking, reparation, institutional reforms and lustration programmes - others would also include memorialisation initiatives).

At the pragmatic level, these examples also underline, though less explicitly, that the implementation channels are typical of the toolkit approach: INGOs work in collaboration with local partners through the organisation of sensitisation and training for the local partners and population. I argue (in chapter 5) that such an approach has limited capacity to deal with the past, and creates false expectations of the capacity of these mechanisms, by promising an ideal transition without adequately addressing key socio-political issues reflected in the difficult and slow institutional process. Even in the summer school that I put place with Burundian TJ practitioners, the toolkit approach had a strong impact on participants’ expectations. My own agenda for the course was to challenge such an approach by analysing truth-seeking mechanisms in depth over several months, but participants insisted that they wanted one session to be devoted to each of the five mechanisms. Even a four-hour long session was insufficient to tackle one mechanism (more details in chapter 5).



In contrast with the limited general scholarship on Burundi, the Burundian TJ process has received increasing attention. Within this body of literature, there is a consensus that the TJ process has failed to date due to political obstacles. Vandeginste (2012; 2011a; 2010) has written extensively about the political use and abuse of legal instruments in the process. Similarly, Emilie Matignon (2012) evaluates the TJ international normative and legal framework by the scrutinising difficult TJ process in Burundi. She describes an ambivalent and complex process marked by political instrumentalisation, but also a potential contribution for the long road of reconciliation, and particularly with regard to the refusal to forget past crimes expressed by the population (*Ibid.*, 571).

Acting as the research coordinator for Impunity Watch, David Taylor (2013a; 2013b; 2014) has written about the paradoxical role of the international community among local expectations for truth in Burundi. He highlights the weak role of the international community and the risk of the TRC being disconnected from local communities – while also considering there is a local desire for truth. From a socio-political perspective, Sandra Rubli (2011; 2012; 2013) demonstrates the denial of politics in political TJ negotiations and the bureaucratisation of the TJ process. All these authors draw attention to the political manipulation of the TJ agenda by political elites and the inefficiency of international actors such as the UN and Western donors to push forward the TJ process.

This research describes the structural, political and legal contexts in which TJ negotiations are taking place. With an emphasis on the local contexts, the studies acknowledge the presence of aid actors and the impact of external interference (see also HRW, 2007; Ingelaere, 2010; Vandeginste, 2009(a); 2009(b); 2009(c)). Vandeginste (2012) underlines how domestic elites, for example, had the capacity to hijack the way TJ unfolded in spite of the albeit not-so-efficient pressure from the international community and civil society (see also Jamar 2012; Dupont, n.d.; Nee and Uvin, 2010). However, these studies give limited attention to the actual role and impacts of international aid on the difficult process.

In contrast, I argue the Burundian TJ policy framework includes all different mechanisms and aims as promoted by the holistic vision. It provides for the complementarity of different mechanisms: truth-seeking, judicial prosecutions, institutional reforms and reparations. The TRC law claims to seek these aims and address other TJ mechanisms of (e.g., beyond truth seeking and pardon dimensions, its mission includes to qualify crimes, suggest reparation, commemoration and institutional reform programmes - République du Burundi 2014, Article

6). In appearance, Burundian authorities are complying with UN guidelines and its holistic vision. Even with gaining a stronger political understanding of the political context, the holistic vision continues to promote an institutional response and is blaming the local government for not doing it.

The report of De Greiff official field visit to Burundi as Special Rapporteur illustrates such a holistic vision (United Nations General Assembly 2015). The report acknowledges the TJ difficulties caused by a long history and ongoing impunity in Burundi, and the current unstable political context. It brings attention to risks of the TRC in giving emphasis to pardon rather than reconciliation, to the re-traumatisation of victims, and to the lack trust from civil society and parts of the population. Within such a pessimistic context, the UN Special rapporteur (*Ibid.*, 21) states:

Serious efforts to redress past massive violations would signal to the population that the authorities are sincere in breaking with the tradition of impunity. That, in turn, would contribute to the protection of fundamental rights in the present. Transitional justice initiatives must be grounded in and intended to foster human rights. They must not be instruments of “turn-taking” that only benefit one side.

Still, the report and recommendations are structured around TJ pillars and other mechanisms: judicial mechanisms, reparation, reforms of institutions, and commemorations. Such an analysis provides a strong understanding of political dynamics at the national level, and clearly states their fears that the TRC will not succeed in achieving set aims. However, it also maintains a view of international and civil society as benefactors. More importantly, it continues to promote an institutionalised fix to deal with past crimes – by implementing other TJ mechanisms and not only a TRC.

I contribute to this research on the basis of an aidnographic scrutiny of TJ practitioners involved in these dynamics. From the perspective of the critical ethnography of development, my research adds to the literature by questioning the aid-dependant structures, their everyday practices and role in the limited progress of TJ in Burundi. I demonstrate in empirical chapters how the TJ efforts based on the aid-dependent TJ toolkit approach tend to depoliticise the process by adopting technocratic and bureaucratic approaches and hence silence (and/or not address) political dynamics in play. The next sub-section underlines how the TJ process is only a small part of reconstruction, peacebuilding and development strategies in Burundi.

### 3.2.2. *The Wider Reconstruction Picture: Arusha Agreements and Vision 2025*

Burundi has not been as zealous as Rwanda with regard to its development policies. The development strategies do nonetheless emanate from similar global dynamics and are partly inspired by Rwandan experiences, as suggested by the naming of its strategy plan: Vision 2025 (Vision 2020 in Rwanda). The Arusha Peace and Reconciliation Agreements signed in 2000 already contained a number of features for Burundian rebuilding and development plans. These agreements are structured around three set of aims: (1) Democracy and good governance (constitutional principles for the transition), (2) Peace and security (security and defence services, ceasefire), (3) reconstruction and development (rehabilitation of refugees and victims, socio-economic development). A comprehensive vision puts together peace, security, justice and development. Commentators on the peace negotiations indicated that there were limited expectations in terms of the implementation of the Arusha Agreement, even at the time of its signature (Dupont 2007; Vandeginste 2015).

Vision 2025 and poverty reduction strategies (Cadre Stratégique de Croissance et de Lutte contre la Pauvreté I - CSLP I for 2007 to 2011 and CLSP II 2012 to 2015) provide further objectives and implementing strategies for peacebuilding and development. Vision 2025 (Ministry of Planning and Communal Development and UNDP 2011, 7) is defined as a planning instrument to “build a Burundi that is New, Democratic, Reconciled and Unified, a land flowing with milk and honey, as our grandparents wished.” It establishes eight pillars to achieve that vision, including good governance, economic growth, fight against poverty and social cohesion. Structures have been put in place to ensure its implementation: the National Committee for Aid Coordination, Partner Coordination Groups and sectoral groups. In the strategy, the government of Burundi treats as a priority the re-establishment and the consolidation of the rule of law and justice, and the protection of human rights, “which will play a major part in conflict prevention and national reconciliation” (*Ibid.*, 54).

Such documents create the impression of a well-established development strategy; yet literature on contemporary Burundi demonstrates the limited success of these policies. Some progress had been achieved initially: the security improved, infrastructure and public services were developed, trust towards public authorities gradually improved. Yet the political, security and economical context has been degrading, particularly in the lead up to the widely contested presidential election in 2015.

The implementation of these national development strategies has not been specifically researched; but existing research reflects the limited capacity of external aid to consolidate democracy, security and development. In terms of aid effectiveness, Peter Uvin (2010; 2008) underlines contradictions within the international community's efforts towards governance and the fight against corruption in Burundi. For example, Uvin (2008, 116) notes the international community takes for granted when the "governments say they want to improve governance". Such assumptions ignore the fact "that the government is a political player"; "that many power-holders in the government are the beneficiaries and creators of ill governance"; "that they must relate to other power centres in society who do not want to lose their privileges"; and finally "that ill governance has evolved over decades and is hardly likely to be solved by some technical assistance (*Ibid.*)."

Similarly, assessing the limited effectiveness of aid in Burundi, Desrosiers and Muringa (2012: 511) observe the limitations of technical indicators: with "the effect of primarily limiting the understanding of challenges to the realm of organisational relations among Burundian institutions and between national and international actors." While underlying the lack of capacities to embrace the local context (that is, insecurity, legacy of violence, 'mentalité du maquis', limited human resources and a network of preference – *Ibid.*), the article gives limited insight into reasons why the international framework does not address efficiently the 'fragility' that it is supposed to respond to.

In relation to security and democracy, Devon Curtis (2012, 74 – 75) underlines:

International donors and diplomats have tended to prioritise regional stability and the crafting of ethnic power-sharing governance institutions. Pleased by the apparent peace and controlled violence, international peacebuilders largely turned a blind eye to governance abuses, human rights violations, and militarism, when confronted with the messy and contested politics of transition, as long as Burundi remained generally stable.

Such observations underline the issues lying behind the apparent improvements of security and democracy in Burundi. Overall, all the authors writing about the Burundian reconstruction programme address the continuity between the past and the present by highlighting the background of the current ruling regime, the legacies of violence and governance marked by a patronage. In other words, these policies are also affected by the burden of the past – that is, heavy consequences of mass violence in social and political relations. Modalities of aid delivery and technocratisation emanating from the new aid paradigm are unable to address these dimensions. The following sub-section based on the review of contemporary research underlines how these past burdens influence current politics.

*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*

### 3.2.3. *Legacies of Past Violence in Current Socio-political Affairs*

A closer review of the current socio-political context in Burundi demonstrates more clearly the limited success of the implementation of the development strategy, as well as how the burdens of past violence remain important challenges. In Burundi, the limited success with achieving security and democracy indirectly underlines the limited success of the reconstruction and development agenda. The continuity with the past is more obvious in the Burundian case, constantly mentioned in the literature.

In terms of democracy, the Arusha peace agreements included power-sharing provisions. Since 2010, the political evolution led to the ‘establishment’ of a single-state party de facto ruled by the CNDD-FDD (Vandeginste 2015). Historically, an armed group that resisted to power, the CNDD-FDD put down its weapons only in 2003 and won the election in 2005. Over the years, it consolidated its power with the prominence of high-level political actors with strong military backgrounds. CNDD-FDD governance practices are referred to as the “système DD” marked by corruption, misappropriation, arbitrary, oppression, but overall, brutality, torture, or even murder (Hirschy and Lafont 2015). Despite wide critiques inside and outside of the country, the CNDD-FDD populist politics attracted strong support from rural communities.

The democratisation process took a negative turn after the election in 2010. Local, legislative and presidential elections were held from May to September 2010. During the electoral process, most opposition parties withdrew from elections. They thought that elections were rigged and assumed the international community would support them to reorganise elections. Consequently, the CNDD-FDD maintained the presidency and most ministerial seats. This resulted in a failure to establish a consociative democratic system (a form of power sharing designed for divided societies - see Stef Vandeginste 2011b; International Crisis Group 2011) and the consolidation of the CNDD-FDD power. Reviewing Arusha 15 years after its signature, Vandeginste (2015, 19) considers:

Underneath the surface of constitutional and other reforms of state structures, politics in Burundi are highly determined by a lack of separation between public and private spheres and by informal networks and relationships in which state resources serve the interests of competing ‘patron’ elite groups and their ‘client’ support groups.... That was the case before Arusha and remains valid today.

Vandeginste (*Ibid.*) further notes “there is a historical continuity between the post-conflict polity and the traditional patronage system which structured societal relations from the king down to the peasant”.

Since 2014, opposition to the third mandate of the current President Pierre Nkurunziza has been causing important political problems. In March 2014, the Movement for Solidarity and Development (Mouvement pour la solidarité et le développement – MSD) organised a walk demonstrating against the third mandate of the current president. Having failed to request prior authorisation from the local authorities, they claimed they were jogging. Some 70 demonstrators were arrested; the leader of the party escaped and left the country. In reaction, the Burundian authorities forbade sports in groups – which had been so far a frequent social activity in Burundi. Later in the Court, 21 demonstrators were sentenced to life imprisonment, 26 received lighter sentences and the rest got acquitted (BBC 2014a).

In relation to security, despite improvements in the previous decades, acts of violence committed by the Imbonerakure (Kinyarwanda for ‘those who see far’ – youth members of the ruling party) are reported weekly (Centre d’actualité de l’ONU 2015). These crimes include killings, beatings, rape, threats and extortion against their perceived opponents and other Burundians. Human Rights Watch (2014a) reported that “despite a public outcry and promises by government and party officials to punish such actions, abuses continued throughout the year (in 2014)”. In 2014, there were allegations that the Imbonerakure were receiving weapons and military training from parts of the defence authorities.

Actors who tried to bring attention to these insecurity issues encountered serious problems. For instance, the UN head of security (an expatriate based in Burundi) was announced a *persona non grata* by Burundian authorities and had to leave the country when one of his correspondences to New York on this matter was leaked. The human rights activist, Pierre-Claver Mbonimpa, was imprisoned after making a public statement on the military training of civilians (allegedly Imbonerakure) in DRC. He was arrested and asked to provide evidence. He transmitted pictures of dead bodies, allegedly Imbonerakure who had died during military training in DRC. Mbonimpa was charged with “endangering internal and external state security for remarks made on the radio ... and using false documents”. In September 2014, he was finally released for medical reasons, without the charge being dropped (Human Rights Watch 2014c).

Between 30th December 2014 and 3rd January 2015, clashes occurred in Cibitoke (the northern province neighbouring DRC) between an armed group (whose political affiliation has not been officially identified) and Burundian armed forces. The police and the military with support from Imbonerakure and some local civilians tracked down the armed rebels who

entered from Congo. HRW reports that at least 47 rebels were extra-judicially killed (with no effort having been made by the security forces to arrest them alive) and only a few dozen were arrested alive (Human Rights Watch 2015a).

At a societal level, there are many other issues exacerbated by the conflict and the current deteriorating context. The justice system is considered partial (More 2010); and corruption is a common occurrence (International Crisis Group 2012). Land issues are considered to be a societal bomb, particularly due to economic crisis, land grabbing, and return of at least 200,000 refugees since 2000 (International Crisis Group 2014). Burundi is considered the country with the highest hunger indicator in Africa (Ibid.)

In Burundi, all these episodes illustrate the severe deterioration of the security and political situation since 2014 in the lead up to the organisation of the elections. Political affairs are volatile and operate in continuity with past logics of intimidation, fear, arrest and, in the worst cases, murders. In this context, it is likely that the TJ agenda will be furthered postponed. This is particularly so since the major crisis in April 2015 sparked by the official announcement that Nkurunziza would run a third mandate (which I address briefly in the general conclusion, since it happened in the final stage of my writing process). The organisation of elections had been frequently mentioned during my fieldwork as an obstacle to the implementation of TJ. Many of my informants considered that the TRC would not start any enquiry before the elections, and would until then only work on institutional preparations without predicting that the political and security situation would take such a negative turn.

#### ***3.2.4. Going Forwards and Backwards: Politics and TJ progress***

For more than a decade, promoters of TJ in Burundi (the UN and local and international NGOs as well as some Western donors) have been waiting for the political context to be more favourable to the implementation of TJ mechanisms – which has not come yet. The Burundian TJ process keeps taking steps forwards and backwards. At the beginning of my doctoral research in late 2011, I was convinced (as others – see e.g., Vandeginste 2012) that the TRC was finally going to take place. I thought I would be able to observe the preliminary phase of the TRC work by the time of my fieldwork. The Burundian TJ agenda in 2011 was marked by enthusiasm and strong dynamism. During that year, the government nominated a technical committee to produce a draft law. When their draft was released as part of the committee report, some civil society actors requested more guarantees of independence than those

provided in the draft (author's interview – see more in chapter 5). The subsequent disagreements between and within Burundian officials and civil society organisations then made the process slower than expected. Later in 2012, another draft, with fewer guarantees than the first, was leaked.

Throughout my fieldwork (from August 2012), the National Assembly kept postponing the discussions about the TRC law in the parliamentary agenda – leaving the TJ agenda without any progress at the institutional level. The TJ unit of the UN Office in Burundi (BNUB), and several local and international NGOs opted to use this lull to prepare the population and their local networks through sensitisation and capacity-building activities about TJ mechanisms (as discussed in chapter 5) – and to push for truth-seeking/telling and commemoration activities that could begin even if the official process had not commenced.

In 2014, some progress was made in the official TJ implementation by the adoption of a TRC law and the appointment of the TRC commissioners. Again, political disagreements between the media, civil society and Burundian authorities emerged. Once I returned from fieldwork, a TRC law was finally adopted in May 2014 (République du Burundi 2014) and its commissioners were appointed in December 2014. Even then, local media and civil society organisations were expressing doubts about the future work of the TRC, given the identity of newly appointed commissioners and the appointing process. In a press article presenting these commissioners, Iwacu journalists listed them, describing their trajectory, background and explaining why they would not be credible (Ngendakumana and Bigirimana 2014). In the conclusion of the news article, the view of the representative of the Forum of Civil Society (Forum des Organisations de la Société Civile – FORSC) is explained: most of the commissioners were political personalities in the regimes under which these crimes were committed. “Therefore, it is difficult to believe in their impartiality, neutrality and integrity, qualities that each member of the commission should have” (Ibid., Author's translation).

Civil society and private media presented themselves as apolitical and neutral. They denounced others for having been affected by past violence that would make them partial – but continue to see themselves as impartial, as if their own position was not affected by their political position and their own suffering of the conflicts. So while the institutional process was moving forward, there was political opposition (e.g., UPRONA did not participate in the parliamentary session appointing the commissioners as they did not find it credible) and civil society organisations boycotted and heavily criticised the process. More importantly, the



current political crisis will inevitably slow down the progress. At the same time, sequences of the crisis clearly underline the political positioning of all local actors, including TJ practitioners.

As I address throughout the empirical chapters, sensitisation and capacity-building activities were promoted a positive, technical and apolitical vision of TJ in line with the global discourse promoted by the TJ toolkit approach. In all these preparation activities, I argue that actors are competing the framework and components of TJ. Reading in between the lines of these debates that claimed to be technocratic, there are subtle indications of micro politics at play as they are fighting for different truths and justice; and the debates are inevitably affected by current and past politics and power dynamics. Their work somehow becomes more than the ‘simple’ implementation of an emancipatory and repairing framework.

## **Conclusion**

This chapter aimed to highlight how TJ and wider development and peacebuilding policies are affected by the burdens of the past, providing contextual analysis of Rwanda and Burundi. For each country, I presented how the global TJ approach influenced the specific TJ model, but was implemented in very different socio-political and historical contexts. I also reviewed scholarship that observed frictions in between the TJ, reconstruction, development and peacebuilding policy models and their implementation in both Rwanda and Burundi.

Through a review of mass violence and its legacies in current politics, the chapter also set the contextual framework of my research. It illustrated that dealing with the past goes beyond TJ policies in contemporary affairs. In both Rwanda and Burundi, the effects of decades of mass violence have irreversibly affected the social, political and security situations. Even though TJ attempts to redress the wrongs of the past, the same history of violence also negatively impact TJ processes. I argue that mainstream TJ practices do not hold the capacities to address adequately these complex social and political dimensions, being restrained by their technocratic nature.

My critical scrutiny of aid and TJ practices questions further the political role of donors and aid-dependent actors, as well as the impacts of aid structures in relations to these processes. Even though frictions in between policy and practice have been researched and widely acknowledged in the two contexts, existing research focuses on local politics acting as

obstacles, but tends to treat the roles of international actors as external rather than putting them at the centre of the critical scrutiny.

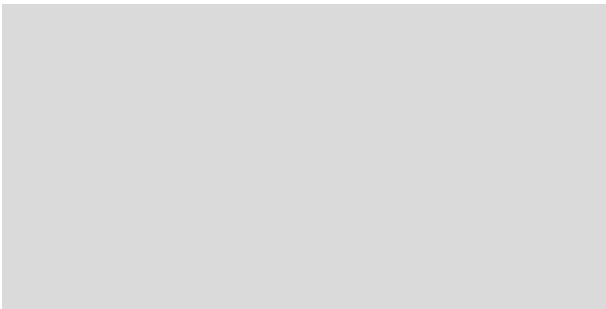
The inevitable continuities between the past and the present imply that there is a blurry line in between ‘fixing the past’ and being challenged by the burden of the past when dealing with the past. Building on ethnographic research, the following chapters address how TJ practitioners implement technocratic TJ activities in the specific socio-political contexts of Rwanda and Burundi, yet are affected by the burdens of the past and the contemporary socio-political context.

In conclusion, it is important to reiterate that every TJ practitioner will be influenced in his or her work by his or her own experiences of the violence. All the individuals involved in decision-making and implementation of TJ (whether they are political, institutional, non-governmental) have been involved and/or affected themselves by the conflicts, which they are supposed to respond to. Their own interpretations and experiences of violence orient their perceptions of policy, other practitioners and beneficiaries. Even if most expatriate aid workers not have been directly involved in violence, the general structures of aid and foreign interventions are also embedded in the violent past. Their interpretation and experiences of the burdens of the past also influence their everyday work, as the following empirical chapters demonstrate.



# Chapter 4

A Typical Day in Aidland:  
Everyday Relations and  
Structural Contradictions



## **Chapter 4: A Typical Day in Aidland: Everyday Relations and Structural Contradictions**

### **Introduction**

The everyday in ‘Aidland’ frames how aid-dependent professionals work and live in a structure marked by legacies of colonialism and conflicts. Their everyday relations and working patterns are taking place in these environments that affect how TJ practitioners interact with each other and how their intervention is structured. As addressed in chapter 1, literature on Aidland has scrutinised the “discourse, lore and custom” of aid workers (Apthorpe 2011, 199). This literature already underlines legacies of colonialism, frictions between policy discourse and practices, as well as everyday contradictions faced by aid workers. Through the recollection of a typical day of various TJ practitioners, I further scrutinise everyday contradictions beyond the conventional divide between the international and the local, and ask how international and local dimensions have embraced each other in the reproduction of unequal relations and structure.

In contrast with most studies of Aidland that focus on international aid workers, my research looks into individuals who are involved at a professional level with the gacaca process and the TRC negotiations, and hence includes both local and international professionals. Working for distinct institutions (embassies, donor agencies, government authorities and NGOs), they all operate under different mandates and agendas but all ‘collaborate’ and/or negotiate around these TJ processes. The unfolding of a typical day and their day-to-day obligations in Burundi and Rwanda demonstrate how professional concerns of most practitioners go beyond TJ matters. More importantly, the everyday highlights the ways in which routines and day-to-day obligations are framed within an unequal structure and political bureaucracy that impact further on TJ practices.

As illustrated in chapter 2, TJ practice is premised on a positive emancipatory discourse to help societies and victims emerging from violence to recover from past suffering, to strengthen the rule of law, and to build sustainable peace and democracy. This chapter describes how actors disseminating the TJ emancipatory discourse, along with human rights, are actually embedded in highly hierarchical structures. Within a comprehensive approach to development and peacebuilding, current policies promoting TJ and human rights aim to fix dysfunctional

and abusive systems. It has been argued that a belief that technical work can fix dysfunctional states<sup>31</sup> leads to Western paternalistic behaviour from donors towards recipients (see e.g., Duffield and Hewitt 2013; Escobar 2011; Paris 2002).

Bringing such an analysis to TJ practice, I argue that these efforts and working patterns, focusing on performative (understood here as utterances and acts in which formality and public nature are important, such as giving official speeches, cutting ribbons, signing agreements and having handshakes) and technocratic work, fail to appreciate the hierarchical social structures in which they operate. The chapter addresses the following two questions. How is the everyday of TJ practitioners organised? How are everyday relations affected by social and hierarchical dimensions?

Throughout the chapter, I explore three levels – the personal, professional and the structural environment – and describe how these are entangled in each other. In other words, I scrutinise the everyday for TJ practitioners against the following preliminary observations. 1) The personal lifestyle of aid workers is important in an understanding of professional interventions. 2) Technocratic dimensions can take different forms in practice, they can be a pretence of action at the institutional level, can become a burden for the practitioners, or can be deployed as an obstacle to dealing with issues by authorities, but rarely as a way to achieve set aims. 3) Aidland is not a bubble disconnected from local contexts; it is taking place in, and reproduces, complex layers of inequalities that affect local contexts. Every TJ practitioner sits within a structural hierarchy and operates within a context marked by colonialism and violence.

Post-colonial research applied to development (Sylvester 1999; Duffield and Hewitt 2013; Kothari 2005) turns out to have been useful in going beyond the image of Aidland inhabited by mobile people on the edge of society. Even though they constantly go from one country to another, expatriate aid workers are part of an historical continuity; they work in collaboration with local practitioners and they enjoy the services provided by local elites. As result, a social environment, around elitist sections of ‘beneficiary societies’, is created for these people travelling around. Exploring relations between colonialism and development, Mark Duffield and Vernon Hewitt underline (2013, 14) that “there is little or no direct continuity between the past and the present. The connection is more in terms of resonances and echoes, unresolved antagonisms and, especially, recurrent designs of power and urges to govern.” Similarly, I

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<sup>31</sup> This assumption has been widely criticised through the analysis of liberal development and peacebuilding studies.

consider that everyday practices of TJ practitioners are embedded in these post-colonial contexts, where behaviours of paternalism and an emancipatory discourse are based on Western ideas that are omnipresent and on an unequal power hierarchy that is silenced by a discourse of progress.

The discourse relating TJ practice and human rights promotion to democratic transition and sustainable peace becomes absorbed by these unequal structures in which routines become invisible and unquestioned. As Lisa Smirl's work with humanitarian workers demonstrated, the everyday structure provides a formulated, rational and readymade bureaucratic approach to deal with the contradictions faced. This leaves the issues of power and the hermetic nature of aid unquestioned and marginalised (Smirl 2008; Smirl 2011).

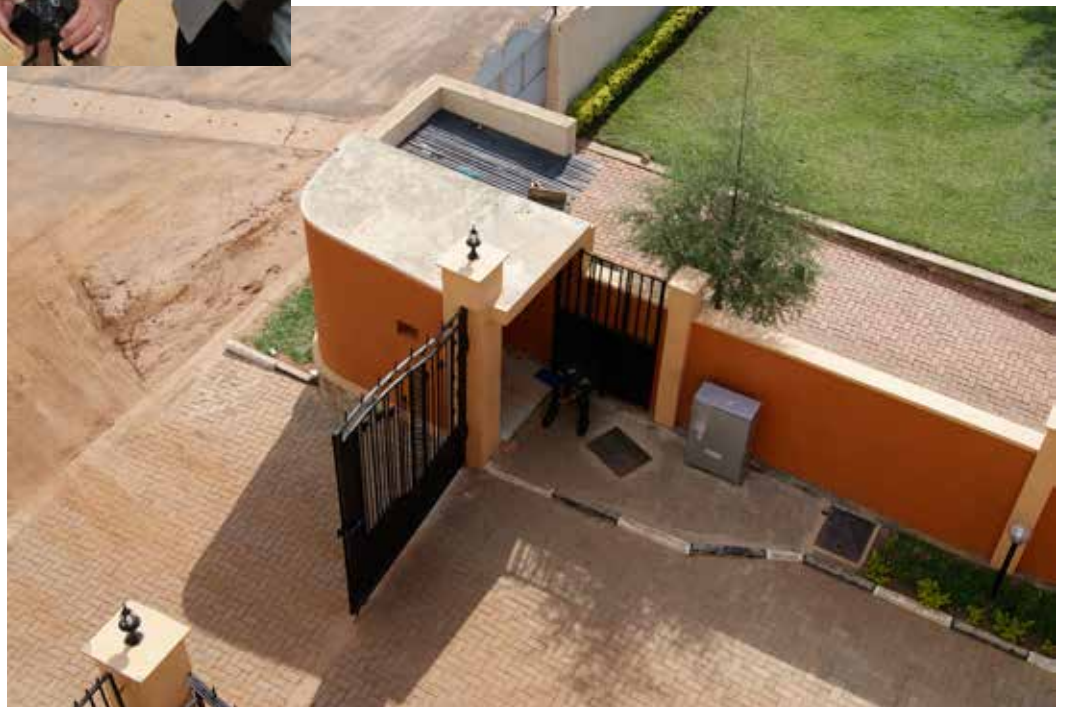
This chapter describes very basic activities for expatriate aid workers that constitute the everyday in Aidland at the personal level, such as having breakfast, doing house chores and heading back home. Looking into professional obligations in the second section, I zoom in on bureaucratic requirements for two polar entities of the TJ network hierarchy: the diplomat and the local human rights activist. At the one end, diplomats give speeches and undertake political dialogue for the sake of human rights promotion. At the other, local activists are increasingly constrained by bureaucratic obligations that are put in place under the name of the new aid paradigm. The two sections look separately at personal and professional spheres to highlight structural contractions overlapping both sides and impacting back on TJ practices.





## Section 4.1

TJ Practitioners' Everyday in  
Post-Colonial and Post-Conflict  
Settings – the Personal Sphere



All - © Astrid Jamar

## 4.1. TJ Practitioners' Everyday in Post-colonial and Post-Conflict Settings – the Personal Sphere

### 4.1.1. *Everyday Inequality: Starting from Breakfast and House Chores*

As soon as an expatriate aid worker leaves their bedroom, they walk to a table garnished with exotic fruits, freshly pressed juice, bread and coffee or tea – depending on what they asked of the cook. They enjoy this while looking at a beautiful garden with palm trees, colourful flowers and green grass nicely trimmed by the gardener. When finished, they either jump into their SUV or wait for the toot of a driver's horn at the gate – which the guards will open. During breakfast, the mind of the aid worker might be occupied by worries about the tasks of the day ahead such as to finish a report, host a visit from the head office, run from one meeting to another, or meet partners in the field. They might need to discuss money matters and duties with home workers; or more generally be concerned about the work mission (improving security, strengthening peace and democracy or helping economic development).

Of course, not every expatriate sits daily at the table to enjoy a nice breakfast. The vast majority of expatriate aid workers, like the local upper- and middle-classes in Burundi and Rwanda, do, however, have house staff. This generally includes a cook, guards, a gardener and, for families with children, a nanny. In line with existing scholarship on aid and post-colonialism (Sylvester 1999; Kothari 2005a; Duffield 2005; Eyben 2012), this vignette brings attention to the complexity in contexts marked by major disparities between (and among) expatriates and locals (Roth 2012; Fechter 2012), paternalist behaviour (Baaz 2005), and the resulting clash between mission and lifestyle, and expatriate and national staff status.<sup>32</sup>

Once the aid worker gets to work, the house remains active, with the cook washing the dishes, going for the grocery shopping, and washing and ironing the clothes. The cook will set the table again for lunch and eventually for dinner. A body of knowledge and skills is required to be seen as a good cook: to be well organised, accomplish chores with limited supervision, to know Western and exotic recipes, be trustful, not to steal, and to be fluent in French or English. Guards are there to watch over the house 24 hours a day, seven days a week. They are supposed to protect aid workers from post-conflict insecurity and potential burglars. The main

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<sup>32</sup> During most of my working and fieldwork experiences in the two countries, I lived in such environments, being hosted by friends, housing being organised by employers or houses being shared with other expatriates.



manifestation of their work, however, is to open and close the gate, go on errands to the corner shop, and so on.

Some aid organisations hire, and are in charge of, the house workers for their expatriate staff. The expatriate workers otherwise handle the workers themselves. For ‘junior’ expatriates, house-sharing is the most common living scenario, enabling the possibility of a decent house in a pleasant neighbourhood (with access to electricity, hot water and the Internet) and the service of house workers. The wage of a house staff member varies greatly. Expatriates are known to pay more than local employers, even rich locals. Compared with expatriates’ own salaries, pay is low (see also Roth 2012; Fechter 2012) – but up to six times higher than offered by local standards in Burundi.

Wage discrepancies create inequality between expatriates and domestic workers, but also among the domestic workers themselves and the local population. The cook generally receives a salary higher than the guards, who in turn get more than the gardeners. The best-paid cooks might have a low-paid cook at home, and so on. In informal discussions with aid workers, I observed various ethical concerns in the setting of wages: expatriates who paid lower salaries considered that a house-worker should not receive a salary higher than a national university professor; while others setting the highest wages believed that paying someone less than what was needed for a decent life was slavery.

Such discussions about wages are relevant for an aid environment also heavily marked by wage discrepancy. Similar wage inequalities are reflected within aid work among and between expatriates and national staff, depending on place of origin, nationality, educational background and experience. Several pieces of research mention tensions in aid work created by the wide wage disparity within one team and by the fact that wages are not determined by skills and capacities (Roth 2012; Fechter 2012; Baaz 2005).

Every expatriate household needs to define the role, wage and working hours of their workers and negotiate their relationship on a daily basis. The pragmatic rationale is that unemployment is high and labour is cheap, there is no washing machine, and grocery shopping is done, not in the supermarket, but in small shops here and there, in which prices need to be negotiated. Expatriates would not have the time to achieve these daily tasks by themselves. Hiring local house workers is the norm in support of international staff for their daily life in an ‘unknown’ country where local knowledge is required to ‘know where to get what’, even just to get groceries.

I gathered numerous anecdotes about such a rationale among expatriates that indicate ethical difficulties and consequent struggles. Every TJ practitioner would respond differently, but there are ethical tensions associated with this uneasy luxury. By expanding on these ethical tensions, the next sub-sections illustrate how these relationships are marked by paternalism, and then reproduced by TJ practitioners within their professional settings.

#### ***4.1.2. Uneasy Luxury, Unspoken Contradictions and Paternalistic Behaviours***

In the personal sphere, the house setting is marred by contradictions in which people share an intimacy while having very different lifestyles. While the presence of servants at home is normalised, it still involves relational, socio-economic and often unspoken ethical complications. Ethnographic research on expatriate aid workers addresses the dilemmas associated with these lifestyle privileges (e.g., Roth 2012; Eyben 2012; Fechter 2012). For instance, Silke Roth (2012, 1468) describes how professionalisation of aid work is also resulting in inequality. She demonstrates that people are aware of their privileged position in terms of salaries and living standards, even in comparison with most people in developed countries, but also compared, more importantly, with national staff and beneficiaries. The aid workers participating in her research consider this problematic and they set up strategies at personal and professional levels to deal with it (by supporting staff financially, mentoring them, paying for professional training, and so on – *ibid.*).

Analysing aid workers' perspectives 'on living well while doing good', Ann-Meike Fechter (2012) underlines more directly the contradictions between their lifestyle and professional duties. Her article indicates the unease about the situation, and the consequent yet silenced problems – one of them being the tendency of workers to put their own wellbeing second. It encourages many expatriate employers to support domestic workers beyond their salary. I also observed through my fieldwork that their wage does not enable them to cover extra expenses, so workers would frequently ask for money for schooling, medications or an emergency, such as the need to cover the costs of a funeral, to travel to a sick relative, or to fix parts of the house. Some expatriates will spontaneously offer to pay (in addition to their wages) the school and medical fees for the worker or his children.

I consider that this engenders on a daily basis a particular way of interaction between expatriate staff and local house workers in which hierarchy and patronising behaviours are important. But this is also reflected in their relations with local colleagues and other people outside of the

house. Within the private sphere, it is normalised that house workers will not eat the same food as is prepared for expatriates – they do not eat at the table and use basic outside sanitation. Guards are not allowed to walk into the house.

Other matters are widely discussed among expatriates, such as the setting of salaries, experiences of theft, and humorous anecdotes that depict misunderstanding, whereas these separations are silently integrated. Anecdotes about expatriates newly arrived in Burundian and Rwandan Aidland are frequently circulated. For instance, the new manager of an informant had been cheated by his cook during his first experience of working in Africa. The manager first explained that he spent more money on food than in Europe and was warned that this was abnormal in Burundi. He found out that the cook was shopping at the Bon Prix (a shop selling imported products for around four times the European price, or for local products, twice). When he found out the cook was also buying food for his personal use, he fired him. In the same way, other informants explained that when they first hired a cook they paid her a salary higher than established by local standards. They later found out that she hired another person to do her job while she watched television in the house.

I heart many more anecdotes involve issues of more or less seriousness related to the misunderstanding of given guidelines or a ‘misdeed’ of the domestic staff: stealing all sorts of things from food, expensive goods, to significant amounts of money; getting drunk during official receptions; damaging clothes while doing the laundry.<sup>33</sup> I heard that some expatriates drew lines on food jars and bottles to monitor the cook’s use; others lock up cupboards containing food. Many others relied only on trust.

Among TJ professionals, this is translated structurally into significant differences in terms of salaries, housing packages and travel expenses based on technical and expert knowledge, often falling along existing national and social divides rather than actual capacities. This creates a similar sense of unease and unfairness that can create tensions in a professional team. While these privileges are associated with higher expertise and capacities, they also give more decisional power to the most privileged and hence less to those at lower levels of privilege. In the worst cases, this might result in ‘I know better’ behaviours, or stereotypical presumptions

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<sup>33</sup> These anecdotes are based on informal discussions and interviews as well as my house-sharing experiences with other expatriates. Similar examples can be found in blogs online. See e.g., <http://stuffexpatidworkerslike.com/2011/09/23/94-moaning-about-their-servants/>; <http://elevenhoursabroad.wordpress.com/2012/07/03/the-help-in-togo/>; <http://devpolicy.org/should-aid-workers-lead-comfortable-lives20120525/>

of projects failing because of local issues rather than as a result of adopting the wrong approach.

These relationships between the expatriate aid worker and local servants are tangible instances of the everyday in which behaviours of paternalism combine aspects of support and surveillance. Such normalised unequal relationships highlight the hierarchical structures within which expatriate aid workers work. All these anecdotes are not insignificant. They portray a local worker who tends to be inefficient, slow, or scams new arrivals. This reproduces the stereotype of the dishonest, lazy and stupid local worker, with the good worker portrayed as the exception. Arriving with a willingness to ‘help Africa’, the aid worker’s first encounters tend to create disappointment, over-cautiousness, and simultaneously paternalistic behaviours.

While this picture is far from that of the extreme racial segregation under colonial authority, it is not insignificant in representing the emancipative and imperial approach to work by many aid workers. Even if many reject neo-colonial moralising views, expatriate and high-level local aid workers are operating in hierarchical and unequal structures that place them as privileged deciding who will receive their support and how. Inevitably, professional practices are taking place within these structures and affect how practitioners interact with each other, and how they implement and negotiate aid-dependent policies, including TJ.

#### ***4.1.3. Home Location and Security: Factors of Geographic and Social Segregation***

At the end of a working day, most local aid workers will take one or two buses from the office to their homes in popular neighbourhoods. Other locals with better situations will drive their second-hand Japanese car towards middle-class neighbourhoods. Diplomats and mid- to high-level expatriate workers will drive their brand-new SUVs to villas in rich hills. Simply put, every member of staff will leave the workplace with different means of transport to head towards different realities. Again, the location of the house and the means of transport indicate one’s position in the aid network hierarchy.

In both the Burundian and Rwandan capitals, the neighbourhoods in which you live affect the convenience (access to electricity, water, transport and security) and social dimensions of your life. Expatriate aid workers and diplomats are likely to be located in the most luxurious neighbourhoods, where big villas are lined up with panoramic views.<sup>34</sup> These neighbourhoods

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<sup>34</sup> Such as Kyovu, Nyarutarama in Kigali or Kiriri in Bujumbura. Other high-level staff find good housing in less elitist neighbourhoods (i.e., Kimihurura, Kacyiru, in Kigali, Kinindo, Rohero or Gatoke in Bujumbura).

are predominantly inhabited by expatriate workers and the local elite as neighbours. Some expatriates prefer to be in more democratic neighbourhoods surrounded by the local upper and middle classes.<sup>35</sup> It is rare to find expatriates living in a common neighbourhood. In any case, your house location and your transportation habits are key indicators of your socio-economic position in Aidland.

In parallel with housing, security measures are another example of institutionalised inequality: paradoxically, security protections in Aidland entail overprotection for the (untargeted) privileged. Each employing organisation has its own security guidelines. In Burundi, UN staff must hire guards from a particular security company, and they need to be escorted by the military if going to the airport after midnight. UN and Belgian Technical Cooperation (BTC) international members of staff have a security radio with weekly radio checks. One of the NGOs I worked for prepared a security trunk at our home. It contained candles, matches, water and food for three days, for potential use in the case of severe insecurity and a need to stay home. More generally, advice was given not to walk after dark, not to enter some parts of Bujumbura by night and not to travel between cities after dark.

The guards and the security guidance give the impression of a bubble secured from potential risks. At a pragmatic level, it requires important logistical and financial efforts. These guidelines protect only certain types of individual, who are not the most vulnerable, and they do not provide any protection to people under risk of imprisonment or killing (see below). From an ethical perspective, this also draws an institutional and structural line on the question of who deserves to be protected in case of extreme violence. All these measures create routinised practices in everyday life. Even though they are repeated daily with limited thought, they inevitably affect how one encounters the local context, as well as reinforcing the feeling of living in an extraordinary place. Several authors similarly describe the social and geographic segregation of aid workers (e.g., Autesserre 2014; Smirl 2008).

Even though there is only a handful of compounds in Burundi and Rwanda, Mark Duffield's (2010) argument that the housing of expatriates creates segregation is still valid. He considers that the security measures increase inequality and distance between aid workers and their local

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<sup>35</sup> Such as some parts of Nyamirambo and Kacukiro in Kigali, Mutanga and Kinanira in Bujumbura.  
*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*

beneficiaries on an everyday basis. Through the analysis of UN security training for staff to be dispatched to post-conflict areas, he (*Ibid.*, 461) states that:

While in certain locations this might be necessary, when institutionalised and universalised, even in areas where threats are more imagined than real, this subjectivity reshapes the perceptions, interactions and exchanges that link aid workers and host societies. Not least, it normalises the segregation and bunkering of the aid industry within fortified aid compounds.

In other words, Duffield highlights the social consequences of institutionalised security in terms of the perceptions, interactions and exchanges between expatriate and host societies. Such settings encourage social routines – to hang out with people with similar status and background. Dinah Rajak and Jock Stirrat (2011, 169) examine the “social cocoon” in which development workers tend to exist by “socialising with each other and reproducing not only differences between the expatriates and the host community but also national differences amongst the expatriates.”

Their chapter claims the specificity of the development environment relies on institutionalised and codified ways to approach local contexts. They state this cocoon is marked by “parochial Cosmopolitanism and the power of nostalgia”, and that “views of the local are generated not through some openness to local cultural complexities, but rather from ready-made templates there to be used by newcomers” (*ibid.*, 168). The fact that these segregated environments are difficult to burst suggests an almost inoffensive bubble. My research supports most of these academic descriptions of ‘Aidland’, emphasising the social particularity of the aid-working environment due to the high mobility and short-term posting of its practitioners.

I challenge, however, the projection of Aidland as a hermetic bubble, which involves the risk of losing sight of important dimensions of this special environment: the history and layers of segregation are frequently silenced, and the possibilities to surpass segregation by ‘changing group affiliation’ are ignored (even if limited). In Burundi and Rwanda, spheres created by international aid are more than floating bubbles of expatriate workers. These privileged environments have long impacted, and strongly, on the whole ‘recipient society’ by empowering particular actors and making others vulnerable. Such differences result in structural inequality in which the already privileged receive protection whereas the people most exposed to risks do not receive adequate protection. Through daily normalisation, these contradictions are not challenged but perpetuated by the lifestyles of aid workers.

#### ***4.1.4. Everyday Relationship in Post-Colonial and Post-Conflict Setting: Relevance for TJ Practice***

The image of a paradisiac breakfast and homes operating with servants underlines many contradictions within aid work and aid in post-conflict settings. It does not represent only a post-colonial setting in which the local ‘black workers’ are serving food to the ‘white saviours’ that they cannot afford themselves. While the presence of servants facilitates daily housework, it also creates a difficult environment in which super-privileged people and house workers must define relational barriers. These encounters reproduce various levels of social and economic divide based on professional occupations in aid-dependant projects that affect the recipient society as a whole.

The structure of interactions between the expatriate and home staff very clearly highlights clashes between mission and lifestyle: the privileged, who are supposed to strive for equality, are instead reproducing complex hierarchies and structures of inequality. Further, this is a pattern of relationship that is reproduced by the aid worker outside of his house (see in the following sections of the chapter).

Today, in contrast with extreme racial segregation under colonial authority, these settings include inequality among expatriates themselves – there is greater flexibility in the divisions; the colour of the skin, race and other dimensions related identity are not so much the focus. With a foreign passport and/or a Western education, ‘locals’, too, can acquire an expatriate status. Still, education, country of origin and background are crucial determinants of hierarchical position in Burundian and Rwandan Aidland. Privileges based on opportunities and background also affect how one interacts with another.

For the case of TJ practitioners, it is their technical knowledge of Western managerial and TJ standards that gives them access to a privileged position to ‘fix’ the post-conflict situation in Burundi or Rwanda. Structurally, this implies institutionalised assumptions that expatriates are more efficient, more knowledgeable and more trustworthy than local professionals. This hierarchical superiority, held mostly by expatriate staff, gives them more decisional power within the organisation. In an environment in which time is often insufficient, this leaves little place for consensual and negotiated positions, and thus limited value is given to local perceptions within everyday implementations. This results in everyday relations involving surveillance, support, and paternalistic or even arrogant conduct, while a discourse of equal

partnering and empowerment is preached. Such internalised and institutionalised inequality is embedded in everyday routines, in both personal and professional spheres. Routines leave these everyday relations unquestioned and unchallenged but reproduced.

Last, beyond the indirect legacies of colonialism, the legacies of violence also affect everyday relationships marked by distrust within the professional sphere. An expatriate with long experience in the region explains: “There is always a need to read in between lines, there is a very clever way to deal with it. The conflicts have created a particular way in which they communicate, it involves denial, silence, and deviation” (interview, January 2013, Burundi). As explored in the following sections, these legacies of colonialism and mass violence remain crucial points in grasping the everyday of TJ practitioners.





## Section 4.2

Defending Human Rights Day to Day:  
Spectrum of Professional Obligations



Top: World Bank Meeting for Rwanda - Creative Commons, Middle: Jean-Marc Ferré - Creative Commons, Bottom, Article 25 Flickr - Creative Commons.

## 4.2. Defending Human Rights Day to Day: A Spectrum of Professional Obligations

For most TJ practitioners, their work obligations go beyond TJ and are often associated with wider human rights matters. The political officer of an embassy, the representatives of national authorities, the head of mission in NGOs or of international organisations, the consultant and the logistician are all part of the networks that promote human rights and democracy, including TJ matters. All these different TJ practitioners would have their own specific duties within their organisation depending on its mandate and structure. The usual sets of responsibilities include many tasks to fulfil in short periods of time, with an important emphasis on accountability and the bureaucratic obligations tied to funding sources.<sup>36</sup>

This second section will unpack the daily obligations of two specific types of actor in such a network: the diplomat and the local activist. By exploring the settings of diplomatic speeches and political dialogue, I illustrate how paternalistic behaviours are reproduced. Second, looking at the registration process and political bureaucracy imposed on local activists, I reveal the political use of the discourse of the new aid paradigm. These two positions each have a crucial role in human rights and the promotion of TJ. Being part of the same structure, they sit at different positions, exposing them to distinct lifestyles, tasks and risks.

### 4.2.1. *The Diplomat – Everyday Obligations and Human Rights Promotion*

Within embassies of key donor countries, a number of diplomats hold important public roles within the aid environment by finalising agreements with local officials. Behind the public scene, they also undertake political dialogue with institutional partners in order to address matters related to sovereign socio-political dimensions, including the promotion and monitoring of human rights and democracy. A closer look at how their work is organised reveals a more nuanced picture, somehow paternalistic and post-colonial, that promotes good collaboration but with many reservations on both sides.

This review of the diplomat's everyday work illustrates: 1) How the diplomatic performative function projects a comprehensive approach to development, democracy and human rights, and 2) How political dialogue is both a central but limited instrument to impact on human

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<sup>36</sup> See most job adverts for INGOs or aid agencies – e.g., [http://www.impunitywatch.org/docs/Vacancy\\_-\\_Country\\_Programme\\_Coordinator\\_Burundi.pdf](http://www.impunitywatch.org/docs/Vacancy_-_Country_Programme_Coordinator_Burundi.pdf)

rights and justice matters. In other words, whereas attention to human rights and democracy is repeatedly mentioned in policy documents and public speeches, recurrent human rights abuses continue to be significant issues in both Burundi and Rwanda.

Given slight variations, human rights and political matters are addressed by a similar set of actors within embassies: the ambassador, the political officer, and possibly the head of cooperation. These complement the staff of the aid agency from their own country in charge of the implementation of aid policies.<sup>37</sup> The political officer is the person carrying the most responsibility related to matters of human rights and justice within the embassy. One of them based in Kigali explains: “Human rights is around 40% of my work, if you add the DRC [Democratic Republic of Congo] issues, it goes up to 60%. On the top of this, you can add economic matters, bilateral relations and visits” (interview, Kigali, April 2014). Another diplomat based in Bujumbura explains with more detail: “I am in charge of the political dialogue, the monitoring of political, human rights and transitional justice matters. I need to follow and report about all these issues to my head office. In addition, I supervise the funding of 15 NGO projects” (interview, Bujumbura, April 2014).

In both countries, current political affairs include a number of serious issues. Diplomats have to follow up and/or deal with internal frictions within political parties; repression of opposition by the ruling party; extrajudicial killings; debates over the third term of the current president; land issues; transitional justice; internally displaced people and returning refugees; security and justice reforms; acts of violence committed by Imbonerakure (youth members of the militia of the ruling party, CNDD-FDD) in Burundi; support for M23 and genocide ideology in Rwanda (see chapter 3). These ongoing issues affect diplomatic dynamics related to democracy and human rights in discussions with civil society and government authorities. Failing under the holistic approach as promoted by the peacebuilding and development agenda (as consolidation of development and security while putting an emphasis on democracy, human rights and the rule of law) as well as the claimed aims of TJ toolkit approach (accountability, non-recurrence, reparation, democratisation), indeed, all these different matters become part of the diplomats’ everyday obligations.

At the same time, there is only a small group of embassies that regularly address these political and human rights issues from an aid-incentive perspective (there are not that many

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<sup>37</sup> Such as Belgian Technical Cooperation for Belgium, Department For International Development for the UK, GIZ for Germany, EuropeAid for the European Commission, USAID for US, etc.

international donors, and some diplomatic representations are not willing to be involved in human rights or TJ discussions – as suggested in several interviews, it is mainly Western donors, hence around a dozen diplomats in each country). For instance, in relation to TJ discussions, a European diplomatic representative explained to me that a number of diplomats from other African countries are not supporting this project:

“I talked with other African Embassies. They all feel that the process is not run by Burundians. They blame the UN for pushing it too hard. ... They don't speak about TJ at BNUB meetings. They never address this in public and they don't like European ambassadors pushing for it so much” (Interview, Bujumbura, 2013).

Furthermore, the amount of time consequently dedicated to TJ matters will be very limited in general and will vary widely from one actor to another. In Rwanda, donors put a lot of effort into supporting the gacaca project at the institutional, logistical and financial levels, particularly during the preparation phase and the early implementation (1998 to 2006). At the time of my fieldwork (several months after the official closure of the process in June 2012), I was repeatedly told that “gacaca is not fashionable anymore” – no single diplomat was giving attention to it. In contrast in Burundi, only a couple of political officers were giving continual attention to the TJ process, having TJ as a key component of their institutional agenda. Other representatives of donor states reacted solely to the official process and to civil society's lobbying efforts. I now scrutinise in turn the public and backstage dimensions of diplomatic interventions with regard to human rights promotion: public speeches and political dialogue.

#### **4.2.1.1. The Public Face: Representation Duties and Public Speeches**

As part of representation duties, diplomats are required to attend all sorts of cultural and political events. These events follow a certain performative pattern, which includes spatial and protocol settings, and ideological dimensions. They take place at the most expensive hotels or the luxurious gardens of diplomatic residences. They gather specific sets of actors from the same hierarchical levels, from both national and foreign spheres. Speeches, often written in advance, are usually read by one national and one foreigner of similar rank. Speeches include similar buzzwords: praising their good collaboration; reiterating their common interest for the respect of human rights and democracy; and seeking sustainable peace and development. I participated through my fieldwork in such events on numerous occasions that reproduced these patterns, such as commemorations, conferences, policy report launches, cocktail parties

organised for special (or not so special) visiting guests, national holidays of donor countries and film screenings.

The local media will frequently publish images of diplomats and national counterparts signing contracts, cutting inauguration ribbons, shaking hands with rural beneficiaries, and will summarise the opening or closing speeches at these events.<sup>38</sup> As a perfect example of this, a Burundian newspaper, *Iwacu*, covered the signing of a new cooperation contract worth five million euros for the strengthening of national police professionalisation between Belgium, the Netherlands and the Burundian Government (Kaburahe 2014b). The article includes a picture of the two ambassadors and the Burundian ministry of foreign affairs, and comments on their speeches. The news article reports the Belgian ambassador's words as follows:

The Belgian parliament is following and observing these programmes with a lot of interest, so these reforms can lead to the establishment of a real rule of law. ... There will be the implementation of a police of police that will include an internal investigation service in charge of investigating blunders and non-respect of laws and human rights (*ibid.*, author's translation).

Considering his country “a reliable and loyal partner of Burundi”, the Dutch ambassador stated that “if good governance principles [further mentioned as respect for laws, democratic values and human rights] are not respected, there will be an impact on the funding of the project” (*ibid.*). Furthermore, these utterances represent the complex relationship between recipient and donor countries marked by a combination of cooperation, caution and mistrust – paternalistic behaviours, in other words, as described in the first section of this chapter.

Earlier in May 2014, *Iwacu* (Kaburahe 2014a) covered a similar event in which the Dutch ambassador was signing an agreement in support of 1.7 million euros for independent media. A softer tone was used because funding was for a less sensitive type of aid (aside from the fact that the media covering the event was one of the recipients). The Dutch ambassador stated: “During the electoral campaign, mistrust and tensions among political actors will increase. We hope that training adapted to current contexts will help you (the independent media) to play a regulating role” (*ibid.*). The news article further underlines that, “however, the media will not receive a blank cheque. Ethics and good management will be required. Aid will be granted in steps” (*ibid.*). These last words again underline the sensitive context in which support will always be accompanied by explicit cautiousness.

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<sup>38</sup> For an illustration of these formal events, look at official Facebook website of the Belgium embassy in Kigali: <https://www.facebook.com/pages/Embassy-of-Belgium-in-Kigali/108988062622311?fref=ts>

These examples demonstrate that Western diplomats hold a prominent position in domestic public affairs – which becomes tangible through these performative events.

Looking at the content of these speeches, there is implicit acknowledgement of political risks associated with supporting the police and overall elections process. These risks will be counterbalanced by paying attention to the rule of law, human rights and democratic values, including independent media. There are references to concepts encapsulated in the New Aid Paradigm such as the pressure to provide efficient aid through ownership, accountability and management for results. Furthermore, there is an acknowledgment of mistrust and tension. These instances reproduce a similar paternalistic relationship to that described in the first section, combining support and surveillance behaviours. In the first case, the ambassadors refer to a police of police, parliamentary monitoring from the home office, ‘good governance principles’ and financial penalties if needed. These safeguards are seen as essential when supporting sensitive sectors such as the security forces, who are widely recognised as authors of crimes.

Both the speakers and the audience are aware that these phrases and institutional surveillance measures are not as restraining as they sound. Threats of cuts to funding are recurrent tropes that are rarely, if ever, fully implemented. Yet the discourse entails a strong symbolism: the prominence of aid actors, diplomats engaging in paternalistic behaviour, and the reproduction of a hierarchical divide. The power imbalance enacted is inherent to their missions and the structure of policy implementation despite a new discourse claiming equal partnership (see the description of the new aid paradigm in chapter 2).

In the case of Burundi, these diplomats and working patterns reproduce the inequality accompanying their emancipatory and liberal missions. These speeches produce the image of their great, generous nations supporting training and professionalisation of public services, and democracy tools for the respect of human rights. A post-colonial image is present in which the emancipatory and imperial international community is omnipresent in providing aid money to public services. Donors’ representatives can threaten, criticise or encourage positions with regard to sovereign matters in a manner that would not be conceivable for a southern official to adopt towards recipient countries. It would be unthinkable indeed to have Burundian or Rwandan diplomats based in donors’ capitals making public statements about problems with regard to human rights or immigration.

A great deal of politics goes into speech production: who gives the speech, what is said, and what is implied – whether by hidden, implicit or clear messages that are perhaps contradicted by the settings and the wider context. Encouraging policy analysis through diplomatic speeches, Robert Oliver (1950, 26) brings attention to the depersonalisation process and the performativity of the speech production: “the speaker is uttering sentiments that are not specifically his own.” The formulation of a speech needs:

to ensure that they represent the policies of government for which he speaks. And similarly, the auditors may not react to his speech as, in their own proper persons, ... they must maintain whatever pattern of response is dictated by their own home governments. Because of this fact, diplomatic speech has some of the characteristics of a puppet show before a shadow audience, in which analysis must proceed far behind the scenes, both the speakers and for auditors, to discover what is really happening and why.

Similarly, an analysis of the performative stage in which speeches are read is useful to go beyond analysis of policy documents and discursive promotion of human rights in Rwanda and Burundi. In all these different speeches, human rights are mentioned but in a variety of interpretations and tones. Whereas aid for the professionalisation of the police and media have a dubious (at least, not systematic) causal relationship with human rights and democracy, the speeches connect them to each other.

With limited impacts on intended effects, these public representations and speech duties are still framed by specific social processes that Iver Neumann (2007, 194-195) comments on from speech writing experiences as the Norwegian minister of foreign affairs. Because of the objective to create a discourse behind which the “whole ministry can stand by”, he considers speeches do not aim to provide analytical value and are not politically effective. Drawing again from Lefebvre’s (1971) argument, that discourse has the capacity to link incoherent practices, the performative pattern of speeches creates the impression of rational actions to policy papers. In other words, speeches – as day-to-day activities of diplomats – create coherence and give life to policy documents beyond the bureaucratic space, without effective improvement of human rights and political contexts.

#### **4.2.1.2. The Diplomatic Backstage: Political Dialogue in Sensitive Contexts**

Behind the public scene described above, the diplomats I interviewed reported that ‘political dialogue’ is an important activity for the promotion of human rights. Framing the partnership

between EU donors and their recipient countries, the Cotonou Agreement (2000, Art 8)<sup>39</sup> promotes political dialogue as an instrument “to exchange information” and “to facilitate the establishment of agreed priorities and shared agendas.” More specifically:

Through dialogue, the parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass cooperation strategies, including the aid effectiveness agenda, as well as global and sectoral policies, including environment, climate change, gender, migration and questions related to the cultural heritage (*Ibid.*).

With the aim of encouraging cooperation beyond economic dimensions, the political dialogue refers to discussions about social, political and environmental affairs taking place among diplomats, government and civil society representatives.

The role of political dialogue in relation to human rights in Burundi and Rwanda has received limited attention in academic literature. The existing scholarship refers to the lack of a rule of law, the political insecurity, and impunity (Longman 2011; Reyntjens 2011; Vandeginste 2011a, 2011b; Reyntjens 1996), without giving much attention to the limits and flaws of approaches to promote and defend human rights, including a tripartite partnership in between government, donors and NGO and involving activities such as political dialogue, lobbying, monitoring and reporting. Some pieces of research already underline the limits of aid compliance either in relation to TJ (Subotić 2012) or the specific countries under study (Gready 2010; Schotsmans 2011; Hayman 2008; Taylor 2013b - see more details in chapter 6).

In this section, I aim to clarify what political dialogue implies concretely, to locate how TJ is integrated in the wider structure of human rights promotion. As a backstage activity, I have been refused access to most ‘political dialogue’ meetings among diplomats and institutional actors. The analysis is thus based on interviews, informal discussions and participative observation of meetings gathering diplomats and civil society.

In Burundi and Rwanda, where human rights violations are frequent under the authoritarian regimes (see chapter 3), donors promote political dialogue as a key tool for discussing these human rights issues with government authorities. They often operate on the basis of information received from NGOs. These are the various discussions promoting democratic values and human rights through ‘tripartite’ channels: international and local civil society,

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<sup>39</sup> Signed in 2000 and revised in 2010 by EU member states and 79 countries from Africa, the Caribbean and the Pacific (ACP).



through European diplomats representing donor countries, and putting pressure on decision-makers – representatives, that is, of government and public authorities.

One diplomat based in Kigali gave a positive description of political dialogue with partners in Rwanda as follows:

This is a dialogue that works out well. We meet with the government two or three times a year to discuss sensitive matters such as civil society, political party, Eastern Congo and arbitrary arrests. We talk very frankly. Among European colleagues, we contact each other regularly; we exchange emails. We have a consensual and common approach. We are very few, so we organise ourselves to divide the work among ourselves (interview with diplomat, author's translation, Kigali, April 2014.)

In the same interview, he later gave a completely contradictory statement:

The government works very autonomously here, our influencing capacities are very low. Rwanda is very proud, she is not willing to be given lessons by foreign partners. Concretely this implies that when we ask questions about an arbitrary arrest, they give a part answer and the dialogue is over. We are limited with means (*ibid.*).

This contrary statement underlines the public and private views about political dialogue. From an official perspective, discussions and meetings are taking place to address human rights and political affairs with local authorities and civil society organisations. However, when I asked this diplomat to elaborate on the content of the political dialogue, he later considered that even if discussions were happening, they did not necessarily lead to an improved human rights situation. On the contrary, the Rwandan authorities refuse to engage in substantive discussions about issues brought to them, as the diplomat's example about arbitrary arrest illustrates.

Another diplomat, also based in Kigali, acknowledged directly that political dialogue with Rwandan authorities was not very successful:

We can say in public it is wonderful and obtain something though dialogue off the public scene. There are a lot of sensitive issues. ... The partners (donors) are weaker strategically than local actors due to the sensitiveness. There are many complex matters that always go in the same direction ... such as the impartial justice system. But us, diplomats or technical advisers, we cannot say that, otherwise our visa risk to not be renewed.

In this negative evaluation of the dialogue, the interviewee brings attention to the repercussions on visas, and wider professional risks represented for them in undertaking lobbying on sensitive issues. There are both personal and professional threats for critical diplomats if they voice a negative analysis of the situation. Particularly for political officers, who are often in the early stages of their careers after a long recruitment process, being ejected from the assigned country due to bad relations is a risk that few would dare to take. Overall, I observed

diplomats having to navigate the political dimensions of technocratic obligations with limited opportunities to impact positively on human rights.

This said, all diplomats interviewed in Kigali affirmed that gacaca was not a concern and that no discussion was taking place with the authorities on the follow-up of its closure. A representative of a human rights INGO affirmed that he did not undertake any lobbying about gacaca despite his concern about it. He explained that he did not have sufficient time with diplomats; he would bring to discussions with them only the issues that were considered the most serious:

You have a limited amount of time with important players through which real advocacy is permitted. We have not dropped it [concern about gacaca] with senior representatives ... Other events are taking over, all the embassies only want to hear about M23. .... When gacaca closed in June, issues around M23 were getting crazy. Conversations with high-level diplomats in Kigali were focused on M23 (interview with NGO representative, Kigali, Rwanda, January 2013).

Aside from defiant government authorities, this interviewee underlines other limits of political dialogue. Given the limited time diplomats dedicate to human rights and political matters, only a number of issues considered the most serious could be dealt with. So even if some NGOs held concerns about the gacaca process, these would not be brought to the political dialogue. Simply put, my scrutiny of political dialogue in Rwanda demonstrates its clearly limited impact for the promotion of human rights: political dialogue can address only a limited number of issues and have limited success – and hence leaving no space for discussions about issues related to the closure of gacaca.

In Burundi, the political dialogue between donors and the government of Burundi gives an appearance of better collaboration. Unlike Rwanda, Burundi does not use international guilt or post-colonial accusation to influence discussions. However, government officials still ignore most recommendations. In terms of TJ discussions, the authorities ignored some of the correspondence sent from the TJ unit of the UN mission from December 2011 to December 2012. This meant there was then no institutional framework to undertake any negotiation.<sup>40</sup> From a general perspective, an European diplomat based in Bujumbura explained the weakness of their role in political dialogue: “The international community here is small and

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<sup>40</sup> Every diplomat interviewed in Bujumbura explained they were engaging in political dialogue. I thus decided to dedicate one of the sessions of the summer school to reading critical scholarship with diplomats (see chapter 6) on political dialogue and risks with international pressure in relation to TJ matters. Through the session, it became clear, however, that none of them was really undertaking consistent discussion on that matter (at least at that time) with the Burundian government.

fragile. It is not as strong as one can believe. Only a certain group of countries deal with human rights issues. Others do not pay attention to issues related to human rights.”

Finally, these quotes from interviews all underline that the political dialogue undertaken by diplomats with government and civil society representatives is limited. They have limited capacities in terms of political leverage and human resources. In both Rwanda and Burundi, around ten diplomats are supposed to influence better human rights performance with uncountable cases of human rights abuses raised by the wider network defending human rights. While political dialogue can address only a limited number of matters, diplomats do not necessarily have capacity to induce change or improvement within these authoritarian regimes, particularly in Rwanda, where the authorities generally reject any type of foreign critique.

#### **4.2.1.3. Diplomacy and Human Rights: Everyday Efforts and Impacts for TJ**

In conclusion, the exploration of the role of diplomats underlines the range of their obligations along with their limited capacity and opportunity for addressing human rights promotion, of which TJ is a component, in an effective manner. Given the fact that human rights and democracy issues in these post-conflict contexts cover an important number of serious problems, resulting from past violence, ongoing human rights violations and the risk of future violence, a heavy agenda is put on their shoulders – even when simply monitoring the issues without improving the situation.

Behind the public discourse supporting human rights and democracy, the everyday work of diplomats signals paternalism (telling recipients how they should behave) and Western supremacy (only Western countries participate in these activities promoting human rights democracy in the two countries – other diplomats from African and Asian countries do not get involved), which relies on a problematic historical and cultural supremacy. This contradicts the discourse of equality and emancipation.

Speeches and political dialogue do not have sufficient capacity to improve democracy or human rights situations, including TJ matters. The professional obligations of diplomats, with both bureaucratic and protocol dimensions, can be perceived as pretences to action. The time-consuming nature of the obligations, however, becomes a burden. Rarely are the established aims achieved. Most practitioners are aware that this does not lead to solution of the human rights and governance issues at stake. Reviewing typical professional obligations for diplomats who operate as key aid brokers in recipient countries, this section underlines that the trend of

an institutionalised holistic approach is affecting their work beyond TJ. The global agenda for aid efficiency, the new aid paradigm, is also giving them guidelines on how to approach human rights and security and a wide range of issues.

However, technocratisation is serving a very specific purpose. From an institutional perspective, these professional obligations are a waiver for the potential risk of blaming donors. Economic and political support to authoritarian regimes involves the future risk of being blamed for having blindly supported regimes that committed mass atrocities and serious violations of human rights (as happened with regard to Habyarimana's regime in Rwanda).

At an institutional level, the presence of diplomats on both private and public stages is omnipresent. As aid-dependent countries, Burundi and Rwanda have politicians who meet to negotiate and agree on budgets and strategies with diplomats on a daily basis. While the comprehensive aid approach (resulting from the new aid paradigm) increased attention to human rights from Western donors, available tools proved to be limited in making a real difference. Everyday obligations undertaken within protocol rules demonstrate an institutionalised approach to human rights promotion that goes unchallenged and unquestioned. Looking at human rights from the perspective of local activists, the following sub-section describes how bureaucracy is used politically by government authorities to obstruct organisations from denouncing human rights violations.

#### ***4.2.2. Human Rights Activists: Political Bureaucracy in Everyday Work***

This sub-section describes professional and bureaucratic obligations for staff of local civil society dealing with sensitive human rights issues. Whereas all human rights and TJ practitioners are dedicated to the same mission and operating under interdependent structures to implement aid policies, this section demonstrates how stakes are different for actors at the front line of the defence of human rights, particularly for the most critical ones. On the one hand, political institutions in both Rwanda and Burundi impose heavy procedural obligations on NGOs and civil society to undertake their work through a long and demanding registration of the organisation and its staff. Furthermore, intimidation of critical voices and local human rights activists has been reported as common practice (e.g., Human Rights Watch 2013; Human Rights Watch 2007; Human Rights Watch 2014c; Amnesty International 2012; Amnesty International 2015). Registration is motivated under the claims of sovereignty, but mainly aid efficiency and coordination. In the example below, the Rwanda Governance Board,

an institution fully embracing the good governance agenda and various components of the new aid paradigm, extensively abuse politically technocratic procedures to silence critical voices through registration processes.

Challenges faced by human rights NGOs, particularly local ones, have been reported by several scholars working on Rwanda (e.g., Straus and Waldorf 2011; Longman 2011; Gready 2010). These pieces of research refer to the following practices as common in the intimidation of organisations monitoring human rights: infiltration by people close to the RPF regime, a difficult and long registration process, and intimidation and imprisonment. My interviews with NGO staff also indicate that bureaucratic assessments imposed by both donors and local institutions have heavily increased and diversified to become a burden in everyday work. In Rwanda, the most critical organisations are continually under the threat of new bureaucratic burdens from all sorts of Rwandan public institutions, which impedes on their monitoring and lobbying about gacaca matters.

In Burundi, human rights and civil society organisations have been described as weak and disorganised. Most of these organisations are also considered to be affiliated to the political opposition (More 2010; Palmans 2005). Both local and international NGOs face difficulties in the registration process (though not as severe as those in Rwanda) for political and cronyism reasons. By unpacking obligations imposed on local organisations, I aim to underline the political use of bureaucracy and the discourse of new aid paradigm to constrain critical voices and the impact this has for human rights promotion of which TJ is an element.

#### **4.2.2.1. The Registration Process: Political Bureaucracy**

As an extreme example, I describe here how the registration process became a strong political tool in the Rwandan aid context. New obligations and legislation were introduced in 2012 for the registration of NGOs, claimed to be for the sake of aid efficiency, harmonisation and good local governance. All NGOs, even the most collaborative ones, must comply with a heavy bureaucratic process. Every year, local organisations need to bring to the Rwanda Governance Board (RGB) the following documents for registration:<sup>41</sup>

1. Application letter addressed to the CEO of the Rwanda Governance Board;
2. Authenticated statutes in conformity with the law no. 04/2012 of 17 February 2012;

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<sup>41</sup>[http://www.rgb.rw/fileadmin/user\\_upload/pdf/REQUIREMENTS\\_FOR\\_NGOS\\_Action\\_Plan\\_Plan\\_Format.pdf](http://www.rgb.rw/fileadmin/user_upload/pdf/REQUIREMENTS_FOR_NGOS_Action_Plan_Plan_Format.pdf)

3. Document showing the organisation's head office and its full address;
4. The name of the legal representative of the organisation, the name of their deputy, their duties, full address CV and their judicial records;
5. The minutes of the general assembly that appointed the legal representative of the organisation and the signatures of all the members who attended such a general assembly meeting;
6. The action plan for the fiscal year
7. Original district collaboration letter.

Among these documents, the authenticated statutes from RGB (2) and the original district collaboration letter (7) require long negotiations with different levels of authorities to be obtained. The action plan for the fiscal year (6) entails many details about planning, strategies and finances, and is not easily predictable one year in advance, due to the long difficult parallel process to obtain funding. In terms of the content of activities and strategies, every NGO has to negotiate its actions according to the agendas of the ministry in charge of the field in which it aims to intervene, of the authorities in each district it aims to work in, and of the RGB. Besides, requirements 4 and 5 could be seen as highly intrusive by organisations that distrust government authorities. Even with documents gathered, the RGB has refused individuals from representing organisations, as illustrated below.

The authorities do not have to approve just the agenda of the organisation; the organisation must also comply with the targets of the ministry and the district strategies they wish to collaborate on under the name of harmonisation and alignment (as promoted by the New Aid Paradigm; see chapter 2). In practice, however, this legal framework becomes a political tool to restrain and block NGOs trying to do critical work. Registration is one of the many examples recounted by research participants during my fieldwork in Rwanda spread over 2012 and 2014. In all cases, Rwandan authorities use the discourse of good governance and elements of the new aid paradigm (defined in chapter 2) for political ends through bureaucratic means.

Authorities should not, however, been seen as a homogeneous machine – indeed, micro-politics affect these different steps of negotiation, as illustrated by visa applications for expatriate aid workers. For instance, there were rumours that IDEA had to leave Burundi after refusing to hire a relative of a member of staff from the registration office; the head of mission of another INGO was expelled from Burundi after not renewing the contract of an employee who had a family connection in the registration office; ASF was refused its research

authorisation after Belgium refused visas to family members of a high-level member of staff at the SNJG. There is no direct evidence that these decisions are solely caused by these personal matters – however, rumours are frequent enough to affirm a belief that they influence these institutional decisions.

Even if in the end NGOs manage to comply with this overzealous bureaucracy, the authorities would have succeeded in obstructing their work with a time-consuming annual process. Some interviewees explained that once one accreditation had been obtained, preparation for the next already needed to be started. They explained that it did not leave any space to critique the government, or to undertake activities that national and district authorities disagreed with. They would face constant difficulties negotiating every level of requirement. Compliant associations would experience an easier registration process. An association that did not fully follow the political agenda and discourse was likely to have problems at every step, as demonstrated in the following example of the Rwandan League for the Promotion and Defence of Human Rights (Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme – LIPRODHOR). As the following explains, donors couldn't do anything about it even when they finally thought it was necessary

#### **4.2.2.2. LIPRODHOR's Bureaucratic Ordeal: 'We are Fighting Against Something Beyond our Power'**

LIPRODHOR monitors, researches and denounces human rights abuses, as well as provides support to victims of these abuses. The organisation holds a critical view on the current political and judicial situation in Rwanda. Such position indirectly rejects and comprises the RPF's discourse on the successful "new and united Rwanda". This perspective led the parliament to request the dissolution of LIPRODHOR in 2004 after a parliamentary commission report accused the organisation of having a genocide ideology (Human Rights Watch 2004 – see also chapter 3 about the legal framework that forbids genocide ideology). A number of LIPRODHOR members left the country after this assault and the consequent threats (Longman 2011). Academic work already underlines some of these challenges in the Rwandan context, in which the government is averse to criticism (Straus and Waldorf 2011; Gready 2010; Reyntjens 2011).

LIPRODHOR's struggles continued through further political use of bureaucratic obstacles and intimidation beyond the registration process. During my first set of fieldwork in January 2013,

the organisation had already reported a number of serious administrative problems. It could not get authorisations to visit prisons for several months while having long been a key actor in the monitoring of prison conditions. Significantly, the organisation was expelled from its offices by local authorities. A staff member explains:

We had to close our office from 3rd November 2011 to 4th January 2012. The reason given is that we worked in a house for residential purposes in the district of Nyaregege. We were ordered to leave by the urbanism administration and the police at the district level. ... In order to be able to use the building again, we needed to refurbish it. This is a house with two floors; this implies enormous costs. ... Because of the moving, we now have to pay a rent. We had our house. Moving out was very expensive. The filing of documents is difficult here [in the new office]. All our files are in containers. I do not have a private office anymore. Now I have to go out with any claimant who comes and sees me. ... There, it was our home. We had an easy access. It was calm and secure in addition to rent issues (interview with an NGO staff member, author's translation, Kigali, January 2013).

This interdiction to use their own building was presented as national urban policy. It affected the organisation at logistical, financial and morale levels. In the same week, I asked diplomats for their view of the LIPRODHOR situation. I was given paradoxical answers, such as the following:

To say that the civil society situation is worrying, is overstating it. Yes it is difficult. Some NGOs held a dubious role during the genocide. This enables us to understand fears, even though it is exaggerated. More room should be given to human rights NGOs. The government does not take any risk. Human rights NGOs do not have real capacities to play their role. It is a difficult environment. ... We financed LIPRODHOR for years. The budget line supporting local ONGs does not exist anymore, the one that supported CLADHO and LIPRODHOR (interview with a diplomat, author's translation, Kigali, January 2013).

This interviewee used the legacy of the conflict to justify the authorities' (ab)use of bureaucracy and restraints on local civil society organisations. He acknowledged that the situation was difficult for human rights NGOs, but did not express intention to support them more actively. More generally, there were signs that independent human rights NGOs became increasingly muzzled, but diplomats did not give them much support at these stages.

During the next stage of my fieldwork, in September 2013, most informants talked about the 'LIPRODHOR's Putsch', referring to the removal of some members of the board, including its own director. A new board of directors was elected during an extraordinary meeting organised by people considered to be close to the regime. The members who were ejected contacted RGB, the National Commission for Human Rights and several ministries. They wrote to ambassadors and FIDH and started to make noise. LIPRODHOR's removed director explains the causes of his removal:

Everything went worse when we decided to leave CLADHO [the Collectif des Ligues et Association de Défense des Droits de l'Homme au Rwanda – a network of Human Rights  
*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*



organisations in which LIPRODHOR was playing a major role]. We were founding members, but we had no more room for manoeuvre. ... This was after the vice-president of LIPRODHOR was appointed as the vice-president of CLADHO. But the RGB refused to approve the CLADHO committee.... I was threatened personally (by RGB staff). We informed FIDH, HRW, LDGL, the East and Horn African Association for Human Rights Defenders, Amnesty International, Front Line, KIOS, 11.11.11. ... Finally RGB accepted the committee in January. Later the RGB nominated an intermediary committee with members who were not even members of CLADHO and then we decided to leave jointly with two organisations. ... I was threatened and pressured to go back on that decision. I refused, and I was told, you will have to deal with the consequences, and now I am on trial as we brought to court this decision [of having been removed as the representative of LIPRODHOR].

... We are fighting against something that is beyond our power. We are threatened, we must be very careful. ... We are risking our lives through prison or violence. They can invent anything against us to weaken us. ... We risk our houses, our jobs, our life. An accident can easily happen, you are dead and they say it was an accident. They can invent anything to put you into jail... My friends and family are telling me to stop; I am starting to be scared (interview with an NGO staff member, author's translation, Kigali, September 2013).

Further and repeated attempts to destabilise LIPRODHOR and its partners indicate the abusive political use of bureaucracy. This event was reported by INGOs, which themselves have faced similar issues when operating in Rwanda (Human Rights Watch 2013; Fédération internationale des ligues des droits de l'Homme 2014). In April 2014, diplomats told me of their serious concerns for the situation faced by LIPRODHOR. They explained that they were following the situation closely, by regularly meeting the removed director and attending the court hearing of his case to overturn the change of board of directors. One interviewed diplomat considered this could at least help 'to avoid most flagrant procedural abuses' by the judicial system. The British Foreign and Commonwealth Office writes in its 2014 report on human rights and democracy:

We are concerned by the role that the Rwandan authorities played in the change in leadership of LIPRODHOR, one of the last remaining independent human rights advocacy organisations in the country. A court case has been initiated, which the British High Commission is following closely, including by attending hearings (Foreign and Commonwealth Office 2014).

In August 2014, more than a year after the case was brought to court, the judge decided that he could not hear the case since the removed director should bring his case against LIPRODHOR, the association itself, rather than the new leading members (RFI 2014). These successive obstacles and threats were put in place partly by the RGB, which is in theory a public institution to improve good governance in development projects. It has become, though, a tool for the regime to control and weaken critical organisations. This example of LIPRODHOR illustrates how critical activists are encouraged to leave the battle by an increasing bureaucratic burden and personal threats.

I raised these everyday difficulties with LIPRODHOR staff while addressing their follow-up of gacaca. At the first interview in December 2012, they had finished a research report about population satisfaction with gacaca. Aside from the problems mentioned above (such as delay in obtaining monitoring authorisation, eviction from their office, difficult registration process), their research partner had been intimidated by authorities and had withdrawn from the project. The publication of the research was then put on hold. Even after the official closure of the gacaca process, people came to seek help to deal with issues related to gacaca (such as finding trial documents to free a prisoner found innocent or to appeal a decision). Towards the end of gacaca, the SNJG stopped reacting to LIPRODHOR's claims. In turn, LIPRODHOR could not provide any support to requests.

LIPRODHOR's bureaucratic ordeal demonstrates how these obligations to comply with the legal framework forced it to give less attention to its core work of denouncing human rights abuses and providing support to victims of violations. As an example of everyday complexities that TJ practitioners must go through, this case of local activists underlines how threats associated with work carry risks not only at a professional but also at a personal level.

The Burundian context presents similar cases, with security threats against human rights activists. Ernest Manirumva, who was the vice-president of l'Observatoire de Lutte contre la Corruption et les Malversations Economiques (the Observatory of the Fight against Corruption and Economic Misappropriation – OLUCOME), a Burundian NGO denouncing corruption, was found dead in 2009. Prior to this, he had been investigating embezzlement and arms trafficking among the national police force. Pierre-Clavaire Mbonimpa, the president of APRODH, one of most respected human rights associations in the country, was imprisoned for several months in 2014 after publicly denouncing military training of Imbonerakure in the Democratic Republic of Congo. For local activists who resist the system, there are a lot of risks beyond the professional sphere. A lot of pressure is placed on activists in their personal environment. There are continual risks of imprisonment for minor crimes, of being subjected to false allegations, of political exclusion, and even of being killed – without sufficient support from Western donors in spite of a commitment to human rights. This represents very serious unintended effects of the new aid paradigm and its technocratic practices: with authorities using the global agenda and donors' financial support to silence critical voices and consequently restrain the freedom of speech and association under the name of aid coordination and efficiency. Ultimately, the new aid paradigm defines not only an ideological

agenda of what aid practices should achieve, it also pragmatically frames the everyday work of aid-dependent organisations. Political motivations behind registration for coordination have led to very different results. In the case of Rwanda, the RGB destroyed critical civil society and encouraged other organisations of civil society to not be critical.

#### **4.2.2.3. Impact on TJ practice of Everyday Political Bureaucracy**

Not every person is ready to endure such pressure to undertake critical promotion and defence of human rights. Indeed, a number of practitioners and organisations tend to comply with these bureaucratic obligations with a strong political connotation imposed by Rwandan authorities. The bureaucratisation induced by the ‘new aid paradigm’ for more efficient aid indirectly led to a paradoxical situation: independent NGOs are constrained in undertaking sensitive work by the same structures and institutions that promote the respect of human rights and good governance (such as RGB for instance). These critical organisations received limited support from the international community, particularly in Rwanda. In turn, compliant NGOs consequently receive more support from the international community by acting as implementers of official agendas, complying more efficiently with managerial obligations and hence running their funded activities more smoothly.

Donors are aware of the challenges related to human rights. For instance, report of the UK’s aid agency, DFID, describes its human rights approach as the following: “Rwanda, where the human rights environment is challenging, is still at an early stage. Understanding the situation better and looking for entry points in existing programmes is the strategy that has been adopted” (Piron and Watkins 2014, 35). In reality, DFID supports those current human rights projects that are not the most politically sensitive, such as women’s access to land, violence against women and eradication of poverty (interview, Kigali, February 2013). In this case, among those of others, the expansion of a human rights discourse to economic, social and cultural issues, turned out to be a useful vitrine for human rights promotion and a legitimatising waiver for leaving political emergencies untackled.

More generally, the overzealous use of political bureaucracy in Rwanda and the personal threats led human rights organisations to undertake gradually less-sensitive work on gender issues, access to land for women, training in mediation skills for local authorities, legal aid support to victims of non-international crimes. There is an increasing number of local NGOs acting as implementers of governmental or international aid agency agendas. These issues are

of course important and would face similar political challenges on a lower scale. But it remains important to question whether turning to less sensitive issues with a technocratic approach really serves the search for entry points or closes the space for critical organisations.

For the case of Burundi, a Burundian political actor described to me how he views the emergence of these associations without clear agenda or mandate, while also acknowledging the important work of some human rights NGOs:

Civil society is good, they denounce governmental abuses ... this restrains the government to do whatever he wants.... These who set up civil society are putting in place structures to receive aid. When they stop receiving aid it shuts down automatically, this is not normal. ... There is no national organisation of civil society that can sustain without international aid. We can thus say that they are structures through which international aid flows to finance cars, staff and consultancy. There is only one NGO that tries to write reports; it is APRODH. The others circulate job adverts; consultants will look for stories to fill in the pages. ... There are very few engaged people in Burundi. Many are looking for wages. This is what makes civil society grow like a mushroom (interview with a political actor, author's translation, Bujumbura, October 2013).

This sarcastic description of the proliferation of civil society organisations shines light on the creation of opportunistic organisations drawn to the professional market created by international aid. Both the politically constraining environment and the bureaucratisation of aid have indeed encouraged organisations that comply with heavy bureaucratic process (which in the extreme cases do not have specific agendas and are opportunistic). At the same time, organisations that decided to be more critical in fighting for political changes can be disadvantaged financially and receive less political support since they cannot cope with legal and accountability obligations.

## Conclusion

By recollecting the everyday activities of TJ practitioners, the chapter demonstrates the way in which the everyday projects the illusion of rational action beneath ubiquitous contradictions that have gained coherence through discursive and routinised acts, to a point at which their inefficiency has become almost invisible. The everyday lifestyle and working patterns give more insight on how routines and discourse maintain the counter-effective technocratic work, expert language and contradictory aid missions within these ultra-sensitive and unequal contexts. While everyday practices reproduce inequality, practitioners also tend to blame the localised context rather than the inappropriate approach or structure.

From breakfast to returning home at the end of the day, from a meeting to a speech, from one bureaucratic obligation to another, every moment in Aidland is marked by ubiquitous

contradictions. There is a rational explanation, at least an institutional one, behind each contradiction, and preformatted approaches to respond to it. Expatriates need servants because of time and pragmatic constraints; expatriates need higher salaries because they have different living standards and better qualifications. Speeches and political dialogues are performative acts that enable bureaucratic obligations and are important for the purposes of accountability and efficiency. This chapter demonstrates that very few people in the field fully agree with these rational explanations – routines, however, keep being repeated. Within both social and professional spheres, routines and readymade approaches have then been institutionalised.

Such observations have two main implications for understanding the structural context. First, the multi-layered segregation and inequality are reproduced through the everyday practices and the definition of different treatments: wage scales and benefits among different aid workers, secondary staff and beneficiaries. Through their institutionalisation, aid practices reinforce the structure of inequality against which they are supposed to fight. Second, observations highlight that the social environment in aid-recipient countries goes beyond a divide of international and local dimensions. More specifically, the idea that international interventions need to deepen their understanding of the local context in order to improve their efficiency (Autesserre 2014) is challenged by my observations.

No clear-cut divide therefore exists between the international and the local in Aidland. Hierarchical structures go beyond race and country of origin. There are people from all sorts of backgrounds in all sorts of positions (but with a majority of white expatriates in the higher positions). Through various opportunities – extended stays in Western countries, marriage with an international, a mixed background – Rwandan and Burundian nationals have reached expatriate positions with expatriate package benefits. Some white junior expatriates are frequently entitled to fewer benefits. The hierarchies within the peculiar aid context are affected by wider social dimensions as well as by local contexts. Daily interactions are marked by paternalism, otherness and normalised segregation.

Further, making a parallel analysis of the everyday of diplomats and local activists underlines the structural inequality and limits of human rights promotion in general. On the one hand, the international donors repeat the importance of democracy and human rights despite limited efficiency. The analysis above highlights the consequences of everyday actions and routinised professional practices in Aidland: creating an environment in which assumptions and practices are not challenged; silencing failures and the hypocrisy of human rights promotion. This in

turn normalises the discrepancies between the everyday efforts of different cohorts at the two ends of the spectrum: the burden of trivial bureaucracy and security threats. It also creates tolerance for and justifies ubiquitous contradictions.

On the other hand, at a personal level, risks are different depending on one's background. National activists who are considered fundamental actors for human rights promotion continually put their personal lives in danger. With few exceptions, international activists are exposed to lower risks – they might lose their jobs, be expelled from a country or be relocated somewhere else in Aidland.

Finally, the chapter underlines three key aspects of bureaucracy. In everyday work, bureaucracy can be perceived variously as a combination of pretence to action, become a burden or be deployed as an obstacle. Bureaucratic obligations are time-consuming, with limited impact on addressed issues. For TJ practitioners, bureaucratic requirements become a burden, as having to deal with serious and sensitive issues in a systematic manner does not offer redress. From an institutional perspective, it is the pretension of attending to human rights and democracy that complies with policy discourse. Finally, bureaucracy becomes an obstacle when it is deliberately used by governmental authorities to discourage critical voices. Through disproportionate requirements for registration and authorisation of activities, the structure of the new aid paradigm can become a tool of political bureaucracy.

As a result, everyday practice paradoxically turns into a distraction from core work for TJ practitioners and other actors in human rights networks. For the practice of transitional justice, the implication is that practitioners do not have TJ implementation as their only, or even their main, concern for their time in the field. The social structure and pragmatic working framework require them to deal with restrained time, knowledge and a contradictory structure in a claimed comprehensively holistic approach.



# Chapter 5

Training and Sensitisation:  
TJ Practitioners Engaging  
with Beneficiaries



Top: Sensitisation in Rwanda - Simone D. McCourtie - Creative Commons,  
Middle: Cover of Burundian Magazine on Truth and Reconciliation, Bottom:  
Kibimba Commemoration Site, Burundi - © Astrid Jamar

## Chapter 5: Training and Sensitisation: TJ Practitioners Engaging with Beneficiaries

### Introduction

For most of TJ practitioners, their daily work consists of implementing a set of activities that reinterpret and disseminate the TJ international discourse to their beneficiaries. Working mainly for local and international NGOs, they organise training, sensitisation campaigns, lobbying and monitoring projects, and conduct research. This chapter describes the institutional context of these efforts to train and sensitise various actors on TJ concepts by showing ethnographically how international aid operates very similarly in very different contexts. Specifically, it demonstrates how the ‘TJ toolkit’ approach is put in place with respect to the TJ processes in Rwanda and Burundi, but promoting a predetermined ideology and implementing a set of activities.

As a key part of its TJ policy, the Rwandan government mandated the participation of its population in the gacaca courts. From 2002 to 2012, 15,300 courts ruled on nearly two million cases (see e.g., *The New Times* 2012; Avocats Sans Frontières 2010). Despite extensive literature about gacaca, limited research has looked into the preparation of gacaca. First, the local population had to elect Inyangamugayo, within their community. Selected as ‘persons of integrity’, Inyangamugayo then served as judges and ruled on genocide crimes and crimes against humanity that took place in their own community. I scrutinise in this chapter how donors, NGOs and national institutions organised training for Inyangamugayo and sensitised the population to encourage their participation in the gacaca process.

In 2000, Burundian political actors and belligerents engaged officially in the implementation of the Arusha Peace and Reconciliation Agreement (APRA), which included accountability, reconciliation and judicial TJ measures. After passing a law on the National Truth and Reconciliation Commission in 2004, ongoing discussions made little progress for a decade (Stef Vandeginste 2012; Rubli 2013). Throughout this period, dozens of aid-dependent organisations provided training on TJ concepts in order to encourage the population’s participation in this stagnant TJ process.

As mentioned in chapters 1 and 2, research on aid practices around the world reveals the negative impacts of the professionalisation and technocratisation of the international aid



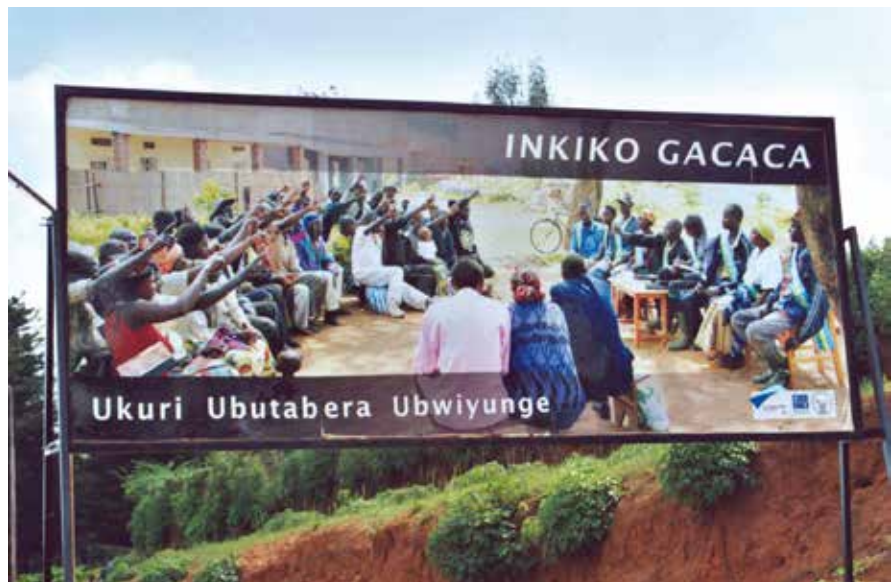
sector. This literature underlines how technocratisation is affecting aid work with unexpected outcomes. For example, research has shown that these approaches enable depoliticisation (Uvin 1998; Holvoet and Rombouts 2008), reproduce inequality (e.g., Roth 2012), and silence social dynamics and contradictions within the aid environment (e.g., Baaz 2005). While the TJ literature does demonstrate frictions between aims, policy and practice, this chapter scrutinises in detail the effect of the TJ toolkit approach by looking at the organisation of training and sensitisation. In these activities, TJ practitioners meet directly, and communicate with, their ‘beneficiaries’ – the population. Looking at these interactions allows us to understand frictions between intentions, actual practices and outcomes.

The training and sensitisation activities I analyse in this chapter frequently promote unclear concepts such as ‘truth’, ‘pardon’, ‘justice’, ‘reconciliation’ and ‘reparation’. These are good examples of Andrea Cornwall’s (2007, 473) definition of aid buzzwords, given that “they combine performative qualities with an absence of real definition and a strong belief in what the notion is supposed to bring about.” These buzzwords are disseminated through different channels, and often via training and sensitisation tools.

In development practices, training is supposed to contribute to capacity-building and sensitisation, to enhance social change. What they really bring to the people targeted and to the whole community, however, is questionable. Looking at the repetitive use of undefined concepts, silenced reinterpretation and adaption of simplistic discourses through activities, this chapter also highlights how TJ practice has institutionalised the idea that ‘justice’, ‘truth’ and ‘reconciliation’ can be achieved through training and sensitisation initiatives. I address the following three questions in this chapter: 1) What does the ‘TJ toolkit’ concretely entail in terms of discourse and activities? 2) What are the frictions between policy discourse and practice? 3) What are the power dynamics in play?

Such technical approaches are present not only in organisations working for TJ processes, but in many other development sectors, too, such as health, education, gender and human rights. In line with existing literature in relations to these other sectors, my empirical analysis underlines the processes of ‘technocratisation’ and ‘depoliticisation’ of TJ practice, as a result of which the aid provided does not necessarily empower the population to overcome the challenges identified. I argue that complex social dimensions hidden behind a technocratic facade partly result from legacies of the conflict, but is also due to aid practices. I also show

how that these silences have the potential to aggravate the issues tackled rather than to alleviate them.



## Section 5.1

Dissemination of the Toolkit  
Approach: Forms of Training  
and Sensitisation



Top: Gacaca Billboard - Robin Kirk, Creative Commons, Middle: cover of Inyangamugayo procedural guide, Below: Training on TJ in Burundi - © Astrid Jamar

## 5.1. Dissemination of the Toolkit Approach: Forms of Training and Sensitisation

The extensive use of training and sensitisation results from contemporary aid strategies to promote aid efficiency through ‘empowerment’, ‘ownership’, and the ‘strengthening’ of civil society. Efforts towards capacity-building and the development of ‘good practices’ have been widely undertaken around the world by international organisations (Clarke and Oswald 2010). The training and sensitisation projects I observed during my fieldwork claimed to inform people about TJ concepts or specific procedures, to encourage them to take part in the official processes, to seek truth and reconciliation, and to heal their trauma while contributing to justice. I observed that such activities also aimed to seek funding, lobby for particular issues, set up organisational or thematic strategy, and/or present research outputs.

Among the few thousand documents gathered, I collated workshop and sensitisation tools relating to the Burundian TJ process (2004 to 2014) and the gacaca process (1998 to 2012). Burundian and Rwandan TJ matters have been debated for more than 20 years, in all sorts of places, from Geneva, New York, Cambodia and Dakar to the remote Rwandan and Burundian hills – but in the latter countries mainly in hotel conference rooms in the capitals of Bujumbura and Kigali and the cultural cities of Gitega and Butare. My empirical data cannot therefore be exhaustively representative of activities undertaken in relation to the two processes under consideration, but are rather illustrative.

In Rwanda, I identified three sets of training of the trainers, 14 sets of material for training of Inyangamugayo<sup>42</sup> and three training tools related to the gacaca law from 2000 to 2008.<sup>43</sup> To these can be added 18 international workshops discussing the gacaca policy model.<sup>44</sup> Gacaca

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<sup>42</sup> For example, training of judges of the pilot phase (2002); training of cell judges on data gathering (2004); training of sector judges before the launch of the judgment phase (2005), training of cell judges on prosecution of third category crimes and mediation procedure (2006), training of sector and appeal judges on the 2007 New Organic Law (2007), training of sector and appeal judges on first category crimes (2008) (source: NGO Reports and correspondences with NGO staff).

<sup>43</sup> First, the Supreme Court issued a gacaca manual for judges. In 2002, PAPG set up a training module for Inyangamugayo. In 2005, the SNJG circulated simplified instruction booklets.

<sup>44</sup> For example, Round Table Conference on Justice and Security of Persons and Goods (Kigali, 1996); workshop on role of international community in justice rebuilding (Butare, 1998), seminars on reparations for victims of genocide and Crimes against humanity, on community service, on gacaca courts (Kigali, 2000); genocide victims compensation (Kigali, 2000), round table meeting on gacaca courts (Copenhagen, 2000), informal seminar on donor support for a ‘modernised gacaca’ in Rwanda” (Brussels, 2000).

government officials also established 20 different tools used to sensitise the population during the gacaca process (Babalola et al. 2003). This does not include all the sensitisation tools produced by INGOs for the same purpose.

In Burundi, while the official TJ process has not been launched, many activities have been undertaken to sensitise and train the population. Around 15 different series of workshops have been organised,<sup>45</sup> and I identified four different types of sensitisation tool. I have personally attended dozens of training sessions and workshops. Events that I did not attend were studied through the analysis of gathered textual and multimedia materials as well as through interviews with informants (participants, donors and organisers).

The following sections describe five different projects delivered by international aid organisations to enhance capacity-building and empowerment. These examples were selected to represent different delivery formats and targeted audiences. The case studies present, in turn, an event sensitising high-level political and institutional actors, a training programme for local implementers, two sensitisation activities for small groups of people, and, finally, materials used for mass sensitisation. The following areas are addressed within each vignette: background information highlighting frictions between policy engagement and practice, the reinterpretation of buzzwords through dissemination, the power dynamics in play, and the technocratic obligations that silence legacies of conflicts. I also discuss a four-month workshop that a colleague and I put together in order to encourage critical thinking among TJ practitioners in Burundi. Such experimental research was interesting in the exploration of the challenges and limits of training, especially since I attempted to transfer knowledge and enhance changes beyond the mainstream technocratic approach.

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<sup>45</sup> For example, “Colloque sur la Justice en période de Post-Conflict” (Bujumbura, 2005); “Atelier sur la gestion des dépouilles mortelles et la question des personnes disparues” (Bujumbura, 2011); “Colloque international Repenser le Changement Post-Conflict – Quels modèles de coopération en Afrique des Grands Lacs ?” (Bruxelles, 2011), “Atelier international sur les Mécanismes de la justice de transition: leçons apprises des commissions de vérité et réconciliation” (Bujumbura 2011); “Atelier de réflexion sur les Droits de la Femme et ses Priorités en termes de réparations dans les mécanismes de justice transitionnelle” (Bujumbura, 2011); “Dialogue and Exchange Program – Study tour of Burundian Parliamentarians for understanding the different stages of the TRC (with a focus on the law)” (Cape Town, 2013).

### ***5.1.1. Sensitisation of High-Level Stakeholders and the Creation of Standards (Burundi)***

In July 2011, the Association of European Parliamentarians for Africa (AWEPA) and the Burundian Parliament jointly organised a workshop on TJ and on the functioning of the TRC. Gathering important policy makers, this workshop aimed to encourage Burundian members of parliament (MPs) to take part in the TJ debate prior to the preparation of the TRC law. The 373 participants included a diversity of high-level staff from political, judicial and diplomatic spheres. The event was a typical example of a high-level gathering in which well-known experts and policy actors jointly discussed a model under development.

In his opening speech, Pie Ntavyohanyuma, the president of the National Assembly, defined the aims of the workshop:

This journey towards peace and reconciliation ... is only possible if we seek first to establish truth on what happened in our country. It is this truth that will free us and enable us to move towards pardon and reconciliation, as well as towards a sustainable peace among daughters and sons of this country. ... All these actions have been and are guided by Burundians determination to get over the cyclical violence that hit our country, to build a society that is just, prosperous and respectful of human rights. Today it is the momentum to undertake a deep reflection on the implementation of transitional justice mechanisms and the vital quest for truth” (Pie Ntavyohanyuma’s speech at AWEPA TJ Workshop, July 2011, author’s translation).

Presentations during the one-day workshop covered the national consultations, an assessment of the challenges of TRC implementation, and lessons learnt from foreign experience – that is, the Togolese and Moroccan TJ processes. Logistical organisation of the workshop was through the Belgian Embassy and funded by AWEPA. Every participant received travel expenses and per diems at the end of the workshop.

The opening speech and the entire event gave a strong symbolic and performative message. First, it directed towards donors a reiteration of the message that Burundian authorities cared about human rights and sustainable peace and were willing to implement TJ mechanisms. Second, European nations demonstrated that they were supporting Burundi to undertake a TJ process. Ambassadors and EU diplomats sitting in the front row of the large conference room acted as witnesses of these ‘formal’ promises and their own engagement towards TJ was embodied by their presence and their financial support for the event. At the time, most actors (and myself) believed that the Burundian TJ process would move forward shortly after that event. Yet until May 2015 the process remains on hold, as the discussions over the TRC law have been repeatedly postponed in the parliamentary agenda.

A number of details underlined the political dimensions behind the technical surface of the workshop. For instance, the selection of the Togolese and Moroccan cases was not politically neutral. These are two cases in which truth-seeking mechanisms were put in place without judicial prosecutions. This reflects a preference by key political parties to encourage truth and pardon but to leave aside judicial questions (e.g., Rubli 2013). Such preferences have been indirectly expressed (and have been refused by the UN) since early TJ negotiations in Burundi, due to the implication of some current political actors in past crimes. Addressing the role of leading former opponents in blocking the TJ process, Vandeginste (2011a, 14) affirms, “Keeping up appearances as if they are genuinely interested in transitional justice has so far proved to be a successful strategy. [The contrary] ... might force the UN to change its position, possibly to the detriment of its Burundian counterparts.”

Similarly, this workshop demonstrated, in gathering high-level policy makers, goodwill and cooperation between the engaged international community and Burundian authorities. In practice, the technical façade – in which donors support capacity-building by enabling Burundians to learn from foreign experiences – hides the political sensitivity at the heart of the blocked process: the judicial consequences of truth-seeking and the power dependence of policy makers towards certain authors of crimes.

Further, a strict interpretation of technical recommendations given by one international consultant during the workshop provoked unexpected outcomes in the unfolding process. In his presentation, he addressed pending questions about dispositions to be decided for the then-forthcoming TRC law: 1) The composition of the TRC: would it include international commissioners or not? 2) The mandate of the TRC: would it have the capacity to name individual perpetrators and victims or would it remain at the collective level of responsibility and victimhood? 3) The legal mandate and implications of the TRC: how would TRC inquiries relate to judicial bodies? What are the implications for temporary immunities? Would the TRC have the capacity to qualify crimes?

The presentation was a rare example of a speaker not simply linking together TJ buzzwords that assessed truth-seeking as necessarily leading to reconciliation (in contrast to the opening speech above and the following vignettes) but highlighting the real key dilemmas. The consultant’s analysis clearly raised the high political stakes on which legal decisions had to be taken in order to move the TJ process forward.

In interviews I undertook over the following years, several informants from the donor community stated that they would not support the TRC if it did not respect ‘TJ standards.’ When I asked them to clarify what they meant, they referred mainly to the three elements mentioned by the consultant: a mixed composition of the commission, the capacity to qualify crimes, and a restriction in granting amnesty for the most serious crimes (judicial responsibility). In December 2012, the technical committee<sup>46</sup> produced a draft law, which did not include, among other things, international commissioners and did not decide on judicial prosecutions. This version of the draft law included a provision that “Its [the TRC’s] work cannot jeopardise competences of the Special Tribunal” (République du Burundi 2011, Art. 5; §2, author’s translation). Both local and international NGOs strongly rejected the draft and undertook heavy lobbying against it to potential donors, as it did not respect ‘international standards’. Whereas there are no clearly defined international or legal ‘standards’ in relation to TJ (a factor that will be elaborated on in the final section), the lobbying efforts set in stone the three criteria. As a result, the law project was put on hold.

Another draft law was leaked from the National Assembly in 2013. A number of provisions were deleted, reducing further the guarantees provided in the first draft. By the end, some interviewees from the civil society regretted not having supported the first draft law and having requested further guarantees (interviews with NGO representatives, Bujumbura, 2013). Framing recommendations from experts as international standards, and hence demanding more from the authorities, did not turn out successfully – as authorities provided fewer guarantees in the adopted law than initially proposed in the first draft law.

The AWEPA workshop underlined an important limit of TJ negotiations. Guided by diplomatic relations, potential donors often failed to address openly their concerns relating to potential political manipulations. Within such contexts, it becomes useful to frame experts’ recommendations or moral standards as ‘international standards’. Ultimately, the workshop was undertaken within a context in favour of TRC implementation, at least from an official position. It provided food for thought for lobbyists but limited reflection on recommendations and opportunities. It was supposed to put the process back in motion by providing technical advice; but civil society rejected the draft law proposed by the technical committee after a

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<sup>46</sup> Established by a presidential decree in 2011, the Technical Committee was mandated to study the legal and technical questions about the TRC. Civil society organisations had reacted differently to the committee; some asked for its withdrawal, others welcomed it.



strict interpretation of these recommendations. The process consequently remained on hold for the subsequent year and a half.

On 15th May 2014, the president promulgated an updated version of the TRC law but it did not take into consideration the ‘technical’ concerns raised by local and international NGOs. The judicial dimensions were again left on hold until the submission of the report produced by the Technical Committee to the government, parliament and the UN. The high-level workshop illustrates a recurrent limit of international aid: much effort put into technical support of the TJ Burundian process with limited impact so far for victims and theoretical beneficiaries.

### ***5.1.2. Mass Training for Mass Justice: Becoming a Judge in Six Days (Rwanda)***

The training of gacaca judges is an extraordinary example of mass training of local implementers for transitional justice purposes. As a mass justice process for mass crimes, gacaca also required mass training for the roughly 260,000 elected Inyangamugayo, cornerstone actors in its implementation in every Rwandan cell. In the context of with Lars Waldorf’s (2006, 84) statement about gacaca – that “no legal system is equipped to prosecute mass complicity in mass atrocity” – I consider that training for Inyangamugayo adopted a weak methodology to deal with matters as serious as the judgment of genocide crimes. In previous research (Jamar 2012, 83), I underline a lack of training to be one of the main causes of judicial mistakes committed by these non-professional judges.<sup>47</sup> The following description of the training of Inyangamugayo explores weaknesses in training models, and has wider lessons for such interventions.

Inyangamugayo were elected by and from within their local community on the basis of their integrity. The legal conditions for being elected include general characteristics (such as being a Rwandan citizen and at least 21 years of age) but also ethical dimensions such as:

to be recognised as having a good behaviour and morals; to be characterised by honesty and a spirit of sharing speech; ... not having participated in perpetrating offences of the genocide crime or crimes against humanity; to be free from the spirit of sectarianism and discrimination (Republic of Rwanda 2001).

The majority of elected judges at the cell level were farmers, whereas a large number at the district level were teachers or civil servants (15.4 per cent were illiterate, Human Rights Watch

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<sup>47</sup> Working closely with INGOs I wrote previously that training was limited because Rwandan authorities did not approve INGOs’ robust methodology. Through further research, I gathered evidence that first training sessions were already showing methodological issues, as demonstrated within this section.

2011, 66). A number of Inyangamugayo were removed during the process for alleged participation in the genocide or corruption. Human Rights Watch reported that 92,000 judges were removed in total (*ibid.* 2011, 68). SNJG states that 443 judges were dismissed for corruption and “45,396 Inyangamugayo judges were replaced [in 2006] due to suspicion of participation in genocide crimes” (National Service of Gacaca Courts 2012, 171). Considering that the lack of monetary remuneration could be a source for corruption, many discussions among Rwandan authorities and donors addressed how Inyangamugayo could be compensated for their role (*ibid.*).<sup>48</sup>

The Rwandan authorities and INGOs initially collaborated in putting these training programmes together. They were funded by several international donors such as USAID, the Netherlands and Belgium. Some 15 sets of training (lasting from three to ten days) were given to Inyangamugayo from 2002 to 2008.<sup>49</sup> The training process started by training the trainers. The main training programme was organised jointly by an INGO and the National Service of Gacaca Courts (SNJG in the French acronym) and financially supported by USAID. It was delivered in two sessions of six days in November 2004. In total, 572 trainers were trained in two weeks. The training was given by six experts from INGOs and different Rwandese institutions. Lectures were organised for groups of around 150 people. The programme consisted of 16 sessions (1.5 or 2 hours each) addressing topics such as the philosophy of the gacaca courts, legal concepts, gacaca procedures, logistical aspects and skills to handle trauma and conflict management.

According to the NGO activity report, short-term results included 551 trained trainers and capacity-building for SNJG staff (Avocats Sans Frontières 2004b). It was considered that this would lead to the training of 42,260 judges fit to provide impartial justice. The main predicted long-term result was that gacaca “judicial decisions are [would be] well received by all parties and the whole community” (*ibid.*, p30). As a typical part of activity reports, a list of statistics summarised evaluation sheets filled in by participants. These numbers led organisers to conclude that it was a great success in spite of some limits. Overall, only two aspects received

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<sup>48</sup> They received free health insurance for all their family. Radios were distributed to all judges and bicycles to each jurisdiction. They received a one-time payment of about £4.

<sup>49</sup> Different sources, including Amnesty International Reports, HRW reports, ASF Reports and email correspondences with NGO staff.

a negative numerical evaluation: time allocated and practical exercises.<sup>50</sup> From a quantitative and technocratic perspective, this represented only two negative results out of 16 evaluated criteria. From a qualitative point of view, the fact that trainers (being trained) considered that there was not enough time or exercises for the absorption of the new knowledge suggests rather a limited outcome.

It can also be argued that the intellectual benefits were questionable, due to the size of groups and the numbers of topics covered in a short amount of time. Even if limits were acknowledged, this form of numeric evaluation provided a positive assessment of the training. Such bureaucratic practice validates a positive appreciation of the project and lead to further continuation of the process, silencing rather than addressing the limits and consequences. According to the SNJG (2012, 47), it was sufficient – since trainers being trained “were individuals already familiar with the law, notably those practising as judges, students of law and human rights activists.”

The training of Inyangamugayo was then organised on a similar basis. The first set of sessions were monitored by NGOs as part of the monitoring programme. Their internal reports on the training illustrate the different capacity levels of trainers. Some trainers made mistakes in explaining the important nuances of gacaca law such as crime categorisation and consequent sentence calculation, guilty-plea procedures, and the notion of complicity.<sup>51</sup> In practice, this would have contributed to Inyangamugayos’ misinterpretation of the law, with serious social implications given that they had the power to decide on innocence or culpability in relation to genocide crimes, and to issue sentences of up to life imprisonment.

Moreover, a number of issues related to the political interpretation of crimes under scope were also reported. For example, trainers and trainees have argued about RPF and vengeance crimes, ‘genocide ideology’, whether a double genocide took place, and other sensitive matters (Avocats Sans Frontières 2004b). These socio-political issues can be illustrated by the example of one monitored training session that received particular attention from NGO observers

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<sup>50</sup> For example, “96.5% of participants found that the received teaching was of high quality ... 98% of participants found the choice of subject to be appropriate ... 43.3% of participants assessed that the granted time of training was not enough ... 54.6% of participants found that the number of exercises was not enough ...” (*ibid.*, 49).

<sup>51</sup> The gacaca law defines crimes in three categories and provides sentence calculation against the category, confessions and times of confessions. For further details, see Articles 9, 10, 11 of Gacaca Organic Law No 13/2008 of 19/05/2008.

because it radically challenged gacaca's philosophy (Avocats Sans Frontières 2004a).<sup>52</sup> The specific training session was supposed to address the legal definition of the crime of genocide and its application in the gacaca law through crime categorisation. The NGO observers reported that "Inyangamugayos' remarks were heavily marked by the 'genocide ideology'." The observers personally affected by the conflict had to leave the lecture "because we were scared by the participants' remarks, we felt insecure" (*ibid.*). The reporter further writes:

It is really regrettable to notice people who were elected as Inyangamugayo denied the genocide while they were selected to deal with the genocide litigation and to contribute to the process of national reconciliation. We can thus have doubt about their impartiality due to the fact most of them shared a feeling of hate regarding the Tutsi.

This example illustrates that technical training has the capacity to silence arguments about the conflict, or at least to fail to address concurrent and/or critical narratives that naturally emerge in transitional justice processes. It indeed reminds us that justice and truth-seeking are not simply technical exercises in which people tell their versions of the story to reach reconciliation; also involved is the negotiation over whose truth is more relevant and acceptable. In this training, participants and trainers were negotiating a political definition of what kind of fact would be able to be discussed and with which perspectives in the then-forthcoming gacaca trials. This also shows that every individual participating in the process had been affected by the genocide in a different way, and that their experiences of the violence would have important impacts on how each perceived the legal model, interpretation and implementation.

Later, the SNJG stopped organising training jointly with INGOs and refused to allow them to undertake further monitoring of training sessions (Interview with NGO representatives, 2012, 2013). Wide-scale monitoring of other phases of the process (data-gathering and judgments) was still organised. These organisations continually reported the Inyangamugayos' difficulties in implementing the gacaca law, particularly at the cell level. Mistakes and infringements were partly assigned to the lack of training. From a wider perspective, policy-orientated and academic research show that the law was interpreted and implemented according to the context and power dynamics of local communities (Ingelaere 2004; Burnet 2014). Bert Ingelaere (2004) demonstrated how the local dynamics of the conflict had an important impact on how gacaca courts dealt with genocide crimes locally. Monitoring agencies considered that most

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<sup>52</sup> The report provides a few examples such as this intervention from one of the Inyangamugayo being trained: "Why are we talking about the genocide of the Tutsi while there are also Hutu who were killed by Tutsi? This is unfair because the Tutsi military committed as well the genocide against Hutu".

trials at the beginning were undertaken in good spirit, the population was enthusiastic, and it was assumed that Inyangamugayo would improve their work throughout the process and follow-up training (Avocats Sans Frontières 2006, 39; Interviews, Kigali, 2010, 2012, 2013).

NGOs did not envisage that the Rwandan authorities would cease collaborating with them and ignore the observed issues. It was predictable, however, that a model relying on one week of training would encounter problems. An important number of complex topics from different disciplines were taught in short periods of time to big groups of trainers, there was a high level of absence, and the trainees interpreted the law differently while training Inyangamugayo. Furthermore, legal and technical dimensions were strongly entangled in very sensitive social and political matters. It is ultimately not surprising that it did not systematically lead to “fit Inyangamugayo providing impartial justice well received by all parties and the whole community” (as stated in training material Avocats Sans Frontières 2004b, 30).

In addition, international actors who financially supported the gacaca process insisted on providing supposedly purely ‘technical’ aid, including through such training. This case also illustrates how technocratic exercises can silence or fail to address socio-political issues; in turn, this challenges back the process by undermining the complexity of post-genocide legacies and the consequent damaged social fabric. This analysis of gacaca training again questions how training and state-imposed reconciliatory institutions have the capacity, from a technical approach, to repair social fabric after mass violence.

### ***5.1.3 Silencing Worst Practice: Flirting for the Sake of Women’s Voices***

Many sensitisation workshops have been organised to discuss TJ processes within the ‘population’ in both the Rwandan and Burundian hills. Gathering people for a half or full day, discussions were organised as focus groups or using different tools (theatre performances, ‘expert presentations’, audio and video projections). In addition to an (almost) systematic inclusion of local officials and activists, ethnic and gender balance were included as criteria for participants from the community. In practice, all the workshops I observed gathered the local educated elite, covered too many topics in a short time, and pretended to adopt a ‘technical’ and ‘politically neutral’ position. The primary message conveyed could be reduced to this: ‘truth’, ‘justice’ and ‘commemoration’ will ‘heal’, ‘pardon’ and ‘reconcile’. Nonetheless, the personal position of organisers was often perceptible, even if not stated openly. This section discusses one session that gathered women to hear their voices regarding

TJ and their needs in the post-conflict setting. Having observed a number of similar events, this one is an extreme example of how things can go wrong and how the worst practice is silenced.<sup>53</sup>

This specific project model put together a number of aims: training on TJ concepts to prepare the population for taking part in the official TJ process; listening to the population's needs to convey recommendations to institutional actors; and encouraging healing and reconciliation by giving people the opportunity to talk about their suffering related to past violence. It was supposed to include 15 to 20 people. When we arrived at the venue, there were just three – all women. One of them asked why the workshop gathered only women. The organiser answered, “It is because it is a fashionable topic and donors like it.” During the presentation of material giving various perceptions on the conflict, one of the women left to pick up two friends, and by the end there were five participants.

The observed activity barely achieved the goals set. Debates were undertaken to discuss the perceptions of women on key TJ mechanisms. The methodological material used did not address TJ mechanisms and no further information had been provided. As a result, the discussions were abstract. At one point, a participant said that her country should have laws to forbid war crimes. The organiser, a local NGO worker, did not think it would be relevant to inform her that these laws already existed. No specific need was identified. The intellectual benefit was limited because supporting pedagogic material and discussions were not related to each other.

At the end of the activity, the NGO thanked participants by offering drinks and food. The organiser asked the restaurant to provide drinks and food for the planned rather than the actual number of participants (20 instead of 5). After a few beers, sexually-referenced jokes were being shared among the organiser and participants, and the workshop organiser kept putting his hands on the thighs of the women sitting next to him. When the husband of one of the participants joined, the organiser moved away from this woman but continued to flirt with the others. I felt most uncomfortable, and remained sitting at the same table while I observed.

The organiser used a professional opportunity to flirt with women, proudly styling himself as the ‘expert’ as well as the person who could provide drinks and food for everyone. This was not only an unethical way to listen to women's voices, but an extreme example in which the

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<sup>53</sup> No further indication will be provided in order to maintain confidentiality.

trainer did not embody the message he was promoting. He put fashionable keywords together that responded to donors' expectations and looked good on project documents. In theory, he adopted a gender approach to give sensitisation on TJ concepts and hence to empower women. He was supposed to create a space for expression of women's voices in relation to a violent past. In reality, his own view with regard to women took over and his behaviour was sexist and inappropriate. The fact that such behaviour took place in front of me as a foreign observer suggests that he did not consider it to be ethically questionable.

This reminds us that the bureaucratic reporting procedures are insufficient to probe what is really happening in the field despite increasing interests and funding obligations for efficiency and accountability. While technocratic reporting could turn the event into a success, this event was undoubtedly a failure: there were too few participants, limited capacities were transferred, and, most importantly, it reproduced male domination of women. Finally, it showed that overambitious models could be manipulated for all sort of purposes without this being noticed by supervisors or donors.

#### ***5.1.4. Arguing about the Truth while Commemorating Victims (Burundi)***

In contrast with the previous extreme example, this vignette aims to highlight that even in the best organised workshops with good planning and ethical commitments, tensions can arise between trainers and among participants. Logistically and financially support by international funding, this workshop was organised by two recently created networks of victims, gathering around 50 of their members from all the Burundian provinces. Spread over three days, it focused on commemoration. Throughout my fieldwork (from August 2012), the National Assembly kept postponing the discussions about the TRC law in the parliamentary agenda – leaving the TJ agenda without any progress at the institutional level. The TJ unit of the UN Office in Burundi (BNUB), and several local and international NGOs opted to use this lull to prepare the population and their local networks through sensitisation and capacity-building activities and to push for truth-seeking/-telling and commemoration activities that could take place even if the official process had not commenced.

Four national consultants provided presentations about commemoration and memory, memory and history for reconciliation, memory as a therapeutic tool and the role of memory in dealing with the past. All these consultants were members of staff working for TJ NGOs based in Bujumbura. Participants all emanated from local elites – fluent French speakers working as

teachers, local human rights representatives and local journalists. They received 90.000 BIF (around €45) and transportation allowances for their attendance (representing around a fifth of the average annual income in Burundi).<sup>54</sup> As one of the best training I attended, the description below contributes to underlying limits of training and sensitisation practices. More importantly, the workshop again silenced social complexities within commemoration efforts.

Typical of such expert presentations, the programme included the viewing of two documentaries about TJ, group work sessions to define provincial strategies, and visits to commemoration sites. The structure of the workshop was based on an interactive approach to encourage people to undertake commemorative activities in their own communities. This 'bottom-up' approach aimed to integrate rural populations in the TJ process – the focus on commemoration was a strategy to make progress even though the official process was blocked. This effort to address problematic issues in depth and pragmatically made this workshop stand out from others I attended. It focused only on commemoration and dedicated sufficient time for reflection on strategies.

'Commemoration' was introduced to participants in this workshop as the new alternative to deal with the past. Nonetheless, the themes of the presentations drew on the key claims and objectives of the TJ toolkit approach. While the governmental authorities were failing to implement the TRC or judicial mechanisms, memorialisation activities were presented as another way to achieve truth-seeking, accountability, trauma-healing and reconciliation. This new emphasis on memorialisation was not only a local initiative; the workshop and networks involved were supported and funded by international organisations.

'Commemoration' was introduced to participants in this workshop as the new alternative to deal with the past. Nonetheless, the themes of the presentations drew on some of the claims and objectives of the TJ toolkit approach. Only one of the presentations discussed the risk of political manipulation of memory and memorialising events; there were brief discussions about disrespectful damage on existing commemoration monuments in various parts of Burundi. Other presentations did not mention concurrency between different objectives of TJ mechanisms. For instance, when a participant asked if the construction of a memorial was dangerous, the consultant answered:

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<sup>54</sup> The World Bank indicates the Burundi Gross National Income (GNI) is \$240. [http://data.worldbank.org/country/burundi#cp\\_wdi](http://data.worldbank.org/country/burundi#cp_wdi)



No, everyone has this right. We undertook research on commemoration, we observed there was a mass grave on the road to Karuzi. We need to gather the other ones from all provinces, periods and victims from all ethnical groups. Evidence should be protected; it is the state's obligation. Anyone can press charges if a mass grave is destroyed. In Burundian law, judicial police officers (OPJ) must draw up a report if human remains are found. What is done today is not legal; we can press charges (author's translation of field notes).

This answer avoids acknowledging the risks associated with commemoration, such as repression, insecurity, revival of political or ethnic tensions, stigmatisation of victims or excluding other types of victim. This workshop was held a few weeks after the Kivvyuka mass grave had received attention in local media (see the general introduction). It was reported that several corpses had been removed from the mass grave without judicial accountability or ethical precautions in the presence of policemen and the province governor. It is certain that participants, being members of TJ or victim associations, would have heard about the incident in the press and were aware of the security risks involved in efforts for accountability. Similarly, I observed in other workshops that consultants tended to avoid critical questions rather than to give tools or to open up discussions to identify and overcome challenges.

As part of the workshop, we later had a field visit to the Kibimba commemoration. The site commemorates around 60 Tutsi high school students who were burnt alive in a petrol station shortly after president Ndadaye was assassinated in 1993. The burnt out building is maintained and protected by a concrete structure built over it. A mass grave gathering the remains of victims was built 50 meters beyond, with a circular pillar over it inscribed with '*plus jamais ça*' ('never again'). We first walked around the site, then stood in a circle on the collective tomb. Following one of the messages of the training, that commemoration will help to seek the truth, one of the organisers asked, "So what is the truth about this event?" One participant explained that children ran away in different directions from the school, and that those who fled in this particular direction were brought to the petrol station and burned to death. The discussion turned quickly into an animated argument about the school director's responsibility. Among the participants, some argued that other teachers were also responsible for giving victims to killers, while others supported the claim that it was the director's responsibility. The organiser mediating the debate, a male from the capital with a high position within its victim organisation, did not accept the 'truth' provided by a woman who originated from that area and was a local member of the TJ network.

It was a tense atmosphere in which all were shocked by the horror of the killing of these innocent children. Discussions over the ‘truth’ about the school director’s responsibility took attention from giving respect to victims while standing on their tombs. Heading back to the bus, participants asked a passing older woman, seeing her as representing a wiser image. Her version of the story satisfied them; they agreed with what she said was the ‘truth’. The fact that none of the participants was a direct relative of any victims eased negotiations over which ‘truth’ could be accepted and who had the legitimacy to define which it was. The alternative picture is easy to imagine: if such discussions had taken place between direct relatives of victims, perpetrators and alleged perpetrators, tensions would have been created and intensified, which in turn would have challenged more seriously the purposes of commemoration and reconciliation.

This was another example in which consultants and organisers did not fully embody the preached values (commemorating by listening to people’s experiences and giving respect to victims). It underlines how establishing truth implies negotiating events according to the social and gender dynamics in place. Where this could be perceived as a good example of capacity-building related to truth-seeking mechanisms, the power dynamics in play also hold an important role in debates.

These difficult discussions about what is the ‘truth’ bring attention to existing risks in the association of concurrent TJ concepts such as truth-seeking, justice, trauma-healing, commemorations and reconciliation. Overall, the workshop presented commemoration as an initiative that would enable the pursuance of all these objectives simultaneously (as formulated in the TJ toolkit approach – see chapter 2). But the implementation of the TJ toolkit approach through training is marred by social and political complexities, as the short argument over ‘truth’ illustrates. Some of the participants, who were members of the national TJ network, might refrain from establishing commemorative initiatives in their communities to avoid similar arguments around concurrent perceptions in relation to experienced violence. Others participants might create tensions in their community by discussing violence and commemorations without sufficient preparation to channel and mediate unexpected outcomes (such as the confrontation of different views).

Reading between the lines of these debates that claimed to be technocratic (in this case building the capacity of provincial practitioners), there are subtle indications that they are fighting for different truths and justice; and the debates are inevitably affected by current and past politics

and power dynamics. Their work somehow becomes more than the ‘simple’ implementation of an emancipatory and repairing framework.

On return from the field visit to the hotel where the workshop was held, more discussions were held in groups in order to define the province’s strategies. Out of this, the following initiatives were planned: to implement the TRC, rewrite Burundian history, adopt legislation in relation to memorial sites, sensitise victims about their commemoration sites, build an inclusive memorial site, organise collective commemorations, and sensitise around the past. Except for the last three, participants did not have the capacities to undertake action towards the strategies set. The workshop was followed by several others to pursue sensitisation and reflection, with more local members of the two victim networks. It is probable that this approach would lead to concrete activities in certain areas. I consider, however, that more reflection on unexpected outcomes and existing risks could limit the re-instigation of tensions. It should be discussed openly that different visions of the past would arise in gatherings from different parts of society and ethnic backgrounds.

#### ***5.1.5. Sensitising the Whole Population through Radio Broadcasts***

In both Rwanda and Burundi, NGOs working on TJ developed all sorts of instruments for mass sensitisation: broadcast of documentaries, radio and TV debates, theatre shows and radio soaps, newspaper articles, street boards, calendars, card games, graphic novels and flyers. These channels were used to inform the population about adopted policies and the progress of the TJ process, to teach them about TJ concepts and encourage ‘mutual understanding’. In contrast with the previous examples, these activities addressed a wider audience and entailed limited interaction between message conveyer and receiver. In Rwanda and Burundi, most private media are dependent on international funding and received important support for programmes related to peacebuilding and TJ matters; in order to transform the role of media from channels of hate messages to channels “in the service of peace” (Frère 2009).

In Burundi, radio programmes addressing matters related to TJ were broadcast weekly by a consortium of the main radio channels and printed press under the umbrella of one INGO and financially supported by international donors. They defined a new storyline every week, which focused on one particular TJ concept (buzzword) or linked several of them together.<sup>55</sup> Each

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<sup>55</sup> For instance, programmes have debated the following topics in the past months (end of 2013 to early 2014): should the TJ process be depoliticised?; economic crimes committed during conflicts; the TRC draft law; debates  
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programme praised the discourse of the TJ toolkit approach through an evaluation of the pros and cons of mechanisms, interviews with the population about their views, or debates between local authorities and their populations. These media activities projected an image of TJ concepts and mechanisms supporting each other, rather than being competitive or concurrent (e.g., Leebaw 2008; Clark 2008 – see also chapter 2 and next section). As a result, there was limited attention to identifying forthcoming political and social challenges of the implementation of the TRC, and hence no reflection on how to approach and mitigate these challenges.

The situation was different in Rwanda, where the media was held officially responsible for encouraging killings during the 1994 genocide. The government therefore restricted the creation of local radio outlets. Nonetheless, the media campaign on gacaca was an important step to get the population involved. Many different materials were developed and circulated for this purpose. An evaluation of the gacaca media campaign affirms that the best assimilated materials were jingles (Babalola et al. 2003). This meant that people's understanding and participation in the process was based on a message of a few seconds that encouraged them to go to gacaca courts and tell the truth. This also indicates that difficult messages are more challenging to disseminate en masse.

There has undeniably been important improvement to the level of professionalism in the media in Rwanda and Burundi (Frère 2009). For example, newly constituted media in Burundi have paid important attention to ethnic balance within their staff. There have also been noticeable attempts to integrate various political views. In the long run, a key question remains neglected: to what extent can the media contribute to the TJ process? Rules of journalism are limited in relation to the goals of TJ. First, short and simple messages are used to address complex legacies of conflict. Second, the media has the capacity only to disseminate messages. Even though the process to put sensitisation programme varies from one organisation to another, I observed that there is too often limited attention paid to what messages shall be transmitted or what should follow their dissemination. Most materials promote a neutral and ambitious speech by referring to automatic relationships between truth telling, reconciliation and trauma-

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with population and MPs about the TRC; 'vetting'; the disappearance of evidence; resort to international jurisdictions; women's roles in the TRC process; TRC discourses and promises; impacts of lies in the process of dealing with the past; why don't we teach about the past?; crimes of sexual violence in the past; testify or flee, consequences of absence in the TRC.

healing – the same discourse, that is, as is held by the TJ toolkit approach. Ultimately, media releases and distribution of vulgarisation tools are not followed up by any other activity – there is only limited effort to support the societal change that is promoted discursively.



## Section 5.2

Analysing the Professionalised  
Dissemination of TJ Buzzwords



Top: Training in Rwanda - Alba Saray Pérez Terán, Creative Commons; Bottom: Gender Sensitisation in Rwanda, Juozas Cernius, Creative Commons

## 5.2. Analysing the Professionalised Dissemination of TJ Buzzwords

This scrutiny of TJ practice illustrates that, despite implementing agencies describing their activities in a very similar way, the impacts of each project depend on each individual involved and the local contexts. On the one hand, TJ practices follow a bureaucratic pattern responding to funding requirements. In policy documents, a description of both training and sensitisation refers to technical activities for capacity-building, empowering the population and enhancing social change to deal with a violent past. The professionalisation of TJ practice further advocates a universal lexicon against which each activity is justified, as embodied in the TJ toolkit approach. On the other hand, empirical analysis identifies a number of unexpected outcomes that are left untackled. I argue that TJ practice is anything but universal and apolitical. Consequently, this technical facade silences, or fails to address, the effects of institutionalised practices and a universal lexicon full of buzzwords. This is a result of bureaucratic funding requirements and a quest for political legitimacy, each of which will be analysed in turn.

### 5.2.1. *TJ Activity Toolkit Following Bureaucratic Requirements*

As discussed in chapter 2, a number of contemporary authors have tackled the TJ toolkit approach and the risks associated with it. This literature discusses the production of a normalised and globalised approach to TJ in which international experts operate as engineers “to rebuild the ‘broken society’” by employing the TJ toolkit composed of a set of mechanisms and associated claims (e.g., Shaw, Waldorf, and Hazan 2010; Hinton et al. 2010). This chapter furthers such an analysis by describing the way in which TJ practitioners implement ideologically and pragmatically the toolkit approach. There is indeed a number of TJ service providers that prepare and support the official implementation of ‘official’ TJ mechanisms. All observed implementing agencies trained practitioners to build their capacities and sensitised the population to encourage their empowerment. These two types of activity fulfil with ease the basic bureaucratic requirements for funding, such as organising the programme in a logical framework (Giovalucchi and Olivier de Sardan 2009) and claiming to provide technical, apolitical support.

A logical framework involved aligning a set of logical relations between hierarchical objectives, means to achieve them, external essential conditions, indicators and expected results. At the end of a project, NGO management staff can evaluate efforts thanks to mainly

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numerical indicators of the project's results (broadcast rating of radio programme, percentage of people who better understood TJ concepts after sensitisation, number of people trained, and so on). For training and sensitisation, staff need to report the number of participants, the number of programmes broadcasted, and statistics about participants' ratings of satisfaction. For this reason, all workshops are concluded by the distribution of evaluation sheets, with multiple choice and open sections for comments. These comments often involve requests for more training, or even complaints about per diems.

In one observed workshop, a few participants complained on the evaluation sheets that there was not enough meat in the lunch buffet; others wanted the per diem to be given on the first day of the training (rather than at the end). These examples show how some participants perceived these activities as a commodity and source of additional income. More importantly, they underline frictions between the trainers' practices and the claims of workshops and sensitisation campaigns. We are reminded that aid practice does not sufficiently question the quality of the contributions nor the effects of the activities on the social fabric in the long run.

Looking into the vices and virtues of INGO capacity-building, Rick James (2010, 15) considers "the content of capacity development reflects donor priorities, particularly in their changing context of 'results-based management' and 'risk assessment'." James considers that aid actors "appear caught in a relentless spiral of activity, forever too busy to stop and think about their own future capacity needs and to plan accordingly" (*ibid.*, 20). Indeed, NGOs are constrained by aid dependency – donors are in demand to pay out budgets while dealing with issues that involve slow and complex transformation processes. At the same time, concerns for credibility perpetuate aid-dependent organisations to maintain a status quo rather than to publicly acknowledge the limit of their work. Underlining the limits of capacity-building initiatives, Deborah Eade (2010, 205) notes:

After all, no NGO could admit to funding one-off training workshops whose impact may be short-lived, or that risk serving mainly as social events for the same old bunch of tired aid junkies. ... adopting a narrow view of capacity-building as in-service or vocational training is just as unhelpful as using it as a catch-all to mean everything and nothing.

This literature on aid practice indicates that bureaucratic approaches to capacity-building are not only specific in TJ projects. Due to accountability towards donors and to concerns of credibility, the limited impacts of activities centred around training and sensitisation are not given sufficient attention. Further, aid actors do not acknowledge the distortion of conveyed 'universal messages', as analysed in the following section.



### 5.2.2. *Universal TJ Lexicon: Who Cares about the Message as it is Universal?*

‘Right to truth’, ‘reconciliation’, ‘justice’, ‘reparation’, ‘pardon’, ‘trauma-healing’, ‘commemoration’ and ‘gender-sensitive’ are all terms that were repeated like buzzwords in the TJ activities observed. These buzzwords were articulated through the activities described in the chapter, in variations such as the following: ‘Truth and justice will enhance reconciliation among the population as it will contribute to victims’ feeling of reparation and heal their trauma; perpetrators will confess, beg pardon, and eventually be punished and then reintegrated.’ This is embedded in the TJ toolkit discourse, promoted by the UN and INGO.

In a workshop, an NGO staff member stated, “Whereas the UN had principles on which it cannot compromise, we will have a flawed solution in Burundi.” Similar remarks were frequently circulated despite every person having his or her own understanding of ‘truth’ and ‘justice’, as well as preferences according to experiences of violence. The above-mentioned quote gives the illusion of universal principles while ignoring complex and varied facets of TJ. Even some of the key promoters of these principles, such as Louis Joinet, acknowledge that there are no international legal standards relating to transitional justice *stricto sensu*: “Standards and principles that TJ should respect do not exist *stricto sensu*, or at least, not yet. The concept of TJ is too recent for to be part of a normative approach. It must maintain its full potential creativity” (Joinet 2007, author’s translation).

The United Nations (2010, 3) itself considers that

The normative foundation for the work of the UN in advancing transitional justice is the Charter of the United Nations, along with four of the pillars of the modern international legal system: international human rights law, international humanitarian law, international criminal law, and international refugee law.

This should be translated into practice with the United Nations promoting standards and best practices in “assisting in the design and implementation of transitional justice mechanisms, providing technical, material and financial support, and promoting the inclusion of human rights and transitional justice considerations in peace agreements” (*Opcit*).

Similarly, Subotic (2009b, 262) observes

over the past 20 years, a global norm of international justice has emerged prescribing the appropriate way for states to deal with crimes of the past. This international norm presents a set of expectations for transitional governments to fulfill when facing a state’s criminal history. Crudely, it can be reduced to the statement that gross human rights abuses, such as war crimes, crimes against humanity or genocide, should be adjudicated in a court of law, and not left to either vengeful justice or forgiveness.

Yet, she (*Ibid.*, 263) considers not enough attention “has been given to the question of how exactly states go about complying with international justice requirements, and to what domestic political effect.” Through such exploration, she “challenges optimistic accounts that predict increasing social support for human rights norms – such as those of international justice – as international actors make lasting coalitions with domestic allies and pressure governments to change their policies.” She argues that such compliance instead produces “unexpected and contradictory political effects.”

On the one hand, these different authors illustrate that there are ongoing efforts to consolidate international standards and legal norms specifically in relations to TJ; that existing norms in relation to other but related matters, i.e., human rights, humanitarian and refugee law, are already applicable. However, they leave many areas uncovered as they do not fully embracing the various aims and mechanisms promoted by the TJ global agenda. On the other hand, Cryer *et. al.* (2014, 531) argue that “While international priorities are shifting in favour of justice and accountability, it would be an oversimplification to assume that international criminal law has simply superseded immunities law.” Similar argumentation can be expended for TJ norms beyond immunity and amnesties. Depending on normative framework from other fields, TJ policy frameworks still need to be crafted for each different context of implementation.

Coming back to Cornwall’s (2007, 473-474) concepts of aid buzzwords in which ambiguity is essential for the buzzwords to be endorsed by a diverse audience, all TJ concepts “can float free of concrete referents, to be filled with meaning by their users”. My empirical data describes how TJ buzzwords in line with the TJ toolkit approach are circulated through different channels to various audiences. The description of the initiatives above indicates constant reinterpretation of the message’s content. This phenomenon follows Levitt and Merry’s (2009, 446) process of ‘vernacularisation’, which they describe as varying according to a number of factors such as:

where its communicators are located in the social and power hierarchy and their institutional positions, the characteristics of the channels through which ideas and practices flow, the nature of the ideas and the idea packages in which they are embedded.

Tracing the ‘vernacularisation process’ of the TJ universal lexicon has also underlined various appropriations by both message conveyers and recipients. Through the activities I observed, institutions and individuals that implement these training and sensitisation projects have introduced (consciously or not) social and political dimensions to the promoted technical

speech on several occasions. These political and social positions become tangible through, for example, the selection of examples to illustrate concepts, references to the political context, and suggested interpretation of concepts. The example of gacaca training showed how technical discussions on the definition of genocide crimes involved disputes about political interpretation of the conflict. At a training session in Burundi, one trainer suggested that a specific political actor should be brought to justice while she was introducing the complementarity between memory and history for reconciliation – which reveals her political position against that political actor rather than illustrates her argumentation about memory and reconciliation. Other trainers declared their positions in the conflict by explaining their own suffering in relation to a particular crisis. These interpretations will inevitably influence the process of assimilation by the audience.

Indeed, targeted audiences accept and interpret the messages in their own way. Research on gacaca has demonstrated how the population implemented procedures in their own ways (Rettig 2011; Ingelaere 2004; Burnet 2014) despite strictly-defined legal models and sensitisation campaigns. In Burundi, various positions emanated in workshop discussions on TJ initiatives. Some participants fully absorbed the TJ universal message, as this participant's comment illustrates: "Truth heals, I believe so ... If there is no reconciliation, there will be no truth, victims will not have the feeling of reparation, they will not feel acknowledged" (author's translation of field notes, 2014). Others were more critical and sceptical.

On several occasions, I observed participants asking critical questions about the theme presented. For instance, one participant asked the trainer why this reconciliation initiative would be different if every previous attempt proved it did not work (violence occurred again). Instead of addressing difficulties and offering strategies to overcome them, the trainer explained that some NGOs have great results in terms of reconciliation, and "all parties should now be able to get along, as they suffered the same way" (author's translation of field notes, 2013). In all events observed, there was no exploration of the real risks at stake. Trainers systematically found arguments to deny the complexity and encouraged people to believe in truth, justice and reconciliation.

As discussed in chapter 2, extensive research on TJ demonstrates that discussing truth and justice implies accepting the existence of competing views (e.g. Laplante 2007; Leebaw 2008; L. Fletcher and Weinstein 2002; Hamber and Wilson 2002). These authors underline that several aims promoted by the toolkit approach are irreconcilable rather than complementary

(for example, arguing about different representations of the past does not lead to reconciliation, commemoration does not necessarily lead to accountability, and truth-telling does not systematically result in healing – see chapter 2). By extension, this implies that individuals perceive and remember events according to their own experience and their kinship with the people involved. Power relationships and local contexts have an important influence on who defines what truth will ‘shine out’,<sup>56</sup> who will be commemorated, and who will face justice. Failing to acknowledge these power dynamics can trigger conflicts and create all sorts of negative feelings (non-recognition, vengeance, repression, insecurity, revival of political and ethnic tensions, and stigmatisation of victims). The appropriation of circulated messages depends on the way individuals and communities react to messengers and their speech, as well as their own experiences and environment.

Concerns related to the universalisation of the TJ lexicon are not new (Naftali 2010; Lefranc and Mouralis 2014; Subotić 2012). Framing TJ as a set of clearly defined international standards is a useful claim for TJ practitioners to legitimise their interventions, but it entails several risks. First, it deals only with a certain past dependent on the buzzwords used and interpretations given within each context. This leaves other relevant issues outside of the discussions (for example, return of refugees and internally displaced people or land issues). False expectations are created for beneficiaries, particularly due to the massive media campaigns undertaken in Burundi and Rwanda.

More importantly, these training and sensitisation efforts create the illusion of apolitical and technical activities while potentially instigating tensions by silencing or ignoring different views – held by the message-conveyer – or openly rejecting the claims of the TJ toolkit approach. Current training and sensitisation practices are indeed taking place within contexts of power inequalities and suffering; however, no attention is given to socio-political dimensions of vernacularisation, nor to the definition of local expertise. From a technocratic approach supporting universal rights to truth and justice, there is no reason to do so. I argue that initiatives tackling these complexities should integrate these dynamics into their approaches for more plausible contributions towards beneficiaries. Without giving this

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<sup>56</sup> A translation of the phrase “faire éclater la vérité” in French that is frequently used in Burundi by TJ practitioners and the population.

sufficient attention, efforts are concentrated around virtual and performative technical contributions disconnected from people's experiences.



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## Section 5.3

Experimenting with Critical  
Training: Bujumbura Transitional  
Justice Summer School

### 5.3. Experimenting with ‘Critical Training’: Bujumbura Transitional Justice Summer School

In line with the difficulties of civil society organisations in pushing the TJ process forward in Burundi, another scholar<sup>57</sup> and I set up a summer course using academic methodologies to exchange with TJ practitioners based in Bujumbura. Through frequent encounters in the small TJ sphere in Burundi, we observed a similar understanding of the TJ stagnation in Burundi.<sup>58</sup> In line with the analysis described in the previous sections, I considered that practitioners should be encouraged to think outside of the box, to look at their contributions with a critical distance to better grasp the underlying stakes behind their technocratic contributions.

During the last part of my doctoral fieldwork (July to October 2014), we organised joint sessions to strengthen the practitioners’ analytical capacity and knowledge about the TJ literature in the hope of encouraging practitioners based in Burundi to be more critical and creative. It enabled us to challenge traditional training patterns, and also to identify a number of limits related to academia’s contribution to practice and the concept of capacity-development. The project was created spontaneously with available means (versus a project with heavy management constraints), focusing on long-term and qualitative training (versus mass and quick training), putting the emphasis on capacity incentives (versus material incentives through per diem), self-reflection through reading and discussions (versus long expert presentations). We put together a 52-hour course split into 13 sessions. Over a period of four months, these workshops addressed topics defined jointly with participants.

We used an academic and participative approach, offering reading from a week in advance for later discussions in half-day sessions. In each session, we addressed from three to four texts from different authors. We sent a list of questions in advance to encourage critical reading. In order to favour conceptual discussions, the four hour session were structured, first on theoretical discussions on the text; second on comparison and relevance for the Burundian

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<sup>57</sup> Salif Nimaga (who undertook doctoral research on international criminal courts at the Free University of Berlin and who worked in Burundi as an adviser to local civil society on TJ matters in the GIZ programme Civil Service for Peace) provided technical and logistical support. Human Security Division Swiss Federal Department of Foreign Affairs provided financial support.

<sup>58</sup> Discussions around TJ process were vague and going around in circles, referring to the Arusha Peace Agreements and the National Consultations; most NGOs and civil society representatives have a limited and vague understanding of TJ concepts, even if used in their everyday work, which leaves the TJ process abstract.

contexts; and lastly we reflected jointly on the message to remember and convey into their work.

The key audience included local staff from INGOs, members of civil society networks working on TJ and one Burundian scholar. A similar exercise was also undertaken through two sessions with only diplomats who have interest in TJ matters. Through this experience, participants received an introduction to debates on TJ definitions, the multiple meanings behind truth-seeking, justice, reparation and victims, as well as to the political and technical stakes hiding behind these neutral concepts. We opted for long-term, participative training in order to encourage participants to create their own perspectives.

Putting the summer school together, I hoped, (1) it would encourage the participants to move away from their understanding of the toolkit approach, (2) provide with a deeper understanding of only truth seeking mechanisms looking into several contexts around the world, as well as, (3) make them conscious of their role in the process by reading jointly the literature on the professionalisation on TJ. However, participants had a preference to have one session dedicated to each pillar of TJ. The first part of sessions looked into the history of TJ consolidation, to underline how the TJ toolkit approach came about and how truth-seeking mechanisms gradually gained importance in these debates. The second part of the sessions were dedicated the other pillars: judicial mechanisms, reparation, vetting and institutional reforms.

We observed that their understanding of contemporary debates in relation to TJ were more limited than expected. Despite several years of working experiences in relation to TJ, their understanding was limited to the list of the four TJ pillars and the associated claims. One of the participants, a trainer on TJ, had never heard about the limitations of the South African TRC, nor about dissatisfaction in other contexts, despite having following several training sessions on TJ. We consequently consider it was important to unpack these concepts with them. We aim to present critically the diversity of underlying objectives in relations to each of these mechanisms, the variety of sub-instruments, as well as their strengths and limitations. In contrast to training sessions observed during my fieldwork (focussing on the complementarity of mechanisms), we put a strong emphasis into underlying the contradictory and concurrent dimensions of different components of the toolkit approach.

Through these sessions, we observed that TJ local practitioners had integrated idealistic views on the TJ discourse promoted by the UN and INGOs. As a result, they looked for a technical



fix to these socio-political matters, and they demonised institutional actors who considered the lack of political will as the key obstacle. A number of participants explained the government and ruling authorities are responsible for TJ lack of progress in Burundi. There was no reflection in relation to other possible obstacles, nor on their role or impact of their intervention on the process. They mentioned at numerous occasions information about TJ processes in other part of the world with idealistic and decontextualised vision. During the first sessions, they seemed to envy the experiences of Rwanda, South Africa, Latin America and Sierra Leone. They were not aware that these contexts also faced social and political limitations. They believe that TJ aims would all be systematically achieved with the truth coming out. When we analysed tensions in between truth and trauma healing, a participant said: “truth will bring social reconciliation, this public acknowledgment is a recognised right for victims.”

Overall, this experience represents much more than an experimental research method. It contributed to both participants understanding, an ongoing exchange in between their and my perspectives. Leading to the conclusion of this chapter on training and sensitisation sections, this four-month training experiences was beneficial for all of us involved, even if not necessarily for the reason expected. We encountered difficulties with our critical approach to training, in meeting their expectations (for example, by not giving clear guidance on what should be done), and in encouraging them to get detached from their idealised information about foreign processes from previous training and sensitisation campaigns.

Another key obstacle was to find appropriate texts in French, as TJ literature is more advance and rich in English in terms of critical, conceptual and empirical levels. At the beginning, we had prepared both texts in English with list of vocabulary and in French for each session, but it was not understood sufficiently. These sessions required long hours of preparations for a small group of people (from 5 to 12 participants a week) and decreasing preparation from their part. It was not just about selecting texts and sharing them. For some sessions, the preparation required reading around ten authors to find the most pertinent and most adequate texts for participants, select text extracts in English, re-read selected texts to formulate questions that they should raise throughout their reading, and read again texts the day before the sessions to chair the discussions.

While I engaged with my research participants in the hope of encouraging a more critical approach to the global TJ discourse, I not only faced resistance among participants to criticising TJ, I also observed in more depth that most TJ practitioners had a limited vision of

the challenges in the implementation of TJ. Local TJ practitioners held very high expectations of the official process, and demonised authorities, as the only factor blocking TJ progress. On the basis of what they learnt from the toolkit approach, they granted prodigious benefits to truth-seeking, accountability and justice, and ignored the complexity of these concepts and associated mechanisms. At the same time, they avoided battles over the past, when confrontations over different perceptions of the previous conflicts occurred, ignoring how these battles over the past were affected by their experience of violence and political positions.

Our main success was to see a widening-up of their understanding of TJ in terms of competing dimensions behind its key concepts, and the chronological sequences of any TJ process (longer than suggested by the technocratic approach). By the end, participants integrated the view that there was no easy solution, that the UN did not have any magic mechanism, and in other words that the potential implementation of the TRC would not solve all the issues related to the consequences of violence.

While discussing learning points in the final session, participants considered more sensitisation and training should be undertaken to share their ‘new knowledge’ and moderate expectations of the population. Participants, accustomed to institutionalised patterns widely promoted by aid actors, considered training and sensitisation as empowering actions. This concrete interaction with the research participants raises important questions with regard to a bridge between academia and practice: is it a necessary link, how can it be better achieved, and do local actors have to be familiar with the intricacies of the TJ literature? The only certainty is that knowledge transfer is a long process that depends on the nature of the interaction between conveyers and participants; and it will inevitably have unexpected effects.

## **Conclusion**

The bureaucratic TJ toolkit approach has resulted in the widespread delivery of conferences at high policy levels, short-term training, and media sensitisation by aid actors in many contexts. In addition to describing the production of TJ tools, this chapter has addressed how ‘empowerment’ and ‘capacity-building’ were implemented. Within a technocratic aid environment, buzzwords are useful concepts in the same as way training and sensitisation are easily delivered projects. This chapter has described different consequences within each context. A short training programme that transfers judicial power is a cause for more serious concern than a radio jingle encouraging people to reconcile. In this sense, the lack of follow-

up of the closure of the gacaca courts by most previous donors and supporters raises serious concerns about the process. On a different scale, pretensions to technical and universal support in Burundi have created an idealised vision of TJ mechanisms that will need to be dealt with in the unfolding of the process.

This chapter has focused on the implementation of TJ preparation and intermediary phases of official processes. It has illustrated how practice can be disconnected from its policy promises. It is not ground-breaking to discover that one-off short training and mass sensitisation have little capacity to empower the population to overcome the dilemmas and concurrent wills of revenge versus reconciliation, justice versus impunity, silencing versus truth-seeking, and status-quo versus reparation. In addition to these well-established limits, the description of micro-social negotiations over how to deal with the past brings attention to the important, and often unbalanced, power relationship between message-conveyers and recipients.

In every context, technical approaches tend to silence these micro-dynamics in play. As an instigator of the ethnographic analysis of expertise in development practices, Norman Long (1992, 275) points out the paradoxical aspect between empowerment and knowledge transfer projects:

it capsizes the simple notion that social processes follow straightforward systematic patterns and can thus be manipulated with an injection of power from outside. The issues of conflicting loyalties, of negotiation over 'truth' claims, of battles over ... contesting interests ... bring us back to our ... concern for the analysis of the interweaving and interlocking of life-worlds and actor projects.

These power-relations should be addressed even more seriously when dealing with the sensitiveness of post-conflict contexts. According to Tshepo Madlingozi (2010, 213), the relationship between TJ experts and victims “reproduces relations of inferiority and superiority. In this encounter, the one is the victim and the other is the saviour. Politics of disempowerment and trusteeship ... are reproduced.” It is then even more relevant to question for whose sake all these efforts are being undertaken.

In both countries, the international community has been encouraging TJ processes to answer moral obligations with respect to the most serious crimes. In the case of Rwanda, the international community has expressed guilt for not reacting to the 1994 genocide – this has often resulted in support for the gacaca process despite the gacaca model offering limited legal

guarantees (Jamar 2012).<sup>59</sup> Today, previous supporters are reluctant to take into account and act on problems raised by monitoring agencies. Several of the interviewed donor representatives considered that the Rwandan genocide was so morally reprehensible that any attempt to deal with its consequences should be praised (interviews with donor representatives, 2012, 2013 and 2014).

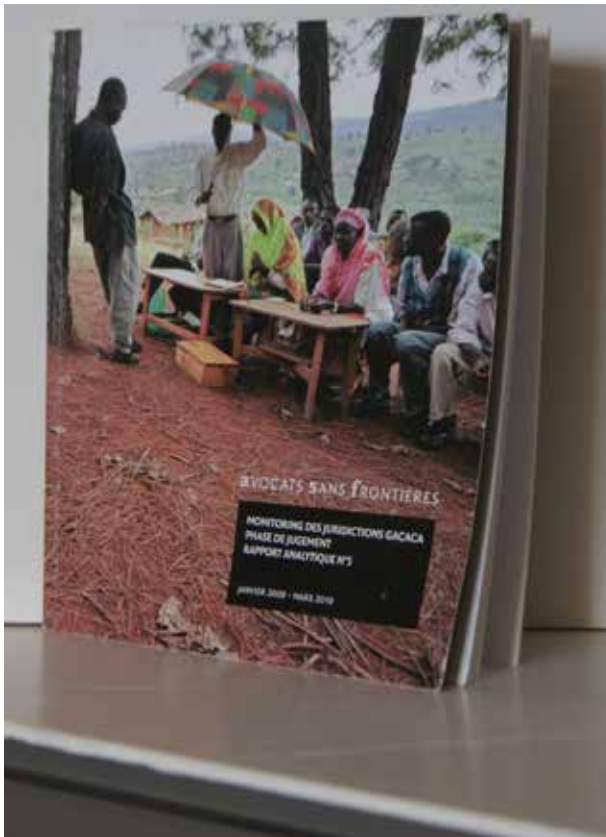
In Burundi, a similar group of actors from the international community set a preference for international standards. At first sight, this seems contradictory. However, these policies and speeches are developed according to political, diplomatic and moral dimensions between the international community and domestic authorities. The international community has limited effect once the policy is being implemented. In practice, international aid gave technical support to these NGOs to deliver similar activities to engage with the population, with limited attention given to the dynamics and the concrete implementation taking place. TJ policy documents have increasingly made claims for victim- and people-centred efforts. The structure of TJ implementation outlined in this chapter, however, demonstrates that the practice on the ground still adopts a top-down technical approach in spite of the described intention, and it is far from a genuinely locally-driven process.

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<sup>59</sup> To answer to these initial concerns, the preamble of 2004 gacaca organic law refers to international and national legislation, giving the illusion of providing safeguards for a fair trial as indicated in the Rwandan constitution, penal code, penal procedural code, and international conventions with regard to human rights.

# Chapter 6

Mass Production of Reports:  
Experts' Input or a Backstage  
Battlefield Over Representation?



Meeting in Rwanda - Thomas Stellmach - Creative Commons

## **Chapter 6: Mass Production of Reports: Experts' Input or Backstage Battlefield over Representation?**

### **Introduction**

Starting a career as a junior researcher in INGOs, my roles were all related to research projects and report production on TJ matters in Burundi and Rwanda. Three of the projects I worked on entailed the physical piling-up (or electronic filing-up) of observation and activity reports for several months or years. My role was to summarise thousands of pages of these field reports to produce an internal report or publication for public consumption. These experiences of writing reports were my incentive to look further into policy-orientated research processes and methods. Despite the small number of organisations involved, I gathered more than 100 policy-orientated reports related to the two policies – the implementation of the gacaca process and the negotiations over TJ in Burundi (all written from 1998 to 2014).

The analyses I became involved in always took place within very short periods, with the most extreme example being a request to analyse over 200 qualitative interviews in two weeks. These dense sets of data often presented contradictory information. I had insufficient time either to undertake in-depth analysis to identify the roots of problems, or to look into existing literature beyond the empirical data made available, and I was certainly not expected to do so. Also, through the revision of report drafts, I had to negotiate with NGO staff on what was appropriate to write or not. As explained in the methodological chapter, these experiences were difficult. There were many pragmatic and methodological constraints tied to the project time-frame, political contexts and team dynamics. But challenges were also related to the fact that I was not fully aware of the lore and customs of 'policy-orientated research', and that my legitimacy was limited as a young woman embarking on her career.

Further reports were frequently mentioned during my fieldwork, including monitoring reports about gacaca from Human Rights Watch and the national consultations report in Burundi. Building on from my experiences and observation, the current chapter pursues the anthropological analysis of TJ practices and applies it to the texts; that is, the reports produced about the two TJ policies. Reviewing his participation as a social anthropologist in an agricultural project in India, Mosse (2005, 156-7) writes:

We consultants were actors like others, but we used our power and networks (into donor or academic communities) to authorise our unifying meta-narratives and make them the stories that [other] actors must tell themselves about strategy (cf . Latour 1996: 164). The project then systematised these models into training manuals and brochures, providing official representations of practices that were in fact generated by a hidden operational logic. These were necessary in order to put back together the worldview of project staff that was constantly fragmented by the everyday contradictions of practice.

Along the same lines, this chapter addresses this operational logic behind texts and report production on the gacaca and TRC negotiations. Presented as scientific tools, reports promote approaches and recommendations to deal with these complex post-conflict contexts. But away from the public sphere, there are intense negotiation processes over their content and the limited (if any) follow-up activities. This chapter scrutinises the processes and institutional conflicts underlying the apparent technical work of report production. Whereas reporting practices are widespread in ‘Aidland’, limited academic research has questioned their role and rationale. The chapter is guided by three main research questions. 1) How is a report’s production organised? 2) What are the socio-political dynamics in play that impact on the content and dissemination of a report? 3) How is report production relevant for TJ implementation?

From an academic perspective, this chapter aims to highlight the epistemic implications of the social processes behind a technical report. At a pragmatic level, the chapter aims to encourage reflexivity over report production practices and the role of reports in aid governance. Within academic scholarship, some academics forget to take into account the normative framing in place in policy-orientated reports. Some researchers have used gacaca monitoring reports as their main source of data, without taking into consideration the normative framework of the authoring organisation and the politics in play. For example, Ariel Meyerstein (2007) and Phil Clark (2010) compare the content of reports produced by human rights watchdog NGOs and monitoring NGOs without taking into account their mandates and politics involved in the process of producing reports. Nevertheless, the aim of the chapter is not to promote academic writing over practice-orientated research. Indeed, academic writing also has many limits and inconsistencies. It also involves specific rituals and conventions to gain legitimacy that are disconnected from the purpose and the quality of the research. On the other hand, policy-orientated reports include vast valuable data useful for undertaking the contexts of implementation and hence improve policy intervention.

This chapter describes the social processes taking place through the routines of report production. The first section explains how texts and reports can be researched as social objects.

*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*

The second section provides a general overview of the reports gathered by describing their spectrum and general similitudes and differences. The last two sections look closely at two prominent research programmes: the gacaca monitoring in Rwanda and the national consultations in Burundi. These two projects resulted from collaboration between the national government, international community and civil society. The analysis of these two prominent projects highlights the political negotiations and social dynamics behind report production.





## Section 6.1

### Texts and Reports as Social Objects



Top: Dennis Hurd - Creative Commons, Middle, Middle: Report Launch, ODI Creative Commons, Bottom: one my office in Kigali - © A Jamar

## 6.1. Texts and Reports as Social Objects

Throughout my fieldwork, I gathered a number of anecdotes that encouraged me to look further into reports as social objects, as they have a social life through both their production and dissemination. I remember when a diplomat in Kigali had gone to the archives of his embassy to bring me some of the dozen monitoring reports funded by his government, but could find only one, and could not get hold of any others. Similarly, a representative of the National Commission for Human Rights in Rwanda could not find any of the Gacaca monitoring reports his institution had produced. The implication is that these reports can have limited long-term use and value, gradually fading with time to a point at which they cannot be found in archives.

Other political dynamics were also often in play. For example, I was informed that the technical committee formed in 2011 and in charge of writing the Truth and Reconciliation Commission (TRC) draft law in Burundi had received a significant number of reports providing recommendations from various local and international organisations. I was told informally that the committee did not read the recommendations sent from the organisations whose called for the dissolution of the same committee. Indeed a number of NGOs considered that the creation of such a committee did not respect ‘the spirit of the national consultations’ as it did not integrate any member of civil society, and asked in a press release for the immediate dissolution of the committee only a few days after it was appointed. In return, the committee members did not find it relevant to read recommendations written by these organisations, which had tried to jeopardise them. This brings attention to the political barriers to contributing ‘technical recommendations’ and the underlying political positions of authoring and target organisations.

Karin Barber (2007, 1) describes all texts as the “universal human work of weaving or fabricating with word.” Upon such a consideration of texts as social facts, she adds (*ibid.*, 4):

Texts are commentaries upon, and interpretations of, social facts. They are part of social reality but they also take up an attitude to social reality. They may criticise social forms or confirm and consolidate them: in both cases, they are reflexive. They are part of the apparatus by which human communities take stock of their own creations.

At the early stage of the field of development studies, Apthorpe (1996) called for more discourse analysis of development policies. He encouraged giving more attention to social processes in framing, naming, numbering and coding the intervening context and intervention,

as they constitute important practices in development work. Since then, there has been extensive research looking into the production of policy papers, including in Rwanda and Burundi (Marriage 2006; Debusscher and Ansoms 2013; Debusscher and van der Vleuten 2012; Holvoet and Rombouts 2008; Rubli 2013; Vervisch 2011).

These pieces of research clearly identify the challenges in attempting to write the best technical recipes for complex social problems without taking into account problems related to the long-term and structural dimensions of social transformation. For example, Petra Debusscher and An Ansoms (2013) analyse the implementation of gender-equality policies in Rwanda. Their research concludes that in spite of strong political will, target-driven policies offer limited transformative potential by neglecting local economic realities (the ‘invisible labour’ of women, that is) and the lack of grassroots participation.

From the perspective of the ethnography of aid, my analysis of policy-orientated reports looks at a working practice that is prior to (and entangled in) policy formulation. Policy reports resulting from the writing and reporting exercises are undertaken to find a technical solution, whether being commissioned or to be used in lobbying activities (in contrast with policy documents that are prescribing directly the implementation of a policy). These reports are addressed to those who will create the policy, in order to influence them. This intermediary stage has received limited attention.

Among the few exceptions, Harper (2000) undertook an ethnographic analysis of IMF reporting processes, establishing the social processes through which technical and numerical data are gathered. He observes (*ibid.*, 24) the crucial role of social rituals in the data-gathering process that concede the technical value of reports (such as getting numbers and associated interpretations ‘signed off’ by the right person or the agreeing process between the mission and the authorities through ritualised orations). Anthony Good (2012) also looks into policy-orientated reports by comparing the different genres of reports, such as those for anthropological academic journals, natural science journals, NGO reports and country reports for asylum seekers. Through his exploration of these genres, he observes that structures, argumentation rules, as well as concerns and proof of credibility are particular for each professional sphere.

Through a comparison of policy-orientated and academic research, Olivier de Sardan (2011) denounces how the development industry has mobilised most academic bodies in Africa through their extensive involvement in consultancies. He underpins the weaknesses of these

policy-orientated research projects, arguing that consultancies are operating under managerial constraints, with terms of references often incompatible with research principles, limited qualitative rigour and ‘venalisation’ effects (referring to financial incentives that academia cannot beat). All these anthropological reviews of reports have informed my analytical framework and the spectrum of reports presented in the following section.

Further, the analyses of human rights reporting and consequent lobbying activities were useful when looking into the reports I collected (Dudai 2006; Ron, Ramos, and Rodgers 2005; Meernik et al. 2012 – discussed in more detail below). For example, developed by Amnesty International, ‘naming and shaming’ strategies involve research and documentation of human rights violations. On such monitoring, reports are disseminated around the world to shame the regime under which these violations are taking place and consequently prompt a reaction from the abusive regime. Today, such lobbying strategies are adopted (and adapted) by many watchdog and human rights organisations, including the organisations involved in my research. Reports produced within this normative framework are addressed to high-level political actors who are believed to have power to put pressure on nations or organisations violating human rights.

Engaging with Keck and Sikkink’s (1998) work on ‘information politics’, several authors have looked into the reporting work of international human rights NGOs. Specifically, these pieces of research focused on the information-gathering process as well as the symbolism and politics in leverage practices: global and local dynamics resulting from human rights NGOs’ reporting and lobbying work (e.g., Gready 2004); politics in agenda definition and selection of countries and matters to be addressed (e.g., Ron, Ramos, and Rodgers 2005); stylistic and content analysis – argumentations based on international human rights instruments rather than moral judgments and use of footnotes (Dudai 2006). Building on this literature analysing reports and reporting practices, I pursue two objectives throughout the chapter: 1) By unpacking the pretended scientific nature of reports, to reveal their production and dissemination rituals; 2) To argue that reports are not just end-products but objects with rich social lives through their production, use and dissemination.



## RAPPORT

BUJUMBURA, 20 AVRIL 2010



# The Spectrum of Policy-Orientated Reports: A Hundred Reports Covering Two Policies



## 6.2. The Spectrum of Policy-Orientated Reports: A Hundred Reports Covering Two Policies

Through my previous working experiences and fieldwork, I gathered more than 100 reports related to the two policies researched in the thesis. I gathered them by going to launch events and conferences, visiting authoring institutions and searching on the Internet. A number of other researchers shared the reports they had collected. During fieldwork interviews, I systematically asked for copies of documents mentioned in the discussion. I first considered addressing the production of only published reports, but realised this would leave out many internal reports and working papers used for lobbying and presented in conferences for practitioners.<sup>60</sup>

The list of reports (see appendix) that I collected is not considered to be exhaustive. Many of these reports are not meant for wider dissemination, and produced by institutions without good websites (local NGOs and national public institutions in particular), their reports are difficult to identify and locate. For instance, I visited the donor and authoring organisation several times in order to receive the last official evaluation report on gacaca without success. I finally received it several months later when another expatriate scholar forwarded it to me. In this first section, rather than review the content of reports, I describe patterns of reports in terms of their format and objectives. I address in turn the different spectrum of reports, the people involved in the process, the research methods and dissemination.

### 6.2.1. *Wide Spectrum of Policy-Orientated Reports*

All policy-orientated reports share one main characteristic: they present data and analysis in order to present a specific view and offer a strategy to deal with the identified issues. Such reports strive to promote a specific normative framework. They achieve this by stating an issue, identifying its causes and finding potential solutions through recommendations. The reports are shared with other stakeholders to influence their decisions in policy-making. However, the political agendas of authoring organisations encourage them to silence their

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<sup>60</sup> I excluded short briefs, press releases, minutes of meetings, documents with only empirical data (that is, transcriptions of interviews or gacaca sessions used for their reports), activity and funding reports, annual reports, policy and legal documents. As mentioned in the chapter introduction, the reason was to focus on research and reporting practices for lobbying purposes.

normative framework behind ‘scientifically’ researched positions conveyed through a report, as I demonstrate below in more detail with regard to the national consultation and gacaca monitoring.

The table below illustrates the wide spectrum of reports gathered. The key differences that characterise each report actually overlap, rather than define fixed categories. Through a review of the 140 reports collected, I identified the following criteria varying from one report to another: authoring organisation, format, writers, method, scope and timing. The spectrum shows the combination characterising each report. Each report is elaborated differently according to its role assigned by the authoring organisation and financial capacities; it also receives different levels of attention internally and externally. The table should be read to include possible combinations of multiples characteristics, as some reports are co-authored by several institutions, resulting from mixed research methods, and so on.

**Table 3: Policy-Orientated Reports Spectrum**

Criteria					
<b>Authoring organisations</b>	(Recipient) Public Institution	Local NGO	INGO	(Donor) Public Institution	Watchdog Organisation
<b>Format</b>	Conference paper	Staff analysis	Consultant report, unpublished report	Published report	
<b>Writer(s)</b>	Local field staff	Expatriate field staff	Head office staff	International consultant	
<b>Methods</b>	Desk-based (historical, political analysis)	Quantitative (survey, statistical analysis)		Qualitative (focus group, interview, participative observation)	
<b>Scope</b>	Own activity	Public policy	One-off event/ context	Structural issue	
<b>Timing</b>	Prior to implementation	During implementation	After implementation	One-off	Annual

From a material point of view, the presentation of reports also includes several similarities. The cover page gives the title, the year of publication, the name of the authoring organisation(s) and its logo(s), sometimes with a picture as background, but rarely with the

authors' name (see below). The donor(s) is (are) often thanked in the next pages with their logos and a disclaimer of responsibility over the content (even if in reality the donors impact on the content, as I elaborate in the analysis of gacaca monitoring reports and the national consultation in Burundi). Even though they all aim to influence policy implementation, policy-orientated reports have various secondary goals that define their scope. These secondary goals can be associated with situation analysis, identification of needs, programme evaluations, analysis of political contexts and legal frameworks, surveys about perceptions and expectations, and, rarely, literature reviews.

### ***6.2.2. Authorship, Audience and Readership: Who Writes for Whom?***

Different sets of actors are involved at each stage of the report production: the NGO or donor member of staff usually deals with logistics, the authors and the audience. A typical case could be summarised as follows. Putting together a funding application, a desk officer (the person in charge of a regional or thematic set of projects at the head office) decides in discussions with his or her team and partners that a report shall be written. She/he later writes the terms of reference, hires the consultant and supervises that person. The programme coordinator (the person in charge of project implementation in the field, often an expatriate) hires local field researcher(s), and she/he collaborates with the expatriate consultant on her/his arrival. The field researcher(s) gather(s) the data, supervised either by the programme coordinator or the consultant. The consultant analyses the data and produces the first draft. The NGO key members of staff (project manager, head of mission, director and desk officer) comment on the draft, and they then negotiate the content with the consultant.

Both the position and the tone of the report are up for negotiation. Decisions over what can be written arise from these questions: what analysis can be conducted from the data gathered, what political and technical positions can be adopted, and how can they be formulated? Each of these steps involves negotiations and decisions among different internal actors (and eventually project partners), with decisions not only being technical or scientific but also political, and having a strong impact on the report's content and use – as I elaborate through two case studies below.

It is frequently the institution that is named as the author. Only rarely do policy-orientated reports give the names of the specific authoring individuals. Naming the organisation as the author creates a sense of objectivity, as the data and analysis are produced in accordance with



the mandate of the institutions (versus the personal views of a set of individuals). From a social perspective, this brings attention to the process of negotiation among the different actors gathering and analysing data. An institutional authorship paradoxically results in the *appearance* of objectivity while obscuring a process of negotiated analysis within a given political and social context, entangled in political and economic dependencies.

The main audience is made up of policy makers on whom the authors want to influence (i.e. staff from ministerial offices, directors of local institutions, representatives from donor agencies, political officers and ambassadors of embassies, and NGOs' heads of mission and programme coordinators). All these individuals have limited time to read the reports, and are continually bombarded by them. They will thus scan reports and rarely read them in depth. The general public and academia are also potential secondary audiences.

### ***6.2.3. Research Methods: How is the Data Gathered?***

Most of these reports are brief or silent about their methodology. When stated, it includes a description of the research process such as sites where the research was undertaken, and the number and type of people consulted, the general aim of the project, and/or the approach they adopted. There is rarely reference to the challenges faced through the process, consequent methodological adaptation, the relevance of gathered data, and possible sources of bias. How informants were selected, how and where they were consulted and who did the interviews or surveys are also elements not systematically addressed. Due to the complexity and sensitivity of the Burundian and Rwanda contexts, particularly in relation to TJ matters, it is inevitable that challenges appear. Silencing the presence of such challenges raise a number of questions of credibility and legitimacy. It is obvious that conventions in policy-orientated research designed to gain legitimacy and credibility are different from those in the academic environment (which are also limited). However, none of the reports actually addresses epistemological questions such as, 'Why should you believe this?'

Through a review of methods employed in refugee research projects, Karen Jacobsen and Loren Landau (2003, 186) question to what extent "analysis and conclusions [are] based on sound principles of descriptive and causal inference and robust data-collection practices." As Fairlie Chappuis observed alongside myself (Jamar and Chappuis 2016), a declared normative mandate can be a disadvantage for organisations openly engaged in advocacy research:

The normative prescriptions driving their advocacy, and ultimately their research, also undermine their perceived credibility by allowing their work to be criticised, and often marginalised, as unscientific and politically motivated. For this reason many such organisations seek to disavow the normative motivations underpinning their missions, research and programmes, and instead attempt to cling to claims of scientific methodology as a way to bolster their credibility in a chosen area. More grave, the declaration of an overarching normative mandate is sometime used as a shield behind which weak research is hidden: as if a normative commitment to certain ideals predetermined the outcome of the research process to an extent that made the actual research process a mere accessory to the argument itself.

In other words, policy-orientated reports tend to silence key stages of the research and their own normative framework using a ‘scientific etiquette’. Indeed, the methodology section also often directly claims to be scientific despite many silences about key elements. For instance, a gacaca report affirms, “we will try to answer to the question addressed de facto at the end of every scientific work: did gacaca [achieve] initially defined aims?” (National University of Rwanda/Center for Conflict Management (CMM) 2012, 182). Another report informs “the first chapter, presenting adopted methodology to gather Burundian population perceptions on the post-conflict, enables [readers] to appreciate the rigorous character of the process.” However, both of these examples do not clarify in the methodology section what lies beneath claims for scientific rigour.

Generally, the scientific facade includes other legitimising practices. By hiring a consultant, the authoring organisation expects the mess of reality reflected in contradictory data to be tidied up. Through my research, it appeared several times that the word ‘scientific’ was used to hide problems with credibility. In an interview, a donor representative explained that they supported a particular project because it relied on scientific methodology, even though their activities based on Western ideas of trauma and reconciliation were not culturally appropriate for Burundi (Interview with donor representative, Bujumbura, Burundi, October 2013). The interviewee expressed private doubts about how appropriate the programme under discussion was, even though it was receiving good comments on the reports from well-known foreign researchers. This example shows that putting together pleasing reports gives the opportunity to the funded organisation to hide a problematic practice, and consequently limits critical evaluation by the audience, since the produced analysis is deemed ‘scientific’.

Jacobson and Landau’s analysis is a reminder that methodological flaws are not peculiar to NGO research by also looking into limited methodologies of academic projects. Weaker methodologies are more common, however, and conventionally accepted in policy-orientated research. Both academic and policy research can lack rigour, because of the “strong tendency towards what Myron Weiner used to call ‘advocacy research’, where researchers or

organisations already know what they want to see and say, and come away from the research having ‘proved’ it” (Jacobsen and Landau 2003). The target audience – that is, policy makers, practitioners or diplomats – need documents that get straight to the point, and they are not necessarily cautious about methods. Further, authoring organisations do not aim to engage in debates, their core objective being rather to have their recommendations taken into account.

#### ***6.2.4. The Report’s Life: How is Research Disseminated?***

Once edited and/or printed, reports are used as public relations instruments to represent and promote the view of the authoring organisation. At a pragmatic level, they are key instruments for lobbying and political dialogue, as addressed in previous chapters. After production, dissemination is another key step that starts the (short) life of a report and that gives it legitimacy and credibility. The main end result is therefore the dissemination at formal and informal levels. Formally, published reports are given out at launch conferences, and then distributed in emails and made available online. The workshops and conferences provide a social environment for the first step of the ‘social life’ of a report. Report launches often take place in ceremonial settings inviting all the partners and potential audience.

The organisations with the best financial capacities will be able to give a better life to their reports by hiring the best hotel, organising a workshop to present and discuss the content with the targeted audience and offering attractive per diems and food to participants. Some will organise events in Burundi, in Rwanda, as well as in northern countries for the donor community. That said, I attended a number of low-key events of NGOs launching their gacaca reports quietly, in a bid to avoid strong reaction from authorities.

At an informal level, some members of staff will be in charge of repeating the reports’ contents in both domestic and international political spheres through political dialogue (see chapter 4). Nonetheless, financial capacities are not the only criteria; sensitive data will also be purposely disseminated more discretely in difficult contexts.

Looking into peacebuilding practices, Denskus (2014) addresses the performativity in peacebuilding workshops and conferences. He (*ibid.*, 25) states that peacebuilding workshops:

often display intangible products, for example, ideas, knowledge and ultimately the vision of a better, peaceful society that will be embedded in the liberal market model of Western societies. Professionals may offer their services, knowledge, gossip and information in hotels and workshops and engage in an ongoing ritual negotiation of expert status, acceptable knowledge or unthreatening policy recommendations. ... The rituals of travel, physical attendance of events, expectations of

results (e.g., a conference report) or conduct (experts staying in certain hotels for only a couple of days) often create economic activities, status and legitimacy as well as a new form of pilgrimage.

His analysis reflects similarities with the dissemination of TJ reports: important efforts are put into formal presentation, organisation of the launch, into attracting the best and most appropriate policy makers, and conveying clear and simple messages with ‘unthreatening policy recommendations’. All these performative acts of professionalism and scientific etiquette are designed to gain legitimacy and thus promote a political agenda.

High-level political actors (such as representatives of authorities, diplomats, heads of mission in NGOs and aid agencies) continually receive lobbying reports from all sorts of institutions. Most of them do not have sufficient time to read them in detail. At best, their introduction, conclusion and recommendations are read in more depth. At worst, they are piled up with other reports in shelves or drawers. What is therefore important is the social interaction that is taking place around the report, the networking through which quick and easy messages for very complex issues are conveyed. Professional and well-designed reports remain important commodities to produce credibility and enact lobbying.

Both donors and authoring organisations have limited opportunities (if any) to follow-up on bureaucratically finished projects and reports. There is too rarely a strategy beyond formal presentation of research outcome, material dissemination and lobbying activities. Among the 100 reports listed in the appendix, two sets of initiatives were prominent in the two contexts of analysis. The large-scale monitoring of gacaca courts in Rwanda involved several institutions over a decade, and the Burundian national consultation was supported by the UN Peacebuilding Commission and implemented by a tripartite steering committee. The two following sections detail the social lives of, and in, these reports (see Appadurai 1988).



## Section 6.3

### Gacaca Monitoring: A Decade of Reporting



Top: Gacaca Archives, Creative Commons,  
Bottom, Launch of Monitoring Report - © A Jamar

### **6.3. Gacaca Monitoring: A Decade of Reporting**

The reports listed in the appendix indicate clearly that the gacaca process has been widely discussed by potential donors, human rights organisations and legal experts from around the world. These dozens of reports represent the long journey of experiences, analysis and negotiations that stakeholders went through to come to agree to the gacaca model as stipulated in the first law in 2004 and updated versions. The collection of reports indicates that since 1996 numerous international actors have been concerned with the question of impunity, the situation of prisons and condition of the destroyed judicial system, compliance with international law, and psychological needs in post-genocide Rwanda.

It is interesting to note that most of the reports were written before the national launch of the process (see list and dates of publication of reports in the appendix), when authoring organisations (Danish Center for Human rights (DCHR), Newick Park Initiative, Penal Reform International, UN OHCHR, Collective of Leagues and Associations for Promotion and Defence of Human Rights in Rwanda (CLADHO), and the Rwandan League for the Promotion and the Defence of Human Rights (LIPRODHOR)) were hoping to influence the policy model. From 2006, however, NGO monitoring reports were written most frequently; and reports from other sources became rare. The list also illustrates the decreasing role of involved organisations; this results from a diminishment of interest and/or belief that their work can bring any change. All these reports demonstrate that there is no unanimity – many concerns, preferences and positions are deployed in all these reports.

While negotiating the law that entitled non-professional ‘judges’ with the judicial power to rule on genocide crimes, an important monitoring system was also set up as the main safeguard. All these technical negotiations were defining the legal framework that entitled non-professional ‘judges’ with the judicial power to rule on genocide crimes that took place in their own community. Given that gacaca court decisions would range from acquittal or material reparations to life imprisonment, the indirect and long-term social consequences of these technical negotiations are undeniable, but also unpredictable. More importantly, these reports clearly illustrate the fear expressed by authoring organisations over the lack of judicial guarantees that the gacaca system offered.

This section focuses on reports produced within the context of the monitoring, as a policy set up with the main intermediary output being the production of reports. Even though the monitoring was initially designed to act on observed issues and violations of the gacaca law, it progressively became impossible for monitoring agencies to do more than just report them as explained below.

### ***6.3.1. Monitoring Reports as Appropriate Safeguard?***

In response to these concerns, donors' support for the gacaca process was made dependant on safeguards, of which monitoring was the most important. As an international consultant, Peter Uvin (non-dated) recommended that the international community provide critical support to the gacaca process. Among outlined propositions, he (Uvin, non-dated, 12) suggested:

These monitors assist at the audiences and, using a standard, uniform monitoring system, they write short reports about the unfolding of the dynamics. If necessary, they take note of major violations of the spirit of the gacaca process .... They send these reports to a central mechanism...

He envisioned that the monitors, upon observation, would support Inyangamugayo at the community level, and analytical reports would rectify policy guidelines at the national level. It was indeed believed that “reliable and rapid monitoring of instances where the spirit of gacaca is being violated” would enable the abuses to be rectified (*Ibid*, 12).

A number of organisations were commissioned for the gacaca monitoring: local NGOs (Collective of Leagues and Associations for Promotion and Defence of Human Rights in Rwanda (CLADHO), the Rwandan League for the Promotion and the Defence of Human Rights (LIPRODHOR), and Support Project from the Civil Society to the gacaca Process – PAPG, Ibuka); and international NGOs (Avocats Sans Frontieres (ASF), Penal Reform International (PRI), Amnesty International (AI), Human Rights Watch (HRW)), and the Rwanda National Commission of Human Rights (CNDP)). PAPG had 152 agents, LIPRODHOR had 126 human rights voluntary agents undertaking monitoring for them, however, throughout the process, their number decreased drastically; in some regions, nobody was willing to volunteer due to the sensitiveness of cases. PRI and ASF both had research teams with around eight people dedicated full-time to their monitoring programmes until 2010.

In the late 1990s, when the monitoring model was decided, NGOs and judicial institutions were working hand-in-hand (e.g. Digneffe and Fierens, 2003). Monitoring NGOs were then optimistic about the project. Over one decade, this monitoring extensively documented the

sequences of the gacaca process. However, the Rwandan authorities reacted very negatively to criticism, particularly following the creation of the SNJG in 2004, and gradually closed the discussion space. The relationship between these actors turned sour and the input from NGOs became less and less integrated. At the end of the monitoring in 2010, authorities gave little, if any, attention to recommendations formulated by monitoring organisations. Gradually, donors and NGOs disengaged from the process. The analysis in the next section illustrates the discursive battles between stakeholders over gacaca, fought through reports, and demonstrates the failure of lobbying and influencing strategies set up by donors and implemented by NGOs.

Overall analysis of monitoring reported that there were difficulties for Inyangamugayo to apply the gacaca law, i.e., collecting data about crimes and alleged perpetrators, organising and ruling on trials, failing to respect the principle of presumption of innocence, limited verification of evidence, incorrect categorisation of crimes and penalties, false accusations and corruption, and involvement of political actors in the process. All these elements are considered to have been caused by the limited training of Inyangamugayo. It was also aggravated by the acceleration of the process in 2007.<sup>61</sup>

All NGOs involved had serious challenges with their gacaca monitoring programmes. Several scholars address issues of dynamics between monitoring agencies, donors and the Rwandan authorities (Waldorf 2010; Schotsmans 2011; Oomen 2005; Hayman 2008, 170–171; Da Camara 2001; Jamar 2012). For example, through the analysis of PRI gacaca monitoring, Gready (2010, 656) describes a “difficult operational context for civil society organisations” in which “the micro-political processes and arrangements through which civil society-state relationships can be negotiated remain ad hoc and state-determined.” Focusing on donors’ and INGOs’ relationships through gacaca monitoring, Martien Schotsmans (2011, 392) observed apparent contradiction between what donors required from INGO monitoring, without supporting the resulting recommendations. While looking at different sets of dynamics, these authors underline the challenging position in which monitoring organisations are put, given their roles and means.

Both Gready and Schotsmans do not, however, give sufficient attention to the constantly evolving dynamics among the complex set of stakeholders. They do not assess whether the

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<sup>61</sup> To comply with the many closing dates of the gacaca process (later postponed), the rhythm of judgments had been accelerated, and one monitor reported to have observed a court making rulings in over 19 cases in one day during that period. Even though the rhythm slowed down when the closing was postponed, it has irreversible impacts on the quality of judgments.



monitoring approach was an appropriate safeguard to manage such complex dynamics (of communities themselves having to rule on judicial decisions for genocide crimes). They discuss monitoring dynamics as though each organisation is one heterogeneous entity, and hence ignore the difficulties within organisations. I nuance their arguments by also looking into socio-political tensions within monitoring organisations, and question their impact on the production of reports, as well as on the gacaca process overall.

### ***6.3.2. Monitoring Reports as a Socio-Political Battleground***

In addition to these above-mentioned and well-established constraints, my research brings attention to challenges caused by concurrent views within monitoring organisations, and related micro-social politics. Various levels of politics, including national and international pressure, have affected the monitoring process by ultimately defining what was observed, what type of analysis was undertaken, what was written in reports, how they were disseminated and received, and finally, how they impacted on the gacaca process.

#### **Various Levels of Politics at Play**

As explained in chapter 3, number of authors underline how the local practice of gacaca was affected by national politics in various forms (Ingelaere 2009; Longman 2009; Thomson and Nagy 2011; Burnet 2014). The imposition of Hutu guilt, victor justice, and political intrusion have also been mentioned as key limits of the gacaca process jurisdictions (see e.g., Rettig 2008; Longman 2009, 310). At the same time, local dynamics also played a role. Both Burnet and Ingelaere find that the micro-social dynamics of gacaca varied from one community to another (Burnet 2014; Ingelaere 2004). Coming to the monitoring, another factor was at play. Rwandan authorities used the immorality of the genocide and international guilt for their lack of interventions to prevent the genocide to counteract criticism and put pressure on donors (e.g., Gready 2010; Reyntjens 2011; Straus and Waldorf 2011). My focus on the production of reports underlines how similar dynamics driven by national politics and social relations among professionals have influenced aid-dependent efforts towards gacaca.

As previously established, diachronic analysis of the monitoring evolution demonstrates a deterioration of coordination (Jamar 2012). Initially, monitoring reports were discussed in several forums involving NGOs, donors and Rwandan government officials (discussed below). It was through this process that the main output became the production of reports to be

distributed to Rwandan institutions, aid agencies and embassies in Rwanda. Discussion channels disappeared gradually, bureaucratic obligations to monitor were made more difficult, and both led to increasing internal tensions within monitoring agencies and a progressive disengagement from all stakeholders. From 2008 to 2010, NGOs pursued with difficulty their monitoring and reporting activities, thinking the gacaca process would come to end (given that the SNJG announced the postponement of the closure of gacaca courts almost every year).

Among initial coordination channels, the National Human Rights Commission (CNDP) organised monitoring meetings with other international and local NGOs. In theory, this was supposed to provide a forum for dialogue between NGOs and Rwandan authorities. From minutes of meetings, it can be observed that each NGO presented its observations in turn. However, minutes do not record discussions between monitoring institutions, CNDP and the SNJG aiming to find solutions to the problems encountered. A donor representative who frequently attended these meetings noted that the most sensitive issues raised did not appear in the CNDP published reports (Interview with donor representative, July 2008).

The work as a monitor also became more challenging through the process, as this interviewee explains:

At the beginning, the lobbying work was easy [from 2002, counting the preparation and pilot phase]. We could say what we found pertinent. ... We could go and talk to a president of cell court [the leading judge of the lowest level of courts in the gacaca system]. It became gradually a difficult lobbying process through different levels, we could not anymore go and talk to the president of the court, we had to go through the sector coordinator, the district coordinator, and the lawyer (from the SNJG legal unit in which each province is supervised by one lawyer), it was a long and very difficult process (Group Interview with NGO staff and former monitors, author's translation from French, December 2012).

From an initially collaborative relationship, the synergy between monitoring NGOs and the Rwandan authorities deteriorated. Through fieldwork, I collected extensive data illustrating how Rwandan authorities imposed bureaucratic obligations on NGOs, in order to constrain their work (see also chapter 4). For instance, a local NGO worker explains, "Initially we were easily given collective research authorisation. The researcher took a copy and he could go and observe gacaca courts. The research authorisation was then individualised and the number of observers consequently diminished" (Group Interview with local former monitors, author's translation from French, December 2012). ASF, one of the most active INGO in gacaca monitoring, was not granted monitoring authorisation for two months in early 2008, without any explanation.

My research indicates that monitoring difficulties were related to increasing bureaucratic obligations underpinned by strong political dynamics. A researcher for a local NGO affirms, “Initially we were delivered easily collective accreditation. The researcher took a copy and he could go and observe. It was then individualised and the number of observers diminished” (Group Interview with NGO staff and former monitors, author’s translation from French, December 2012). ASF remained without monitoring authorisation for two months in early 2008. The then ASF head of mission was never given a clear justification. He considered “it could be a reprisal from Domitilia [the Executive Secretary of the SNJG – the Rwandan office for gacaca courts] because some of her family members were refused a visa to go Belgium. Or because of a newspaper article published in 2007 that misquoted what I had said potential negative consequences. Yet Rwandan people will have to deal with the consequences of the false accusation, false testimony, judicial mistakes, and unfair decisions widely cited in all these monitoring reports.

At the global level, donors’ embassies also were also pressured from their own national governments. For instance, the Belgian Cooperation office in Kigali was called on several occasions to answer parliamentary questions concerning its support to the gacaca process. The office answered that it financed monitoring safeguards implemented by ASF and PRI (Parlement Fédéral Belge 2008). Referring back to support of and collaboration with monitoring NGOs turned out to be useful in dealing with increasing concerns and criticisms about the process. At the same time, increasing pressure was put on NGOs not to produce overly critical reports. In 2006, DFID cut its funding to PRI, considering its reports to too negative (Waldorf 2010). With the arrival of a new donor representative who was pro-regime, PRI was encouraged to not publish a report written about RPF crimes (Interview with a previous NGO staff, December 2014).

### **What Can Be Said in the Last Monitoring Report?**

One local NGO faced problems in the publication of their last gacaca research project. The research consisted of a quantitative survey of the population with regard to their appreciation for the gacaca process. The draft report concluded that gacaca had received limited appreciation and had had limited impact towards reconciliation. The research project had been jointly undertaken with a Rwandan academic institute. Through the editing process, the academic researchers disengaged, apparently after being intimidated by the police. Due to a

number of other problems, the NGO never published this final report. These are clear obstructions put in place by Rwandan institutions in order to discourage analysis, which is not in line with the official narrative about the genocide and the gacaca process. Bureaucratic obstacles turned out to be useful to silence critical voices, as in this instance their last monitoring report could not even be published.

Looking into the internal tensions among staff at INGOs further reveals how social and political dynamics framed how gacaca was being monitored, analysed, and reported about. A former expatriate head of mission explains how the local researcher team was heavily affected by the post-genocide and ethnic context:

The lead researcher suffered a lot of pressure because he was Hutu. The genocide survivors of the team played with ‘genocide ideology’<sup>62</sup> and upon the fact he was incompetent. He had limited authority on his own team, and his ethnic identity had a lot to do with it. When we were the two of us, he would talk to me with full confidence about his analysis of gacaca. With just one other person in the room, he would talk differently. Actually, only the researchers who were Tutsi survivors would talk in the same way in all circumstances. The others, they suffered from war crimes, but they would always have changed their voice and language with others around. They would not comment negatively on their observation of gacaca. Through moral pressure, the survivors could frame what type of issues we would work on, or not, and how we would talk about them. As a result, we stopped having team meetings. At the end, the researchers would only collect the data and the analysis was dealt separately.

In this discussion, it became apparent that the everyday work of a monitoring team was heavily affected by personal experiences of the genocide, ethnic identity, and positions towards the regime. In parallel, there were also other complex interactions in between the expatriate staff based in Kigali and the head office about the content of monitoring report, particularly the last monitoring report.

ASF and PRI stopped their monitoring programmes in 2010, while the gacaca courts officially closed in 2012. Interviewees explained that the main reasons were insufficient funding and the limited contribution of their work. Given the lack of impact of previous reports, both INGOs considered that the last reports should not contain any recommendation, nor be followed by any lobbying work. Working at PRI in 2009 and at ASF in 2010, I experienced directly and observed difficult discussions internally about the closure of their monitoring programmes, the

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<sup>62</sup> The Rwandan legal framework criminalise ethnicity and divisionism through the adoption of laws forbidding ‘sectarian and genocide ideologies.’ Many have argued that these laws are an efficient political tool to manipulate the legacies of the past and to neutralise government critics, especially as their definition of what genocide ideology and divisionism means is vague (Amnesty International 2010a; Reyntjens 2011). It has been argued that this legal framework has been used politically and has severely affected democratisation and the development of an independent civil society (Amnesty International 2010a).

content of their last reports and public disseminations. The then ASF head of mission describes:

It was planned that we would say it all in the last report. It was supposed to have strong political analysis. But as you were submitting different drafts [me being the consultant at the time], the head office realised that ASF was too involved in the process and decided to not say anything. They were worried that they would be challenged on why they did not communicate these problems earlier. I was asked to step out from discussions about the last report. The Director and other people from the head office took over me and decided what could be included and how the political analysis should be tuned down.

ASF decided to launch their last report discretely. The head office dismissed the critical head of mission, partly to demonstrate that they took actions over their mistakes. In contrast, PRI organised an important event to launch their summary report, which was overly positive – particularly in comparison with the original analysis being summarised - in London. PRI head office had asked Klaas de Jonge to write a piece for its final summary report. He played an important role in the involvement of PRI in gacaca as the former head of mission and coordinator of the PRI gacaca research programme in Kigali, but left the organisation in 2007 when he started to disagree with PRI's approach and position on the monitoring (Skype interview, December 2014). In his concluding notes, he (2010, 2) wrote:

... naively, we hoped that our analysis of the key issues and proposed solutions [...] would have some impact. [...] it could be expected that the RPF would instrumentalise the gacaca as it has done with the ICTR [...] inside as well as outside Rwanda. ... In my view, [PRI monitoring] reports show that the *gacaca* process was a failure if we relate the outcome to its explicit objectives...

His text was considered too critical for the position that the head office wanted to promote in the last report. It was not included, and it was not distributed at the launch event. Both PRI and ASF decided to adopt a diplomatic approach to the closure of their monitoring programmes even though they would no longer need support for their offices that were to close. The head offices had serious concerns about their apparent credibility if the problems of a policy, which they had 'supported' for so long, were to be discussed publicly. Receiving funding for their other projects from the same donors is certainly an important element to take into account.

This scrutiny of reports production shows the increasing challenges in undertaking monitoring. The monitoring failed to constitute research as a safeguard of judicial and procedural guarantees in gacaca hearings. Despite all actors involved being aware that monitoring did not work, important efforts continued to be mobilised to produce the reports and project the image of an appropriate safeguard. Simply by reading the depoliticised published reports it is not possible to understand the battles over their content and publication. However, the above description makes obvious the extent to which national politics and bilateral relations (in

between donor countries and Rwandan authorities) were at stake throughout the monitoring of the gacaca process.

The internal tensions are important to underline the interplay of national and international factors impacting on reports production. First, it brings attention to the important role of the individual; personal experiences of violence, political positions towards the regime, and ethnic identity cannot just be solved by having a mixed team with diverse ethnical backgrounds, national, and international members (as often put forward by NGOs as a way to overcome cleavages). These are important lessons for organisations and donors supporting societies recovering from past violence. Particularly, as I elaborate below, on how it shapes the TJ process in itself, and in this case failed to address problems created by the gacaca process.

### ***6.3.3. Battles over Representation of Gacaca***

Building on the previous section, I present here how overall different organisations openly engaged in representation battles. Beyond these internal debates, there were stronger disagreements in between organisations. These were more obvious in the media coverage of the reporting of watchdog organisations, namely HRW and AI. These organisations are not financially dependent on bilateral donors. As a consequence, their criticism of gacaca and the judicial institutions in Rwanda was more direct. Their critical stances are obvious in the titles of their reports: “A question of justice” (Amnesty International 2002); “Rwanda: Genocide suspects must not be transferred until fair trial conditions met” (Amnesty International 2007); “Rwanda: Gacaca Trial Condemns Activist to Prison” (Human Rights Watch 2007); and “The Power of Horror in Rwanda” (Human Rights Watch 2009).

The release of the HRW report, “Law and Reality” (2008) commenting critically on the Rwandan justice system, including the gacaca process, created the main conflict. The government reacted negatively to all these reports (see for example *The New Times* 2006 – a state-sponsored newspaper). Allison Des Forges, an HRW senior expert, was described as a spokesman of the génocidaires. A few months later, she was refused entry to Rwandan territory (Hirondelle News Agency 2008) after having worked on Rwanda since the mid-1960s. These media clashes with Rwandan authorities represent the battles over what gacaca is, how successful it was, and how it should be represented.

Throughout the years of the gacaca process, the authorities followed a certain pattern in refuting NGOs' critiques in relation to gacaca: they maintained that INGOs did not sufficiently understand the Rwandan context, that their analysis was biased as it was embedded in Western legalism, that they did not appreciate the traditional dimensions of gacaca, and that they did not propose alternatives (e.g., interviews with authorities representatives, Kigali, 2008, 2012, 2013). The final SNJG report illustrates these patterns (National University of Rwanda – Center for Conflict Management (CMM) 2012). Financed by the Dutch Government, the 256-page document explains the judicial challenges faced in the aftermath of genocide, the functioning of gacaca, its achievements, challenges, and adopted strategies. One section dismisses criticisms made about gacaca courts. It writes “having noticed that some individuals and organisations have been providing in their reports ... [analysis] which is the contrary of what has been done during the gacaca courts process” (*ibid.*, 162). This 26-page section invalidates NGOs' criticism and claim to reveal ‘gacaca's true nature.’ The section specifically addresses 14 criticisms. For example, in relation to the issue of the poor training of Inyangamugayo, the report states that some human rights organisations:

... expressed doubt regarding whether the Inyangamugayo judges of gacaca courts who have no legal training and experience would be able to try genocide cases. ... As it is, gacaca has always been part of Rwandan culture. When one committed a crime they were brought before gacaca and chastised by the elders and the two families (the family of the offender and the family of the offended) were reconciled and the conflict was resolved. ... Even though there were no written laws at the time, conflicts were settled basing on cultural values. With regard to gacaca courts, the historic goal of reconciliation was maintained however, the courts applied the codified laws and regulations. .... The only next step involved was to consult the provisions relating to the crime in Organic Law no 16/2004 governing gacaca courts. Therefore this does not require graduate education in law.

... It should also be noted that the Inyangamugayo judges were given training on the laws and regulations governing hearings of gacaca courts and most of them even memorised them because the Organic Law mentioned above had become like the Inyangamugayo bible. ...

The section does not discuss NGOs' specific criticism, particularly the social implications of Inyangamugayo capacities to implement the gacaca law. It only refutes this by stating that the Inyangamugayo did not need professional legal training because gacaca is a Rwandan tradition. Therefore, the report implies that Inyangamugayos' insufficient training, as reported by NGOs monitoring, was false. Such inference is, however, weak; it only underlines that the authoring organisations, CCM and National University of Rwanda, reject the position of monitoring NGOs report without empirical evidence to refute it. This last report is a typical example of the battles over representation about what the gacaca process was about, what it

achieved or failed to achieve. More importantly, it implies that any social consequences of infringement of the gacaca law will not be dealt with.

#### ***6.3.4. Social Relevance of the Representation Battlefield for TJ***

Throughout all stages of the monitoring, NGOs were working under Rwandan sovereignty and financial dependence on donors. They had insufficient power to legitimise their analysis. Even with evidence of sound and robust methodologies in the production of their reports, this did not enable them to influence most of the policy changes that they recommended. Given the moral burden of the genocide and on-going complex relations with Rwandan authorities, most diplomats I spoke to acknowledged the complexity and the need to focus on new priorities – that is to strengthen the judicial system and to attend to more general human rights issues. By the end, even critical organisations gave up on the battles over what gacaca was supposed to be about and what could be done to ‘rectify’ its implementation.

I collected numerous pieces of information indicating that the legacies of the gacaca process were bigger than what the public discourse suggested. While donors and representatives of authorities kept repeating to me during my fieldwork that the gacaca process was over, I observed signs at the same time that it was not finished. During my first phase of fieldwork (October 2012), it was still unclear for the people I interviewed as to how the judicial authorities would interpret the gacaca termination law. Some informants, particularly NGO staff, were concerned with regard to the consequences of the gacaca process, the lack of support for people still struggling with the process,<sup>63</sup> and the transfer of gacaca competences to other institutions on the basis of the gacaca terminating law. In later periods of fieldwork (February 2013 and June to October 2013), it appeared that donors were not involved in the implementation of the closing law, and that no additional measure (other than passing the law) had been undertaken by Rwandan authorities. Even on the side of NGOs, no efforts were being put into following up on social and legal issues identified in their monitoring reports of gacaca (false accusation, false testimony, judicial mistakes, corrupted acquittals, unfair decisions and imperfect justice).

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<sup>63</sup> For instance, one interviewee mentioned that a family tried to obtain, without success, a copy of the gacaca court decision that acquitted their relative so he could be released. One organisation counted more than 500 people in detention for genocide crimes whose cases had never been ruled on and were still open after the gacaca closure (Interview, Rwanda, November 2012).



In conclusion, the review of gacaca monitoring also underlines the murkiness of politics when dealing in TJ. It highlights that all organisations involved, Rwandan authorities, donors and NGOs, hold their own agendas. As demonstrated, these agendas were changing over time, reacting to different dimensions from various pressures and political positions. Overall, it shows how aid-dependant actors were inconsistent and unequipped to deal with politics. As a result, the immense efforts put into establishing safeguards for the risks represented by gacaca were not able to limit or fix the problems encountered. Turning to Burundi, the following section now looks into the production of the national consultation report. In contrast, the national consultations report presents methodological limits, but served the purpose of maintaining the TJ process despite being in a deadlock situation.



## Section 6.4

Pushing Forward the  
Deadlock Process with the  
National Consultations in Burundi

#### **6.4. The National Consultations in Burundi: Pushing Forward a Deadlock Process**

The TJ process in Burundi presents a different case study in which not much has happened yet. While the first TRC law was adopted in 2004, no progress had been achieved by 2007. The negotiations were then suspended due to a disagreement between the UN and the government of Burundi. During this impasse, the Burundian authorities and the UN decided to organise national consultations. From a policy perspective, the national consultations aimed to create an environment in favour of TJ mechanisms and ensure the population's participation in the reconciliation process, by consulting a sample of the whole Burundian population (Gouvernement du Burundi 2010, 14).

The 187 page-long report on the national consultations results from a quantitative research project undertaken jointly by the UN, the government of Burundi and Civil Society. Consulting more than 4,800 people across the provinces of Burundi and the biggest diaspora communities overseas, it provides statistics about the Burundian population's preferences regarding the TJ process. The project was launched in 2007 and the report was published in 2010. Its results have been repeatedly mentioned in discussions about TJ in meetings, training and sensitisation tools, and in interviews I undertook.

The UN granted great importance to the consultation exercise, as illustrated by the UN OHCHR's booklet entitled 'National Consultations on Transitional Justice', part of the series on 'Rule of Law Tools for Post-Conflict Countries'.<sup>64</sup> It considers that national consultations are a matter of human rights to include the affected population and victims in the TJ processes; as well as a crucial element to tailor the most appropriate policy according to the local context:

International human rights law requires national consultations to be undertaken. Such consultations are also a matter of common sense. The people who have been affected by oppression or conflict need to be listened to, so that the transitional justice programmes best reflect their actual experiences, as well as their needs and entitlements. ... each programme must be precisely crafted to take account of the particular needs of the national situation. A careful process of consultations will also ensure that there is a strong sense of local ownership of the transitional justice approaches and should serve to promote stakeholder participation throughout the transitional justice programme.

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<sup>64</sup> As mentioned in chapter 2, the UN OHCHR has published a series of booklets providing guidelines to post-conflict countries on their way to implementing TJ measures. It addresses eight different matters: the national consultations, prosecution initiatives, truth commissions, vetting, maximising the legacy of hybrid courts, reparations programmes, amnesties, mapping the justice sector and monitoring legal systems.

This reference indicates the importance of the UN in encouraging such an exercise in Burundi. It also depicts its technocratic ‘toolkit approach’ to dealing with the past, as described in chapter 2.

The consultations are considered one of the key achievements of a long and a tenuous process. Its results have been repeatedly mentioned in discussions about TJ in meetings, training and sensitisation tools during my working experience in Burundi (2010) and my fieldwork (2012, 2013). The report is widely considered to be one of the best tools used in political discussions about TJ matters. It is no longer a key document. It remains a crucial example of a TJ process in which the global agenda is taking over national priorities. The few critical voices support this view given to the blocked process, but they also stress the project’s limits. In this section, I argue that the report constitutes a significant case of depoliticised TJ efforts, involving important financial and human resources, but which was not able to address political matters. Rather than providing information about the local context, the national consultations report reflects the TJ Global Agenda.

#### ***6.4.1. Politics at Play – Intersections between the Local and the Global***

The Arusha Peace and Reconciliation Peace Agreement signed in 2000 provided for truth-seeking and prosecution mechanisms. Providing for a ceasefire and a consociational democracy, it marked an important step forward for the negotiated peace in Burundi. At the same time, it also implied that the key political parties were close to and included members involved in past crimes. Key political parties encouraged truth and pardon with the aim to leave aside judicial questions (e.g., Rubli 2013). In the early phase of the official process, the UN and Burundian authorities disagreed about the relationship between a Special Tribunal, the TRC and amnesty dispositions. Specifically, the UN representatives could not accept that the TRC decisions would bind the prosecutor of the Special Tribunal to prosecute specific cases and leave other cases outside of its jurisdiction. They also could not agree with an overly lenient granting of amnesty, which was considered as a risk to potential violate the Burundian penal code and international norms.

Commenting the overall TJ process in Burundi, Vandeginste (2012; 2011a; 2010) comments extensively about the political use and abuse of legal instruments. He (2011a, 14) specifically addresses the role of leading former opponents in blocking the TJ process. He comments “Keeping up appearances as if they are genuinely interested in transitional justice has so far

proved to be a successful strategy. [The contrary] ... might force the UN to change its position, possibly to the detriment of its Burundian counterparts.” Such preferences have been indirectly expressed (and have been refused by the UN) since early TJ negotiations in Burundi. Within such a political context, the actual implementation of TJ mechanisms was not possible. Constrained by these dimensions, the national consultations are negotiated within this very limited space in between the positions of Burundian authorities, civil society and the UN – without the limited common ground.

Of the few scholars who have written about TJ in Burundi, most mention the national consultation report as a key step in the process (Stef Vandeginste 2012; Taylor 2013b; Matignon 2012). For instance, Taylor notes: “Methodological flaws notwithstanding, the consultations organised jointly by the government and UN demonstrate that the current options for TJ have sizeable local grounding” (Taylor 2013b, 5). Rubli (2011) describes the national consultations as an arena of negotiations between the government, the UN and civil society through which civil society gained legitimacy as an essential stakeholder. I add to this existing literature demonstrating how the technocratic accomplishment and the scientific facade of producing a report, have resulted in strong support for what is in reality a limited document. By further depoliticising TJ discussions, the National Consultations also pursued the consolidation of the global TJ agenda, but inadvertently left out of the enquiry ‘what is best for Burundi.’

#### ***6.4.2. Tripartite Committee Looking into Fuzzy Concepts: An International Agenda in the Driving Seat***

Launched in 2007, the national consultation project was undertaken jointly by the UN, the government of Burundi and civil society organisations. It published a 187-page report in 2010, presenting the results from a quantitative research project, which provides statistics about the Burundian population’s preferences regarding the TJ process. The then newly established UN Peacebuilding Commission funded most of the project, with a budget of 1.38 million US dollars (Stef Vandeginste 2009, 187). The UNDP and International Organisation of 4cophony also contributed 200,000 and 30,000 US dollars respectively.

One of most praised dimensions of the national consultation is its tripartite committee. The committee, comprising the Burundian authorities, the UN and civil society representatives, was in charge of the consultation’s conception and implementation, as well as guaranteeing its

independence, integrity and credibility (Gouvernement du Burundi 2010). There were several technical committees. For instance, the technical monitoring committee was co-chaired by the president's private secretary of civil affairs, the representative in Burundi of UN OHCHR, and the director of the BINUB human rights division. A South African consultancy firm was hired to analyse the data gathered. Such a large and expert team, along with important financial resources, were put at the disposal of the project with the aim of producing the best consultations. I argue, however, that the conceptual framework applied to the project adopted a narrow understanding of TJ, which was strongly embedded in the TJ toolkit approach. This adherence to the toolkit approach had a strong impact on the overall normative framework of the consultations, the types of questions included in the questionnaire (Gouvernement du Burundi 2010 see appendix), and the content and structure of the final report.

The first chapter of the national consultation report defines transitional justice, truth-seeking mechanisms, judicial prosecution mechanisms, reparations and institutional reforms. This set of mechanisms and the provided definition match exactly the assumptions of the TJ toolkit approach. Specifically, the chapters respectively report on the following dimensions:

- Truth-seeking mechanisms (facts to be investigated, mandate of the TRC, members of the TRC, male and female representation, members of the selecting committee, disclosure of alleged perpetrators, hearings in public or in camera, persons to be heard by the TRC);
- Judiciary prosecutions (members of the special tribunal, male and female representation, mandate of the special tribunal);
- Reparations (collective, symbolic, material individual, crimes for which reparations should be accorded);
- Institutional reforms (role of institutions in the Burundian crises i.e. the judiciary, administration, police, army and the media);
- Burundi's future (path to reconciliation, how break the cycle of violence).

From chapter 3 onwards, the technical preferences for the mandate, and the composition and background (gender and nationality) of members for each mechanism are indicated. The report presents numbers and charts to reflect the statistical overview of participants' preferences (see the example in the next section).

The consultations referred to fuzzy concepts such as truth, justice, reparation and reconciliation that do not have clear meaning – but all can agree on them. An INGO representative explains:

It is a very numeric analysis, there is a need to clarify what is beneath these numbers and attach more attention to narrative elements. ... For instance, the consultations ask, 'Do you want truth?' But what truth are we talking about? The truth about perpetrators? The truth about factual events?

The report left many points unclear (Interview with NGO staff, Author's translation from French, February 2013).

At the same time, the report did not raise the issues at the crux of disagreement between the UN and authorities: modalities about impunity, judicial mandate and binding nature between the TRC and Special Tribunal. Given that no sensitive questions were introduced in the questionnaire, the process mainly reflects the toolkit approach: full support of claims associated with these mechanisms and their benefits for reconciliation, accountability, rule of law and democratisation.

On the one hand, the report clearly reflects technical and depoliticised views – even if negotiations were taking place in a heavily political context, as discussed in the previous section. On the other hand, the report also holds the capacity to support any political claim. Another INGO representative explains: “The questions were vague; this created a document that can give legitimacy to any argument” (Author's interview, 2013). Further battles about the TJ legal framework frequently referred to the spirit of the national consultations, but this was mobilised by different actors for different reasons (e.g., the involvement of civil society in the TRC brought up by international donors and NGOs; or the preference for reconciliation and pardon by Burundian authorities). The depoliticised consultation process enabled a pretence that the TJ process was moving forward, enabled the TJ agenda as envisioned by the UN to be pushed ahead, and left Burundian actors at their initial positions. Finally, it encompassed all the different political agendas.

#### ***6.4.3. Methodological and Scientific Rigour Building the Report's Legitimacy***

Despite these limitations, the report presents a strong ‘scientific etiquette’ – a pretence to scientifically established work. The second chapter of the consultation report provides a detailed description of the adopted methodology. It includes a series of numbers and tables in relation to the selection of samples, the research calendar, and precautions for data security. The following chapters further project a ‘scientific etiquette’ by including numerous numbers and charts. Through my fieldwork, I also witnessed many references to the ‘scientific methods’ of the national consultations. A UN representative affirms “it is a scientific work that was undertaken. We hired a house of independent experts that produced the research document” (Interview, Author's translation from the French, February 2013). It leads to this question: was the best methodology deployed for the most efficient consultations, or just to legitimate the process?

Shortly after the report was released, Dushirehamwe (a Burundian women's association working on peacebuilding) and Impunity Watch wrote briefly about the national consultation reports, underlining how the methodology restricted the type of responses received by the consultations (Association Dushirehamwe 2010; Moriceau 2010). They considered that the adopted methodology and types of questions were not fully satisfactory because no open or sensitive questions were included, and some of the results were incoherent or unworkable. Indeed, many of the questions were formulated in a way that did not encourage a strong opinion. The questionnaire left out the possibility to respond positively (or negatively) to every question. For instance, a participant could reply yes to both preferring a majority of men and a majority of women in the TRC committee. The result ended up being 70.89% in favour of female majority and 81.51% in favour of male majority (national consultations report, 2011, 77), which in turn had little relevance for practice. Another relevant example is the question and its answers about the mandate of the TRC, as illustrated in the table below (author's translation from national consultations report, 2011, 76).

**Table 1: Example of National Consultations Results**

What power should be conferred on the TRC?	No (%)	Yes (%)	No opinion (%)
Receive victim's grievance	3.75	93.68	2.57
Investigate violence	0.91	97.96	1.13
Hear perpetrators of violence	8.37	88.86	4.77
Confront perpetrators to victims and witnesses	13.66	80.98	5.37
Establish responsibilities	4.83	91.41	3.76
Allocate reparation	7.64	84.50	7.86
Mediate conflicts and reconcile parties	3.95	92.00	4.06
Encourage victims and perpetrators to pardon	4.57	91.89	3.54
Other Power	13.67	38.30	48.03

The question does not reassess whether a TRC should be implemented, and the suggested answers implicitly reaffirm the association of a TRC with its claimed aims (truth-telling, truth-seeking, pardon, reparation and reconciliation). The question does not leave space for interpretations beyond the political agenda of what TJ needs to be. As the resulting statistical numbers illustrate, it does not establish much of a hierarchy of preference. Further, questions also refer to technicalities on which the population would not have a clear position without context, and even less without an understanding of Western legalism (such as the mandate of the prosecutor, whether the sessions should be held in camera or in public). By the end, such



an approach gives limited information about the local context and local needs for significant added value to the policy framework.

On this point, an INGO representative explains:

I do not know much about the methodology of the national consultations. ... It is a very numeric analysis, there is a need to clarify what is beneath these numbers and attach more attention to narrative elements. ... It is easy to ask questions. For instance, the consultations ask, 'Do you want truth?' But what truth are we talking about? The truth about perpetrators? The truth about factual events? The report left many points unclear (Interview with NGO staff, Author's translation from French, February 2013).

The research process demonstrates extensive concern for representation, inclusion and professionalism, as reflected in the report 'scientific etiquette'. Simultaneously, the consultations contained serious pitfalls related to the normative framework and the lack of consideration of participants' perspectives. The scientific claim of the report is the reason for its success; it has been repeated at high-level workshops, sensitisation activities and further negotiation meetings. The performance of professionally achieved work enabled praise for the illusion of progress in the TJ process, using statistics to promote one's position. Rather than contributing to a strong foundation for TJ, analysis suggests that the consultation process was, rather, looking for mobilisation and support for the limited issues that different stakeholders agreed upon. The tripartite committee and the 'scientific facade' of the research process and results create strong legitimacy for the document. It is thus one of the few documents that diplomats and NGO representatives used frequently to support their claims in further negotiations with the government. This also suggests that in the end, because of its utility and the credibility of the various organisations involved, no one had an interest in being critical about the document.

#### ***6.4.4. Implications of the 'Scientific Etiquette'***

The national consultation identified several trends in the Burundian population: a desire for truth-seeking and justice, a preference for collective and symbolic reparations over individual ones, mistrust of the population towards political parties, and the subsequent preference for religious and civil society representatives to be key actors in the process. It created a precedent for an inclusive approach in policy implementation. According to most interviewees, if there was any problem identified, it was in the way the report was used rather than in the way it was written. One UN representative told me "the government did not make most of the report. They put it on the side, we spent a lot and now it is in a drawer." In a context in which the BNUB

and the government were not working closely,<sup>65</sup> the government had later undertaken additional consultations about TJ perceptions by sending ministers themselves to each province. Burundian political actors asserted that the number of people consulted through the national consultations was too low to represent the population's views and thus not sufficient to drive policy (GRJT Meeting Minutes, 2012 – on file with author). They then decided to undertake further consultations.

All these anecdotes question the validity of the national consultation and the capacity of its report to push the TJ process forward. Despite the high budget invested, the few straightforward results of the consultations (already limited by the adopted methodology) were not integrated into the most recent TRC law – for example, recommendations to include civil society foreign commissioners as part of the TRC commissioners was neglected. More importantly, recent progress highlights that these financial and bureaucratic efforts did not enable political constraints to be overcome. A technocratic and apolitical approach did not enable the question of alternatives beyond the implementation of mechanisms as prescribed by the TJ toolkit approach, nor the development of an approach to deal with a violent past 'fitted to the national context'. On the contrary, by addressing technical dimensions of truth-seeking and judicial mechanisms, reparations and institutional reforms, the national consultations consolidated the TJ global agenda and depoliticised further TJ negotiations. Such approach inevitably calls for an aid-dependent process, and promotes further a unrealistic way to deal with consequences of mass violence and stop. This again underlines the need for more critical scrutiny of the role of international aid, its political agenda and its operational structures.

## Conclusion

In this chapter, the discussion of report production demonstrates the widespread use of research and reporting for TJ lobbying purposes. My two case studies question the rationale and benefits of reporting strategies. They demonstrate that TJ professional practices create an apolitical and technical façade that obscures the political and normative frameworks of different actors in the process. Even with very different national and international driving

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<sup>65</sup> Prior to and during my fieldwork, a number of elements illustrated difficult communication between the TJ unit at the BNUB and Burundian authorities. For instance, the draft law produced by the technical committee was not sent to the BNUB through official channels; the authorities would not respond systematically to BNUB correspondence.

forces, both the reporting practices over the gacaca process in Rwanda and the national consultations in Burundi served to promote political and normative preferences hidden behind technical recommendations.

When dealing with the past, such a depoliticisation process is not without risks. It leaves politics to operate without being addressed, and without attempts to redress the balance of power. Ultimately, it leaves unintended and unattended consequences out of the official process. These observations are more obvious for the Rwandan context in which the political sphere is clearly dominated by the RPF and its elaborate representation of the genocide and the gacaca process. In the case of Burundi, particularly at the time of my fieldwork (spread over 2012 and 2013), the political scene was occupied by various political dynamics and paralysed the actual progress of TJ while consolidating the TJ global agenda. In conclusion, I restate, first, how normative battles are depoliticised in reports production and, second, how reporting practices have become a legitimising tool in the TJ battlefield.

### ***Reports Production: Depoliticisation of Normative Battles***

With a few exceptions, the research projects did not take into account their normative filters inherent in report production. On the contrary, normative and political agendas were promoted by referring to cultural values, population views and international standards. The empirical analysis brought attention to political reasons encouraging authoring organisations to leave data out of their reports. Restrictions on content imposed by the mandate and functioning of authoring institutions are not obvious for most audiences reading their reports. Looking into the methodology and the normative commitments of authoring institutions elucidates the wide range of positions with regard to both gacaca and the national consultations. The analysis here of both gacaca monitoring and the Burundian consultations reveals the political and social processes lying behind reporting and representation production.

The production of TJ reports creates the image of more efficient processes unaffected by murky politics over the past. Under the surface, however, it appears that these processes are driven by various levels of political negotiation. The technocratisation of aid, and consequent depoliticisation, are not exclusive to TJ practices (see e.g., Holvoet and Rombouts 2008; Debusscher and van der Vleuten 2012; Debusscher and Ansoms 2013). Depoliticisation does not render processes apolitical; instead, it simply silences or hides the political matters in play. The case studies suggest that claims to apolitical aid also constitute a waiver of responsibility

for the long-term outcomes of short-term funding cycles. The claims silence politics that could negatively affect credibility and legitimacy of the authoring organisations.

Such silences over normative frameworks limit debates about disseminated analysis, and can lead to the dismissal of sound analysis by the projection of an ideal vision in a highly sensitive post-genocide or post-conflict context. Both practitioners and academics should pay more attention to normative and political filters in the production of such documents, to enable more transparent debates about the political nature of technical modalities.

### ***Reporting as a Legitimizing Tool for the Transitional Justice Battlefield***

All these reports have been produced with the aim of disseminating a particular approach, eventually in order to enhance social changes in relation to the crimes of the past. The analysis of reports produced in Burundian and Rwandan TJ contexts demonstrates that reports have insufficient capacity to change a reality. The ‘scientific’ and ‘technical’ reports, the conferences for their launch and the dissemination strategies all follow a number of conventions to promote credibility. Looking into peacebuilding workshops, Denskus (2014, 25) notes that these events:

often display intangible products, for example, ideas, knowledge and ultimately the vision of a better, peaceful society that will be embedded in the liberal market model of Western societies. Professionals may offer their services, knowledge, gossip and information in hotels and workshops and engage in an ongoing ritual negotiation of expert status, acceptable knowledge or unthreatening policy recommendations. ... The rituals of travel, physical attendance of events, expectations of results (e.g., a conference report) or conduct (experts staying in certain hotels for only a couple of days) often create economic activities, status and legitimacy as well as a new form of pilgrimage.

His analysis reflects similarities with the dissemination of TJ reports: important efforts are put into glossy professional reports and ceremonial launches to attract policymakers, and into conveying clear and simple messages with ‘unthreatening policy recommendations’. All these performative acts of professionalism and scientific etiquette are designed to gain legitimacy and thus promote a political agenda.

By close observation of the process, policy reports gathered valuable information on the TJ process in Burundi and Rwanda. In the case of gacaca, it became gradually obvious that monitoring safeguards were not used in the way they were designed, but rather became a tool to legitimise aid support for a controversial policy. The analysis of these monitoring reports will become useful only if any policy is ever established to deal with the side effects of the gacaca process on Rwanda’s social fabric. The case of Burundi is more flagrant in the

production and dissemination of results with limited policy relevance. However, most TJ practitioners in Burundi consider that the lack of success is related to the national political context rather than any limitation in the international TJ framework.

These observations have major implications for the possible contribution of policy-orientated research, and by extension for writing about truth-seeking initiatives and dissemination of TJ successes. Taking into account the murkiness of politics when dealing with TJ, my research underlines the need to walk away from the frequent assumptions framing international efforts. Aid is not apolitical and technical by nature. Adding and stirring NGOs and civil society is no counterbalance to power dynamics. TJ mechanisms do not hold magical capacities to move away from past personal experiences of violence. Political positions are inevitable constraints and should be directly addressed rather than silenced. Finally, the social life of reports illustrates how international donors and NGOs enter the TJ battlefield. By supporting one technical modality over another, by projecting a particular representation of the TJ progress, international actors become part of the political negotiations. In the end, reports are convenient tools, since they are able to embrace concurrent political views, or to render merely tacit the representation battles over TJ.

The two case studies provide more detail about the rationale, the required efforts and the limited benefits of reporting strategies. Regardless of the strength of the methodology, reports and research projects have little capacity to promote changes, even given the financial and human efforts involved. In conclusion, I restate the key arguments developed in the chapter.

- 1) Social processes are taking place in the production of reports, but social dimensions are silenced by the ‘scientific etiquette’, which silences in turn the epistemic and normative frameworks.
- 2) Reports are given a social life once produced, but this may hold little capacity to encourage more than merely bureaucratic change towards the recommendations made.

Based on Arjun Appadurai’s (1988) argument that the meaning given to things derives from human transactions and motivations, particularly from how those things are used and circulated, I detailed the ‘social lives in’ and the ‘social lives of’ policy-oriented reports through the review of their production and dissemination processes.

All these reports have been produced with the aim of disseminating a particular approach, in order eventually to enhance social changes in relation to the crimes of the past. The analysis of reports produced in Burundian and Rwandan TJ contexts demonstrates that ‘naming and shaming’, ‘analysing and reporting’ have insufficient capacity to change a reality. The

‘scientific reports’, launch conferences and dissemination strategies follow a number of conventions to promote credibility. The important differences in the power distribution among stakeholders is key to how these reports are used among practitioners. Nonetheless, theoretical beneficiaries are left with nothing much more than receiving direct or indirect ‘sensitisation’ about the research outcome.

Perhaps this is inevitable. Speaking of leading transnational NGOs in general, James Ron, Howard Ramos and Kathleen Rodgers (2005, 575) reveal a more complex picture:

Global activists have made considerable achievements, but they also operate with limited resources against enormous odds, forcing them to pursue pragmatic and politically savvy strategies ... we should also acknowledge that pragmatic strategizing can have both positive and negative effects. Information politics may be necessary, but by failing to systematically probe their benefits and their costs, we miss a valuable opportunity to stimulate useful debate within the transnational sector.

By close observation of the process, monitoring reports gathered valuable information on the TJ process in Burundi and Rwanda. In the case of gacaca, it became gradually obvious that monitoring safeguards were not used in the way they were designed. The limited impacts of the monitoring and its accompanying recommendations contained in reports led to the failure to achieve objectives established by coordination between donors, NGOs and Rwandan authorities. These documents will become useful only if any policy is ever established to deal with the side-effects of the gacaca process on Rwanda’s social fabric. The case of Burundi is more flagrant in the production and dissemination of results with limited policy relevance. Most actors in Burundi consider that the lack of success is related to the lack of sensitisation and dissemination of results, which would require even more effort. These observations have major implications for the possible contribution of policy-oriented research, and by extension for writing about truth-seeking initiatives and dissemination of TJ successes.

# Conclusion



Top Left: Elisa Finocchiaro - Creative Common, Top Right: Burundian Drummers - © Astrid Jamar, Bottom Kibimba Commemoration Site - © Astrid Jamar



## **Conclusion:**

### **Everyday Battles Behind Technocratic Practices**

Looking into the everyday of transitional justice (TJ) practitioners in Rwanda and Burundi, my thesis gives a detailed account of the professionalisation and depoliticisation of TJ in the two contexts of these countries. Throughout it, I demonstrate how international aid towards the gacaca process in Rwanda and the TRC preparations in Burundi mostly presented these in technocratic and apolitical terms (in policy documents particularly), while numerous, often unspoken, political compromises and negotiations were taking place among practitioners. Bringing TJ practitioners and their everyday practices to the centre of a scrutiny of TJ, my thesis contributes to the research about frictions between TJ policy and its ‘localised’ practice. It clarifies why and how these frictions are taking place.

My research illustrates the way in which these professionalised practices actually constitute a battlefield, with “ongoing struggles in the battle for the nature and direction of the transition” being a metaconflict – a “conflict about what the conflict is about”, in which TJ victors tilt all transitional mechanisms “towards an end point for transition that approximates” to their “battlefield goals” (Bell 2009). Within these everyday battles, TJ practitioners are playing a crucial role in the implementation of TJ. Through the dissemination of their expertise, they act as ‘brokers’ and ‘translators’ of the TJ toolkit approach. They, particularly the most powerful practitioners, produce interpretations and offer “scripts into which others can be recruited for a period” (Lewis and Mosse 2006, 13). As Norman Long (1992, 275) points out in looking at development actors, their professional practices constitute a “knowledge battlefield” in relation to “the issues of conflicting loyalties, of negotiation over ‘truth’ claims, of battles over images and contesting interests.”

I have, in other words, scrutinised the everyday battlefield of TJ practitioners in Rwanda and Burundi. I have unpacked what they actually do on an everyday basis. In the two cases under scrutiny in this research, it became clear that the gacaca law and the Burundian TRC law, and their policy frameworks and implementing activities, have all been created around the same global discourse. But the actual negotiations of specific prescriptions and implementation have led to very different practices being moulded around different dynamics of power by actors and organisations involved in these processes. Whereas these dynamics are but natural, silencing them behind technocratic knowledge, however, has severe implications.



This general conclusion consolidates my understanding of TJ professionalisation and depoliticisation and thus clarifies my contribution to the field of the TJ. In contrast to most of the TJ literature making reference to civil society and international donors, my research underlines the role and consequences of their everyday politics, through which the directions of the TJ agenda are decided and implemented. Building on social anthropology and development studies, I underline the entanglement formed between TJ and aid, and bring attention to unattended effects of TJ practices, including how power has a play in policy implementation and how unequal relations are reproduced. Doing so, I expand the critical TJ scholarship and the calls for ‘localising transitional justice’, as well as developing the understanding of the limitations of TJ processes in Rwanda and Burundi.

## **Professionalisation of TJ: A Network of Practitioners**

### **Implementing the TJ Toolkit Approach**

Through a scrutiny of TJ professionalisation and technocratisation, Lefranc, Subotic and Rubli, and Madlingozi address the ‘social fabrication’ of the technocratic knowledge produced through the interactions of TJ professionals working closely in a global network that promotes the legal and universal claims. In line with these authors, my research adds to existing literature by providing empirical material from Rwandan and Burundian experiences. My discussions with TJ practitioners and the practices I have observed refer to the programme and funding requirements, capacity-building, universal standards, victims’ needs, and political constraints – all involving skills that these practitioners master and navigate to implement their TJ agenda. I explain below how the professionalised TJ practitioners further advocate a universal lexicon against which each activity is justified, as encapsulated in the TJ toolkit approach.

Following wider tendencies in the aid-dependent work environment (see Roth 2015), TJ professionalisation implies a preformatted approach to deal with the past, and new guidelines, degrees and qualifications. Silke Roth observes a number of paradoxes in relation to aid work, including the increasing professionalisation along with a mismatch of qualifications, experiences and positions of many staff members. More specifically, she observes (*ibid.*, 81) “the introduction of codes of practice, standards and new humanitarian degrees”, the arrival of newcomers to the field without experience of the region and/or of the subject of assignment, high turnover, and project-based work. She explains that this paradox of increasing professionalisation with mismatching profiles is partially due to the “need to hire replace or

personnel quickly and therefore” to “make comprises as far as the job experience and training are concerned”. Similarly, one of my Western informants explained that she came to work to Burundi after working for the same INGO in another context. According to her, it was more important to her organisation that the post holder knew how to manage an aid programme rather than that they understood TJ, since: “Transitional justice is something you can learn quickly” (Interview with international NGO staff, Burundi, 2012). In the end, more guidance, plus technical and policy materials in relation to TJ, did not necessarily lead to better practices.

I consider that a high turnover of staff and pragmatic constraints of the aid environment are not all that have led to such a paradoxical situation. In line with the theoretical discussions in chapter 2 and the empirical material in the chapters following it, I understand the professionalisation of TJ as a process through which a global network promotes a preformatted approach that entails ideological and pragmatic dimensions: perceptible in all the TJ activities observed throughout my fieldwork in Rwanda and Burundi. By unpacking what the TJ toolkit consists of, I also underline the unintended effects of such an evolution of TJ practices. Behind the pretence to operate to ‘international standards’, ‘population needs’ and ‘best practices’, TJ professionalisation is also guided by the search for utility, legitimacy and institutional survival. It is through the formulation of the technocratic approach that TJ has gained coherence to all these concurrent elements as I summarise below.

### ***What is the TJ Toolkit Approach?***

I built my definition of the TJ toolkit approach on the existing literature that refers to the global dissemination of a preformatted manner of approaching a violent past that takes insufficient account of historical, social and cultural specificities (Shaw, Waldorf, and Hazan 2010a; Hinton et al. 2010; C.L. Sriram and Pillay 2010; Hazan 2010; Andrieu 2013). According to the global promoters of such an approach (such as ICTJ, IJR and UN OHCHR), truth-seeking, the judicial, vetting and reparative mechanisms, and the reform of institutions should all be implemented in order to consolidate sustainable peace, democracy and accountability, and reconciliation. The relationships that are claimed between these mechanisms and the different aims have been examined, refuted and criticised by various disciplines (*ibid.* – see also chapter 2).

On this basis and against my ethnographic research, I define the TJ toolkit approach as a technocratic template of actions containing ideological, conceptual and pragmatic dimensions.

I have argued that the TJ toolkit is more than just a set of mechanisms and associated claims: it entails the combination of an ideological adherence (around mechanisms and claims, as described in chapter 2), with a pragmatic template for gaining access to funding for projects that deal with the past, a combination that also predefines the types of institution and activity that will be put in place to ‘deal with the past’.

Ideologically, the toolkit approach defines the aims that should be pursued with TJ mechanisms: a broken society seeking truth, justice, reconciliation and reparation. These moral commitments are formulated in a discourse embodied in various global policy documents and in the institutional framework providing for TJ mechanisms, as well as in sensitisation tools, training and reporting activities. With some nuances, all these elements define the principles, claimed aims and normative framework of TJ practice in line with the toolkit approach. Furthermore, I consider that TJ practices are marked by traces of post-colonialism. Professionalised practices produce the implication that aid-dependent TJ practitioners ‘know better’, thanks to their technocratic knowledge of how to fix ‘dysfunctional states’. This has encouraged them to adopt paternalistic behaviours towards recipients and thereby reproduce unequal hierarchical social structures. At the same time, the illusion has been created that aid institutions and aid actors are neutral benefactors, along with their partners in civil society organisations – which are also independent from the “unscrupulous” authoritarian government.

On a pragmatic level, the toolkit approach has strongly shaped TJ activities. As a new endeavour consisting of a set of concepts and mechanisms in need of channels of implementation, the TJ toolkit has been absorbed gradually by aid structures via the existing means of aid implementation. As a typical aid-dependent project, the implementation of official TJ mechanisms requires practitioners to be involved in numerous activities that are left out by most of the TJ literature, such as writing TJ policy frameworks, lobbying donors and governmental institutions, organising training and sensitisation programmes, reporting, monitoring and evaluating the implementation of the official process, and complying with procedures and institutional requirements for aid efficiency.

Through participant observation of these professionalised TJ activities, I perceived on many occasions emotional responses and political positions behind the technocratic façade. These interactions shaped the negotiations about interpretations of the past yet had limited capacities to achieve the claimed objectives. These elements are crucial to understanding a post-conflict

context and its politics in which TJ is being implemented, but the technical approach gives no attention, or only limited attention, to these dimensions.

### *Technocracy Bringing Coherence to the Messy Everyday*

With a focus on a particular set of policies, my research aims to underline more clearly the policy relevance of aidnographic materials, and particularly how these messy components of the everyday gain coherence through technocracy. Recent aidnographic literature has provided me with valuable analytical tools for looking into TJ practitioners as aid-dependent professionals. It has brought my attention to the complexity of daily routines, to everyday relations in the private and professional spheres, and to how power, ideology, structure and agency are articulated in everyday personal and professional lives (Fechter and Hindman 2010; Mosse 2011; Mosse 2005; Lewis and Mosse 2006 – including many chapters of these edited volumes).

From a critical scrutiny, Lefebvre (1971, 50) rejects the concept of technocracy because it “tends to eliminate all the mediations that gave social experience its complexity and connected material production to ideologies, principles and the often contending groups of signs and significances that enlivened social existence.” This has led me to consider that it is indeed the mediation process through social experiences that grants value to the technocratic knowledge. These social processes are, in the case under my scrutiny, battles over the past; their technocratic façade suggests they emanate from rational behaviour – implementation of the toolkit approach – and simultaneously they legitimise the social dynamics in these processes. In other words, the technocratisation and professionalisation of TJ practices both create the image of more efficient processes not being affected by murky politics over the past. Under the surface, however, it appears that TJ practices, as micro- and macro-social activities, are dealing with the past in contexts that are heavily marked by its burdens.

The working patterns I observed focused on performative work (understood as utterances and acts in which formality and the public nature were important, such as giving official speeches, cutting ribbons, signing agreements and having handshakes) and bureaucratic work (i.e. such as complying with donors’ accountability requirements, complying with authorities’ registration processes, managing a team, programme and projects, accounting for deliverables – as dictated by the new aid paradigm and its management for results agenda). Through everyday structures, the race for financial sustainability and legitimacy, along with the search

for impacts and success stories, leaves very little space to think about how the past is affecting the present, and even when discussing it, uses a discourse full of buzzwords that create a technocratic rational façade. Lisa Smirl's work with humanitarian workers demonstrates that their everyday structure provides a formulated, rational and readymade bureaucratic approach to deal with the contradictions faced through their profession. This leaves the issues of power and the hermetic nature of aid unquestioned and marginalised (Smirl 2008; Smirl 2011).

In *Peaceland*, Séverine Autesserre details daily routines in international peacebuilding interventions, as well as its negative outcomes. My research complies with many of her observations regarding the side effects of daily personal and professional routines, and I bring a stronger emphasis on structural consequences. Focusing on the global dimensions, Autesserre gives secondary attention to localised contexts and hence romanticises the 'local'. For example, she values the understanding of local contexts by expatriates married to local people, without acknowledging the structural legacies of colonisation in such unions. With a stronger focus on localised contexts (Rwanda and Burundi), my research highlights how looking at the personal and professional everyday, encourages a view beyond the local versus international divides towards a grasp of how both national and international practitioners are taking part in reproducing these unequal structures.

Everyday routines maintain aid, and in my case study of TJ, make it coherent. Unpacking the everyday of TJ practitioners reveals equally how the field coherence has been created in practice, and how such coherence can be unpacked. Looking beyond obligations related to TJ, chapter 4 argues that personal lifestyle renders more tangible the paternalistic and unequal dimensions of Aidland. Aidland is not a bubble disconnected from 'localised' contexts:<sup>66</sup> it is taking place and reproduces complex layers of inequalities that affect 'localised' contexts. Every actor involved in aid work sits within a socio-economic and racial hierarchy and behaves in relation to a given history marked by colonisation and violence. These same structures through which TJ is being implemented are marked by institutionalised assumptions that expatriates are more efficient, more knowledgeable and more trustworthy than local professionals. This hierarchical superiority, held mostly by expatriate staff, gives them more decisional power within the organisation. In an environment in which time is often insufficient, this leaves little place for consensual and negotiated positions, and limited value is thus given to local perceptions within everyday implementations. This results in everyday relations

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<sup>66</sup> As suggested by Harrison: "Beyond the Looking Glass? 'Aidland' reconsidered."

*Transitional Justice Battlefield: Practitioners Working around Policy and Practice*

involving surveillance, support and paternalistic or even arrogant conduct, whereas a discourse of equal partnering and empowerment is preached.

Looking into the messy everyday, the power dynamics and the patterns of paternalism takes us away from the local versus global divide, and underlines the entanglement of micro and macro politics, challenging the romanticisation of the local. Technocratisation is affecting aid work with unexpected outcomes. Research has shown, for example, that the approach enables depoliticisation (Uvin 1998; Holvoet and Rombouts 2008), reproduces inequality (e.g., Roth 2012), and silences social dynamics and contradictions within the aid environment (e.g., Baaz 2005).

### **Depoliticisation: Addressing the ‘Aid and Politics Debate’ in relation to TJ**

As I have argued throughout the empirical chapters, national and international TJ practitioners are involved in many political battles to navigate and negotiate various competing and concurrent agendas. Most aid-dependent actors pretend, however, to operate only on technical and apolitical levels – in policy documents and official statements in particular. The key obstacles to TJ implementation are often relegated to the national politics, meaning a blaming of ruling elites as the main obstacles to democratisation and other TJ aims. I argue that considering national politics as a key obstacle to the implementation of TJ is a perspective that silences other levels of politics. Blaming national politics also projects a linear vision of transition: it contemplates an ideal transition from an authoritarian regime to a more democratic one. In spite of strong TJ efforts, both Rwanda and Burundi are, rather, on a transition towards other authoritarian regimes. Overall, the adoption of such positions has depoliticised the role of international and aid-dependent actors supporting TJ processes and given claim to an apolitical nature.

Reviewing the Nuremburg trials and the South African TRC, Leebaw is one of the few TJ scholars bringing strong attention to depoliticisation. She (2011, 4) argues that depoliticisation is “useful to establish legitimacy of TJ institutions... However, depoliticization has also undermined the critical role of TJ as a challenge to denial, as a basis for exposing the systemic dimension of past wrongs, and as a basis for advancing an ongoing process of change.” She also demonstrates a number of side effects such as TJ institutions have “obfuscated the systemic dimension of past wrongs” while investigating systematic injustice; “rationalised and legitimated selective forgetting and denial” while challenging denial; “functioned as strategies

for avoiding competing claims regarding the meaning of past wrongs” while encourage efforts to overcome (*Ibid.*, 175). In line with her observations and building on development studies, I consolidate in this conclusion how depoliticisation played out and impacted TJ processes in Burundi and Rwanda.

Development studies have more extensively addressed the side effects of depoliticisation and the role of aid (e.g., Ferguson 1990; Ansoms and Rostagno 2012; Debusscher and Ansoms 2013; Holvoet and Rombouts 2008; Molenaers and Renard 2009; Kothari 2005). Pieces of research about aid technocratisation in Rwanda demonstrate that rather than improving aid efficiency, aid practices resulting from the new aid paradigm tend to depoliticise processes (Holvoet and Rombouts 2008; Debusscher and Ansoms 2013; Ansoms and Rostagno 2012). As the most famous example, James Fergusson (1990, 256) notes:

By uncompromisingly reducing poverty to a technical problem, and by promising technical solutions to the sufferings of powerless and oppressed people, the hegemonic of ‘development’ is the principal means through which the question of poverty is depoliticised in the world today. At the same time, by making international blueprints for ‘development’ so highly visible, a ‘development project’ can end up performing extremely sensitive political operations involving the entrenchment and expansion of institutional state power almost invisibly, under cover of a neutral, technical mission to which no one can object.

I argue similarly in the previous sections that claiming to embrace international standards and victims’ needs in TJ enables its practitioners to receive support for their “technical mission to which no can object” (see also chapter 5). Ferguson further explains that depoliticisation enables even failed projects to serve political aims:

If unintended effects of a project end up having political uses, even seeming to be ‘instruments’ of some larger political deployment, this is not any kind of conspiracy; it really does just happen to be way things work out. But and because things do work out this way, ‘failed’ development projects can so successfully help to accomplish important strategic tasks behind the backs of the most sincere participants, it does become less mysterious why ‘failed’ development projects should end up being replicated again and again. It is perhaps reasonable to suggest that it may even be because development projects turn out to have such uses, even if they are in some sense unforeseen, that they continue to attract so much interest and support.

Building on this stream of research, this conclusion clarifies my contributions to the field of TJ by unpacking the various levels of politics taking place through the negotiations and implementation of TJ, and by highlighting the unintended side effects. This analysis aims to encourage future TJ literature and practice to move beyond blaming national politics and to reflect on the limitations of their interventions and the resulting political consequences.

### ***Going Beyond Blaming National Politics***

The technocratic approach and this blaming of local actors is perceptible in global policy documents such as the UN Security Council report on the rule of law and TJ in conflict and post-conflict societies, and in particular in this excerpt on truth commissions:

Experience reveals that truth commissions can quickly lose credibility when not properly resourced, planned and managed, thereby undermining the very confidence they are intended to build. Truth commissions will likely falter where they are introduced too early in the political process, are manipulated for political gain or involve insufficient efforts to solicit stakeholder input, including such hard-to-reach populations such as displaced persons and refugees. Strong national ownership is essential. Unfortunately, governments have a mixed record of compliance with truth commission recommendations, evidencing the need for follow-up mechanisms and active and long-term political engagement from the international community and civil society.

This paragraph illustrates the following technical position: truth commissions have a high risk of failure. The main causes are associated with poor resources, inadequate planning and management, wrong timing, or political manipulation. Indirectly, this results in the blaming of national politicians for their vested interests and reluctance to comply with a set of agendas for accountability and democracy. The assumption is that if the civil society and the international community are engaged adequately, the risks will be limited. Such a perception persists in promoting truth commissions as an ideal mechanism, with failure being attributed only to the local political context. This is as opposed to being critical of Western models and looking at these dynamics as inherent parts of any TJ process; and this overlooks the negotiated nature of transition and the interpretation of, and approaches to, a difficult past. Silencing politics simply renders them invisible in public text and narratives while public battles and negotiations take place behind technocratic terms.

### ***Silencing Other Levels of Politics***

The form of TJ that is promoted globally requires important financial support from external actors and the involvement of various organisations, including international and local NGOs and civil society. Yet, aid is coming with a set of structural issues and ideological constraints that make TJ even more difficult. The ideas of the role of civil society as representative of the population and of the population-centred approach have been questioned by several authors, even before the emergence of the new aid paradigm (see e.g., Mamdani 1996; de Sardan 1995; Lewis and Mosse 2006; Long and Long 1992). The more recent integrative approach in which all stakeholders are now considered to be equal partners has been highlighted and denounced as hypocritical, given that aid implementation always results from a negotiation between



parties with different agendas and priorities (Hyden 2008, 273; Renard 2007). Mosse (2005, 204) notes that “power inequalities are reproduced in the making and execution of policy”. Empirical research on TJ has also highlighted how donors and NGOs hold an important role in shaping “attitudes towards justice and reconciliation” by bringing their own agenda into the negotiation process (Weinstein et al. 2006; see also Shaw 2007; Subotić 2012).

Leebaw’s (2011, 15-16) review of depoliticisation underlines crucial sides effects for TJ projects:

One problem is that depoliticisation does not *transcend* the politics of transitional justice, but rather functions to obfuscate and naturalise the way that politics operate in the process of judging the past. Depoliticisation masks the particular political and social values that frame the investigation and its judgments. It also naturalises the political compromises and asymmetries that define the scope of transitional justice mandates ... Depoliticisation has also obfuscated the ways in which international justice norms are gendered. ... By naturalising the compromises, distortions, and asymmetries that frame their investigations, these institutions foreclose or limit ongoing debate regarding the terms of official memory in the process of political change.

On the basis of these observations, it is clear that depoliticisation does not render processes apolitical. On the contrary, it simply silences or hides the political matters in play. Throughout the scrutiny of the consolidation and implementation of the TJ toolkit approach I have unpacked many layers of concurrent agendas. These include the international criminal justice agenda (i.e., the fight against impunity, the set of international legal standards); the agenda of bilateral and multilateral donors (i.e., demonstrating their aspiration to democratisation, accountability and the rule of law while maintaining good relationships with the ruling regime – meaning, even when it is authoritarian, respecting the priorities of the national government); the agenda of national authorities (i.e., to show a desire for democracy, maintain political supremacy or the status quo, distance political opponents and critical voices, and gain political legitimacy); and the agendas of local and international NGOs (i.e., to promote their normative position, maintain financial capacity and legitimacy, and prioritise their own constituencies). Moreover, all practitioners have their own personal agendas (to maintain their jobs and relationships, and promote their understanding of TJ and their vision of the conflict).

In the implementation of TJ, all these different micro and mezzo agendas are coming together, and need to be navigated, compromised on, and negotiated according to existing and evolving power dynamics. While the professionalisation of TJ results in the production of ideological and pragmatic patterns to frame its activities, it renders out of the public sphere, and almost intangible, the negotiations among TJ practitioners across these different agendas.

The empirical chapters have illustrated that behind technocratic practices (whether registration, training, sensitisation, capacity-building, monitoring, lobbying or reporting), various levels of political negotiations are crucial driving elements. Despite the apparent discourse and practices associated with both the TJ toolkit and aid's best practices, my doctoral research aims to bring to the fore the subtle political battles. Through participant observation of these activities, I have continually witnessed the reinterpretation of the TJ toolkit by both message conveyers and recipients, as well as arguments about TJ concepts that have been affected by the power hierarchy in play.

Various examples have been presented in empirical chapters: a perspective on a massacre from a woman who was not being taken seriously by older male members at a gathering of victims' associations aimed at promoting commemoration for truth and reconciliation; a trainer who was not giving training on anything, but using his position for personal gratification; an expert's technical advice used for international standards (chapter 5); the political negotiations on the national consultation framework and outcomes (chapter 6); the almost ineffective political dialogue and political bureaucratic ordeal for critical actors (chapter 4). I argue that in all these preparation activities, TJ practitioners are defining the TJ policy framework while competing for components. Reading between the lines of the debates that took to claims of being technocratic, there are indeed subtle indications that they were fighting for different truths and justice; and the debates were inevitably affected by current and past politics and power dynamics. Their work somehow becomes more than the 'simple' implementation of an emancipatory and repairing framework.

It is not groundbreaking to discover that short, one-off training and mass sensitisation have little capacity to empower the population to overcome the dilemmas and concurrent wills of revenge versus reconciliation, justice versus impunity, silencing versus truth-seeking, and status-quo versus reparation. In addition to these well-established limits, the description of micro-social negotiations in between practitioners over how to deal with the past brings attention to the important, and often unbalanced, power relationship between message conveyers and recipients. In every context, technical approaches tend to silence these micro-dynamics in play; and such processes entail serious consequences, including in the case of Rwanda and Burundi the consolidation of authoritarian regimes.

***Politics and Aid: Depoliticisation of TJ Battles and Transition Towards Authoritarian Regimes***

My two cases studies have looked into the side effects of current TJ and aid practices that have otherwise been left mostly un-tackled. Through such a scrutiny, it turns out that it might be convenient for donors and external actors to present their interventions as apolitical and technocratic in the short term. Interventions are inherently political (e.g., support to Inyangamugayo's training, NGO monitoring in Rwanda, and national consultations and sensitisation programmes in Burundi). In both Rwanda and Burundi, the pretence to being apolitical and technocratic has contributed to opening the door to political distortion from both national and international actors. Each vignette underlines the consequences. And at a general level, Rwandan and Burundian transitions have led to authoritarianism rather than the democratisation that TJ claimed to support.

Within mitigated and various degrees, donors have maintained support for regimes that have, while the TJ agenda has been unfolded, increasingly become authoritarian. Indirectly, international aid has contributed to the consolidation of authoritarian regimes. It has enabled donors to demonstrate their commitments to addressing the need for democratisation, to the rule of law, and to the fight for impunity – while at the same time financially supporting authoritarian rule, and thus indirectly consolidating its power. This has ultimately consolidated the authoritarian nature of the Burundian and Rwandan regimes.

In the case of gacaca, donors have buried their heads in the sand with regard to its still-unclear legacy. It is certain that the Rwandan people will have to deal with the consequences of false accusation, false testimony, judicial mistakes, corrupted acquittals, unfair decisions and imperfect justice. These are all widely addressed by the existing literature. In the case of Burundi, the failure of the TJ process has been associated mainly with the lack of political will – certainly a key factor, but not the only one. I argue that the preformatted approach gained such a self-evidence that obstacles were blamed on the local context with almost no reassessment of the mechanisms' pertinence and benefits.

While it might not have figured in the cases I studied, some international donor agencies, such as USAID, do now attempt to embrace the political nature of aid (e.g., Carothers and De Gramont 2013; Levy 2014). My research calls for more critical attention to this political nature of aid in relation to TJ processes in particular. International organisations, donors and NGOs

must recognise more clearly their political roles in intervening in TJ and wider transitional processes. These interventions and their donors' political agendas inevitably affect or produce national politics, policy outcomes and unintended effects.

## **Localised Contexts in a Global World**

Through a scrutiny of the gacaca process in Rwanda and the TRC negotiations in Burundi, my thesis demonstrates how these two processes have been framed by the similar global dimensions of the TJ toolkit approach and the new aid paradigm. However, local social and political dynamics have factored heavily in these global influences and shaped the actual implementation of TJ. My empirical research expands the critical TJ scholarship and calls for a 'localising' of international interventions. Understanding how local and global dimensions of TJ became entangled in the Rwandan and Burundian processes has challenged the romanticised vision of the 'local'. I review here the ontological implications for understanding the 'local' and, finally, consolidate my contributions to the research of these two specific TJ processes.

### ***Challenging the Romanticisation of the Local***

By looking at individuals involved professionally in TJ processes, the global versus local divide has become analytically blurry. In prolongation of the edited book, *Localizing Transitional Justice* (Shaw, Waldorf, and Hazan 2010), the current critical literature has encouraged a scrutiny of local contexts. By arguing that the toolkit approach has failed to understand the local context and culture, the implicit suggestion is that TJ efforts would lead to a better result if the local context were better understood. Furthermore, this literature accepts that the implementation of one or all of the mechanisms suggested by the toolkit approach would not be feasible in many post-conflict and aid-dependent contexts without the support of international aid. Overall, TJ literature tends to romanticise the relationship between the international and the local. It is with such a perspective that I have ventured into this research with the aim of better understanding the local, and ultimately contributing to recommendations for international interventions towards TJ. Paradoxically, my attempt to understand the local has unearthed confusion. My research ultimately challenges assumptions, and demonstrates how the involvement of international aid adds layers of complexity – complex negotiations

towards policy frameworks and implementation, and accompanying complex processes of professionalisation and depoliticisation.

The result is a critical review of the intervention of international aid and the actors dependent on it. This analysis does not aim to demonise the global and romanticise the local. Quite the opposite: it aims to demonstrate how these two levels are so entangled that any differentiation becomes futile. Even when looking for localised practices in local initiatives, traces of the global discourses are omnipresent (see Tsing 2005). The Burundian population has been exposed to mass programmes of sensitization based on the global discourse, and Burundian practitioners have followed training and participated in TJ workshops from around the world. Aid dependency has also framed the way these programmes have been implemented with a need to navigate donors' agendas and operating rules. Yet the reinterpretation and reenactment of the global discourse remains moulded by local dynamics and local forms of power. In the instance of the practitioners gathering in Kibimba, highly educated men from the capital claimed to know better about what had happened than the local female activist (see chapter 4).

Scholarship in peacebuilding and international relations has granted more critical attention to debates about the local. Peacebuilding scholars have criticised the liberal peace agenda for neglecting the 'local' context. Meera Sabaratnam undertook an ontological critique of this liberal or international versus local divide. She considers (2013, 267) that:

There is a clear emphasis here on the need to engage with the 'indigenous' or 'authentic' traditions of non-Western life, which seems to reflect an underlying assumption of cultural difference as the primary division between these two parties. This reproduces the division between the liberal, rational, modern West and a culturally distinct space of the 'local'.

My concluding observations are closely connected to these debates. I also encourage a challenge of the romanticisation of the local by acknowledging the complex entanglement between 'global' influences in 'localised contexts'. The global level ultimately frames what is happening in the localised context, in which it is almost impossible to think outside of the box – instead having to do whatever is wanted from inside the box. Any localised context is complex, messy and in fact highly globalised. Universal concepts are used and reinterpreted. Practices and ideology are shaped by global trends but reframed around local dynamics. Even knowing the local and addressing its complexities would not make the toolkit a better approach for dealing with the past. The aims may be laudable, but the implementation of these institutions does not lead to the claimed aims being achieved, even in better contexts.

*Critical Review of Aid towards the Gacaca Process*

In conclusion, my research contributes to the literature about gacaca by looking at social and political dynamics around policy making and levels of implementation. A number of scholars have already demonstrated that gacaca has been a vehicle of many other social and political dynamics at both national political and micro-social levels (e.g., with various degrees of critique and analytical emphasis: Burnet 2014; Waldorf 2010; Rettig 2008; Ingelaere 2008; Thomson and Nagy 2011; Palmer 2014). Bert Ingelaere considers, for instance, “[v]iolence in Rwanda took numerous forms, thousands of forms, from hill to hill, as there are numerous ways to deal with these tragic events of the past. Violence and reconciliation are guided by forces and constraints imposed from above, but with sufficient margins for local dynamics to take place” (Ingelaere, 2009: 41). Similarly, Burnet considers that “Gacaca courts became arenas where local power relations worked themselves out under the guise of national policy” (Burnet, 2010: 114).

To this I add the role played by international aid through providing mainly technical support and funding of the SNJG and monitoring agencies. Overall, I argue that the ‘technical’ and ‘apolitical’ support to gacaca from international donors became entangled in different regional and national political dynamics through: the teaching of the definition of crimes of genocide and crimes against humanity in legal training, turning the interpretation of what type of crime can be brought to gacaca courts into political battles (chapter 5); the difficult procedures to obtain monitoring authorisations and accreditations that formed the bureaucratic obligations imposed by Rwandan authorities to silence critical voices (chapter 4); diplomats undertaking ineffective political dialogue to protect local NGOs (chapter 4); broadcasting simple jingles promoting Truth and Reconciliation, which imposed an automatic relationship between the two to encourage the vision of a ‘new reconciled Rwanda’ (chapter 5); or dismissing socio-legal critiques to promote a positive view of gacaca (chapter 6). None of these areas addressed in the empirical chapters is free of politics.

Rather, all these activities are part of the micro and macro battles related to the representations of the past and its consequences in the present. At the macro level, they also depict a nation that was able to move beyond the consequences of genocide and construct a united Rwanda by imposing a very specific understanding of past violence. At the micro level, the gacaca process was a vehicle to more specific representative battles among various TJ practitioners – who engaged in battles about what gacaca had been about, or what it achieved or failed on.

The battlefield was particularly disadvantageous for organisations contradicting the government's view.

Finally, the gacaca process was an ambitious project with many concurrent aims to rebuild Rwandan society after the 1994 genocide. It involved battles about interpretations of the past and implications for the present. These battles cannot, however, be reduced to pro- and anti-gacaca tendencies. Even the most critical organisations recognised some benefits of the gacaca process, and raised contradictory critiques – even within single organisations. Still, there remains a difficult representation battle over what gacaca contributed to and inadvertently caused. Some previous stakeholders preferred to leave the battle, and others were forced to do so. Such interpretation battles have severe implications for the communities and individuals dealing with the actual consequences of the gacaca process.

Overall, my ethnographic scrutiny of gacaca practitioners (by looking into their role in policy making, and into donors' involvement, representation battles and disenrollment) calls for more policy and academic attention to the long-term effects of the gacaca process on various communities in the Rwandan hills. Furthermore, my research also calls for more critical research on international aid for TJ and related areas such as peacebuilding and post-conflict development. Moving beyond blaming only the local context, such research underlines the political role of aid, encourages donors to take responsibility for the inevitable long-term effects of their involvement, and acknowledges the limits of the policy frameworks to which they contribute.

While the sensitivity of the gacaca process would be acknowledged, it was convenient for donors to ignore the political dynamics in place at the end of the process, so as to be cleared of political responsibility. This raises ethical issues related to the effect of depoliticisation. It is undeniable that the political manipulation that took place at national and micro-social levels has been silenced. By being complicit in silencing and not addressing adequately political intrusions in the judicial process of gacaca, donors have inevitably enabled Rwandan authorities to win the battle of the representation of the past, if not legitimise the RPF position on Rwandan history.

A number of authors have previously underlined how international interventions have contributed to the structures of violence in Rwanda (e.g., Uvin 1998; Pottier 2002; Barnett 2003). For example, Uvin (1998, 226) observes:

For decades, foreign aid contributed to structural violence both directly and indirectly, through action and inaction, through its mode of functioning and its ideology. The reach of the state, the survival and reproduction of the elite, the unfolding of the processes of exclusion, inequality, and humiliation are all so intertwined with the presence of foreign aid – and in some cases, impossible to envision without foreign aid – that any separation between them is artificial if not meaningless.

His analysis remains relevant to illustrating how aid today silences and/or fails to address politics and power dynamics resulting from intervention – even when supposedly dealing with the violent past. While there is already research on the depoliticisation of aid in Rwanda, my research adds to Uvin's analysis by demonstrating that even recent international aid reforms embraced by the New Aid Paradigm (see chapter 2) have been, not only unable to tackle this problem, but have also exacerbated it through increasing technocratisation and professionalisation.

### ***Critical Review of Aid towards the Burundian TJ process***

The situation in Burundi has worsened with the current political and security crisis. Meanwhile, TJ practitioners have prepared their constituencies and the population through 'technical' training and sensitisation. This thesis demonstrates that they have given limited attention to micro-politics while undertaking these activities. In other words, rather than being purely technical exercises, there have been battles among TJ practitioners and their audiences about different positions in relation to what kind of truth or justice should be sought. Other major battles also took place between TJ practitioners in relation to the legal framework and appointed institutional actors. In this section, I review the overall progress of the process by highlighting the politics behind technical dimensions. I also explain how the current crisis has affected the TJ progress and reveal further the politicisation of aid-dependent actors involved in TJ.

### **TJ Politics and the Current Political Crisis**

In 2014, some progress was made in the official TJ implementation by the adoption of a TRC law and the appointment of the TRC commissioners. Again, political disagreements between the media, civil society and Burundian authorities emerged. Once I returned from fieldwork, a TRC law was finally adopted in May 2014 (République du Burundi 2014) and its commissioners were appointed in December 2014. Even then, local media and civil society organisations were expressing doubts about the future work of the TRC, given the identity of newly appointed commissioners and the appointing process. In a press article presenting these



commissioners, Iwacu journalists listed them, describing their trajectory, background and explaining why they would not be credible (Ngendakumana and Bigirimana 2014). The conclusion of the news article explains the view of the representative of the Forum of Civil Society (Forum des Organisations de la Société Civile – FORSC): most of the commissioners were political personalities in the regimes under which these crimes were committed. “Therefore, it is difficult to believe in their impartiality, neutrality and integrity, qualities that each member of the commission should have” (*Ibid.*, Author’s translation).

Civil society and private media have presented themselves as apolitical and neutral. They have denounced others for having been affected by past violence that would make them partial – but have continued to see themselves as impartial, as if their own position has not been affected by their political position and their own suffering of the conflicts. So while the institutional process was moving forward, there was political opposition (e.g., UPRONA did not participate in the parliamentary session appointing the commissioners as they did not find it credible) and civil society organisations boycotted and heavily criticised the process. More importantly, the current political crisis will inevitably slow down the progress. At the same time, sequences of the crisis clearly underline the political positioning of all local actors, including TJ practitioners.

However, as I write this conclusion (in the summer of 2015, with additional corrections in the summer of 2016), Burundi is going through a major political and security crisis, and the idea of a TRC taking place in ideal conditions in Burundi is at its most distant since I started my research. On 26th April 2015, the CNDD-FDD, the ruling party, announced that the current president, Pierre Nkurunziza, was running for a third mandate. Shortly after this, demonstrations against his candidacy started to take place in Bujumbura; the police were ordered to stop demonstrators from coming into the town centre (BBC 2015a). After a failed *coup d’état* on 13th May the situation quickly escalated with more violence and arrests as demonstrators (who had celebrated the coup) were then seen as putschists (e.g., BBC 2015).

The Imbonerakure (the young members of the ruling party who have been accused of using violence and terror for political purposes for a number of years) increasingly became a source of problems and violence. In June 2015, the UN reported that it had received 50 complaints a day related to the activities of these militia (Centre d’actualité de l’ONU 2015).

In personal communication from fieldwork friends over the summer of 2015, there was a very high level of fear for a relapse of wider violence. Particularly after the failed *coup d’état* in

May, many stayed within their houses and hired additional guards, or even left the country. Many international aid organisations sent back their non-essential expatriate staff. The main donors for the electoral process cut their funding and encouraged the delay of elections until the situation improved (Aljazeera 2015). The EU electoral observation mission that had gone to Burundi was sent back to Europe (Iwacu 2015). The UN Security Council appointed a mediator; the African Union and heads of African States were actively involved in encouraging a rapid resolution of the situation. The immediate future of Burundi remains very uncertain, with no easy solution, and these events are of course relevant for TJ matters.

By the end of June, after two months, 70 deaths, hundreds of injured and hundreds arrested were been reported; so far at least 150,000 people have been registered by UNHCR as fleeing to neighbouring countries due to fear of violence (e.g., Human Rights Watch 2015; International Crisis Group 2015). In May, an opposition leader, Zedi Feruzi, from the Union for Peace and Democracy (Union pour la paix et la démocratie – UPD), was murdered in front of his house (RFI 2015). Since I started my research on Burundi, the country has never received so much international attention in the media and politics.

More importantly for my research on TJ, most of the organisations, which played a prominent role in these ongoing events, are aid-dependent and involved in TJ sensitisation (as mentioned in chapters 4 and 5). For example, an increasing repression of private radio has been noticeable over recent months, particularly since the announcement of the third mandate. At the beginning of demonstrations, the Radio Publique africaine (RPA) was first closed down, Isanganiro and Radio Bonesha were forbidden to broadcast outside of the capital, and the other private radio broadcasters were forbidden from following demonstrations in live broadcasts. Civil society organisations associated with the opposition encouraged demonstration against the third mandate. All these organisations are also involved in TJ activities, as explained in chapters 4 and 5.

On 13th May, the private radio station Isanganiro<sup>67</sup> gave the floor to Godefroid Niyombaré in his attempted *coup d'état*. He announced that he and his allies did not respect the president's authority. In the following events, radio stations were seen as central to power dynamics. During the attempted *coup d'état*, the RNTB was one of the key targets for the putschist movement to be able to broadcast in the whole country. The failure to access national public

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<sup>67</sup> The radio station was put together with support from the INGO Search for Common Ground and is currently dependent on other international funding support

radio partly explains the failure of the coup. On the same day, Rema, the only private radio station associated with the CNDD-FDD, was attacked. In response, overnight, the main private radio stations (RPA, Insanganiro, Bonesha, and Radio-Télévision Renaissance) were burnt down and remained without capacity to broadcast. These are among the radio broadcasters receiving international funding to support the electoral process, as mentioned in chapter 4.

A number of other organisations from the media and civil society involved in TJ sensitisation but that mainly cover politics (such as FORSC, FOCODE, RPA, IWACU, Insanganiro) had been perceived and presented by aid actors as independent and neutral, but have, since the recent crisis, openly stated their political positions: opposed to the ruling party and its decision to propose Pierre Nkurunziza for a third mandate. This supports my claim that beneath the apparent neutrality of aid and aid-dependent organisations, political positions are inevitable. While political talk between the technical lines had not been particularly effective over the past few years, these organisations finally paid a hard price in openly displaying their opposition to the regime: they became direct targets of political battles.

Given the burden of the past, the crisis has increased feelings of fear, mistrust and anger, making the context even less favourable to TJ, and it will inevitably affect the future of any TJ process, whatever the outcome of the situation. There are crucial uncertainties about how the crisis will end, but it is undeniable that the context is not favourable to a credible TRC in any near future – as discussed, it was not favourable even before the crisis.

### **Will the Burundian Context Ever be Favourable for TJ?**

Beyond the obvious implication for the country and its population, the ongoing crisis also has important lessons for international aid for TJ. First, TJ does not have the capacity to support a transition that is unwanted by ruling authorities within current aid working patterns. Second, international aid has not been successful in providing the promised justice, truth, accountability, reconciliation, democracy and sustainable peace, whether dealing with past or recent crimes. All these elements reinforced the central claims of my research: (1) technical activities undertaken in relation to TJ have no capacity to induce the promised goals, (2) international aid by supporting various actors with political positions becomes naturally entangled in national politics.

These recent events are not only a tragic evolution of the Burundian political and security context – they also underline that peace remains fragile and the democratisation process

difficult. This reminds us that TJ is in theory supposed to consolidate sustainable peace and transition to democracy, but that there has been limited success. By promoting these mechanisms and the wider liberal peacebuilding agenda in Burundi, international donors are not neutral and passive actors. In her analysis of the Burundi peacebuilding process, Devon Curtis (2012, 74) highlights:

[There is a] complex interplay between outside ideas and interests, and multiple Burundian ideas and interests. This interplay cannot simply be understood as the ‘liberal’ international peacebuilder facing constraints in a ‘non-liberal’ Burundi. Instead, different outside would-be peacebuilders promoted ideas in line with their favoured conceptions of peacebuilding, while different Burundian politicians renegotiated and reinterpreted these institutions or practices. This reinterpretation and reinscription affects a range of peacebuilding institutions such as transitional justice, disarmament, demobilisation and reintegration, and economic reforms.

Curtis underlines that the international community conveniently “turned a blind eye to governance abuses, human rights violations, and militarism, when confronted with the messy and contested politics of transition, as long as Burundi remained generally stable” (*Ibid.*, 75). Oppression and killing of political opponents, and intimidation and impunity for crimes committed by the Imbonerakure have been ongoing issues in recent years and widely denounced by various actors (see chapter 3). There was also indication that the CNDD-FDD had not prepared any candidate other than Nkurunziza. For people against a third mandate for the president (civil society, opposition and part of the population), this is the final straw rather than a crisis caused by the electoral process.

On December 2014, the 11 commissioners of the TRC took an oath in front of the parliament, which officially launched the implementation of the TRC law. Despite the ongoing conflict spurred by the controversy over the third presidency of Pierre Nkurunziza (Jamar 2016), the TRC launched its preparation phase in March 2016. The future of the judicial mechanisms became even more uncertain.

## **Concluding Remarks**

Complementing a wide ethnography of beneficiaries (e.g., Brown 2012; Shaw 2007; Laplante 2007; Ross 2003), my research provides a detailed account of the structures in which TJ practitioners operate. This is a crucial element of the analysis of the toolkit approach. I maintain that TJ practices within their current framework, by trying to fix societies affected by irreparable experiences, are limited in achieving unachievable goals. Frictions are then inevitable, and such an approach, with its inevitable issues but without appropriate attention

being given to dealing with them, is morally questionable. In both cases studies, TJ practices have been taking place, and continue to take place, in complex and authoritarian political contexts, infused with politics of the past, where people's life experiences are widely affected by political violence and political instability. These case studies suggest that claims to apolitical aid also constitute a waiver of responsibility for the long-term outcomes of short-term funding cycles.

The nature of the work of TJ practitioners is inherently political, and their gender, position in society, experiences of violence, personality, and trajectories all have important impacts that shape their contributions to the implementation of TJ. These practitioners operate within the same structure but have some agency. I would make the argument that further research on TJ practitioners' agency and trajectories could enable a stronger understanding of the processes of implementing TJ, and of its outcomes, and further attend to the evolution of TJ and the wider socio-political contexts in Burundi and Rwanda.

I suggest that putting aid under a more intense spotlight could encourage practitioners to better acknowledge their political roles and their impact on policy outcomes. Acknowledging both the limited power of influence and the political nature of aid and civil society is a first step against the imposition of an irrelevant quick fix for mass violence. At best, the imposition is otherwise likely to fail and, at worst, to exacerbate the situation.

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## Appendix 1: Fieldwork Calendar and Approached Organisations

This table summarises the research calendar. I then elaborate on the organisations I approached and the type of documents I gathered.

	Stage	Activities	Location
September 2012- March 2013	First stage of ethnographic fieldwork	<ul style="list-style-type: none"> <li>- GRJT meetings</li> <li>- GRJT strategic day</li> <li>- Academic colloquium, gathering political and aid actors on state building in the Great Lake Region</li> <li>- Refugee consultancy</li> <li>- Meetings with UN-NGOs</li> <li>- Belgian King Day</li> <li>- Internal strategy meeting of an INGO</li> <li>- INGO sensitisation activity</li> <li>- TJ and gender lobbying meeting</li> <li>- Louis Joinet documentary screening</li> <li>- Interviews</li> <li>- Frequent encounters with TJ practitioners</li> </ul>	Based in Bujumbura, Burundi, with frequent travelling to Kigali, Rwanda
June–October 2013	<ul style="list-style-type: none"> <li>- Second stage of ethnographic fieldwork</li> <li>- Research experiments with TJ practitioners to encourage critical debate about TJ practices</li> </ul>	<ul style="list-style-type: none"> <li>- GRJT Meetings</li> <li>- Kivyuaka meetings and press conference</li> <li>- TJ training for representatives at district levels</li> <li>- Bujumbura transitional justice summer school: 11 sessions with local practitioners, 2 sessions with diplomats</li> <li>- Diplomatic festive events</li> <li>- Interviews</li> <li>- Frequent encounters with TJ practitioners</li> </ul>	Based in Bujumbura, Burundi, with frequent travelling to Kigali, Rwanda
April 2014	Observation of Rwandan 20 <sup>th</sup> commemoration	<ul style="list-style-type: none"> <li>- Literary Seminar on novels addressing the Rwandan genocide</li> <li>- Commemoration at Amahoro Station</li> <li>- Commemoration at Camp Kigali (for Belgian Blue Helmets and Rwandans working for the Belgian Government killed during the genocide)</li> <li>- Genocide commemoration at University of Rwanda, Butare</li> <li>- Visit of ICTR Outreach Center with representatives of Burundian Victim associations</li> <li>- Discussions over Gacaca with representatives of Burundian Victim Associations</li> <li>- Interviews</li> </ul>	Rwanda

As the Gacaca process came to an end, I interviewed representatives of institutions that had been involved with the Gacaca process in the past, and key aid actors working on human rights and justice matters. Among the previous donors of the Gacaca process, I contacted:

- the Dutch Embassy - the last donor involved in Gacaca and co-chair of the Justice, Reconciliation, Law and Order (JRLO) Sector at the time of research;
- the Belgian Embassy and the European Commission's Cooperation agency - both the main donors of Gacaca monitoring;
- the British Department for International Development (DFID) - the main donor in Rwanda today and supporter in the past of PRI's Gacaca monitoring;
- the United Nations Development Programme (UNDP) - as partner and donor of the National Service of Gacaca Courts (Service National des Juridictions Gacaca – SNJG) and of the Rwandan Justice sector.

I also approached other embassies and aid agencies that did not return contact. Within Rwandan authorities, I interviewed a few members of staff at the Ministry of Justice and the National Commission for Human Rights (Commission National des Droits de la Personne CNDP).

In terms of NGOs, I contacted and organised interviews with:

- Human Rights Watch (HRW - followed up the human rights situation and monitored Gacaca Courts from the beginning of the process until 2011);
- International Justice Mission (IJM - representative of INGOs in the JRLO meetings);
- RCN Justice & Démocratie (the other INGO still dealing with human rights and justice matters in Rwanda today);
- the Rwandan League for the Promotion and the Defence of Human Rights (Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme – Liprodhor, the last independent local human rights organisation that had been widely involved in monitoring Gacaca and gave support to the population facing difficulties with the process);
- League for Human Rights in the Great Lakes Region (Ligue des Droits de la Personne dans la Région des Grands Lacs – LDGL, a regional organisation based in Kigali working on human rights in Burundi, Rwanda and DRC);
- the Rwandan Association for the Defence of the Rights of the Person and of Public Liberties (Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques – ADL, which was actively monitoring human rights before the genocide and still monitors prisons widely occupied by perpetrators of the genocide);
- and the Legal Aid Forum (a local NGO initially put in place by the Danish Institute for Human Rights; the NGO director previously worked in the SNJG and works today with the Ministry of Justice to improve access to justice).

From the late 1990s, both Penal Reform International (PRI) and Lawyers Without Borders (Avocats Sans Frontières – ASF) worked closely with judicial and prison authorities in Rwanda to deal with the genocide litigation and would later become the key INGOs involved

in the Gacaca monitoring. However, they since closed their Rwandan office, even before the closure of Gacaca. I undertook Skype interviews with representatives of both NGOs.

In Burundi, I have met the representatives of the international organisations most involved in the TJ process: the Swiss Embassy, the Belgian Embassy, the Transitional Justice Unit of UN Office in Burundi (Bureau des Nations Unies au Burundi - BNUB), the European Union Delegation and the Norwegian Embassy. These institutions have channelled funding to INGOs and local NGOs for sensitisation and training projects about TJ mechanisms; they are also the most active in discussions about TJ when discussions take place, and they would certainly become key donors of the TRC assumingly to be put in place in the following month. I also contacted other embassies in Bujumbura that were less involved in TJ matters (the US and Dutch embassies). In terms of INGOs involved in TJ, I met members of staff from Impunity Watch, RCN Justice & Démocratie, Global Rights and La Benevolencija (the four key INGOs involved in the TJ process).

I also met representatives of the following local NGOs:

- Forum for the Strengthening of Civil Society (Forum pour le Renforcement de la Société Civile – FORSC), a local platform of associations dealing with a number of matters including TJ; it organised TJ sensitisation projects, and its TJ programme received direct financial and technical support from the GIZ;
- Trauma Healing and Reconciliation Services (THARS), a local organisation dealing with trauma healing and TJ. It elaborated two networks throughout the country: one to support economic development of the most vulnerable people and one for TJ;
- Ministry for Peace and Reconciliation under the Cross (Ministère pour la Paix et la Réconciliation sous la Croix – MIPAREC), a Burundian religious association operating a network of peace agents promoting dialogue between victims and their perpetrators at the community level;
- Association Dushirehamwe, a local women's association put together with support from International Alert, with a network of 2,000 members across the country that promotes the protection of women's rights and their involvement in peacebuilding; it undertook a few research projects on TJ and gender;
- Network Women and Peace (Réseaux Femmes et Paix – RFP), a Burundian association taking the lead on TJ matters among women associations;
- Alert Center and Conflicts Prevention conflits (CENAP - Centre d'Alerte et de Prévention des conflits), a Burundian independent research centre on peacebuilding matters which undertook several research and sensitisation projects on TJ and the National Consultation.
- Association for the Memory and Protection of Humanity Against International Crimes (Association pour la Mémoire et la Protection de l'humanité contre les Crimes Internationaux – AMEPECI GIRUBUNTU), association created by Burundian NGO workers who had been colleagues at Search for Common Ground, bringing together victim associations around commemoration initiatives;
- Support and Reflexion Centre for the Associations of Victims of Socio-Political

Conflicts (Centre d'Appui et de Réflexion des Associations des Victimes des Conflits socio- Politiques - CARAVI), a platform organisation for victim associations that was put together by the same groups of local practitioners involved in AMEPECI; they appointed representatives across the country to organise sensitisation and training activities;

- Forum for Conscience and Development (Forum pour la Conscience et le Développement – FOCODE), a national network of students and professionals gathering to discuss specific themes including TJ;
- National Forum for the Community Representatives of Transitional Justice (Forum National des Relais Communautaires en Justice Transitionnelle - FORNAREC/JT), a Burundian network created by the TJ section of BNUB with ethnic and gender balanced representatives in all sectors of the country, with the aim of overcoming political and ethnic divisions existing in older civil society organisations; the network has organised sensitisation and training for its members in order to encourage local ownership and communication between the local population and the official TJ process;
- Burundian authorities, specifically members of the Kavakure Committee, a technical committee created by presidential decree in July 2011 and named after the president of the committee Laurent Kavakure (the current Minister of Foreign Affairs). The committee produced a first draft of the updated TRC law in consultation with the UN, NGOs and international experts.

## Appendix 2: Lists of Policy reports gathered about Gacaca and TJ in Burundi

List of Reports about Burundian Transitional Justice Process						
	Author	Title	Year of Publication	Organisation Type	Reports Type	Themes Addressed
1	ASF	Étude d'Impact du Projet : «Faciliter l'Accès à la Justice des Victimes et des Prévenus de la Crise de 1993 en vue de Promouvoir la Réconciliation»	1997	INGO	Impact Study	Access to Justice for 1993 war crimes victims
2	Fédérations internationale des ligues des droits de l'homme (FIDH)	Commission pour la Vérité et la Justice : Contraintes et Espoirs	2003	INGO	Analysis	TRC
3	UN Security Concerns	Letter dated 11 March 2005 from the Secretary-General addressed to the President of the Security Council (Kalomoh Report)	2005	UN	Analysis	Context Analysis
4	FORSC - Pie Ntakarutimana	Etude Justice transitionnelle : quels mécanismes pour le Burundi ?	2005	ONG	Analysis	TJ Mechanisms
5	Swiss Peace and René Lemarchand	Burundi's Endangered Transition FAST Country Risk Profile Burundi	2006	INGO	Research	Political Transition
6	Accords	Women Transforming Conflicts in Africa: Descriptive Studies from Burundi, Côte d'Ivoire, Sierra Leone, South Africa and Sudan	2007			Women and Transitions

7	CNDD-FDD	Mémoire du Parti CNDD-FDD sur la Commission Vérité et Réconciliation et le Tribunal Spécial pour le Burundi	2007	Official	Analysis	TJ Recommendation / Position Statement
8	Joint Memorandum	Un premier défi pour le processus de justice transitionnelle – Les Consultations Populaires	2007	NGO/INGO	Analysis	National Consultations
9	RCN Justice et Démocratie	Paroles de Burundais sur la Justice d'après-guerre – Expérience de Consultations Réalisées auprès de la Population sur la Justice et le Conflit au Burundi	2007	INGO	Analysis	Activity Promotion
10	ASF	Etude sur l'analyse du conflit Burundais selon le genre	2008	INGO	Analysis	Gender and Conflicts
11	BBC World Service Trust and Search Common Ground	Prêts à Parler du passé – Une étude sur les attentes vis-à-vis de la justice transitionnelle au Burundi	2008	INGO	Research	Opinion Pool – TJ expectations
12	ICTJ	Burundi - Submission to the Universal Periodic Review Of the UN Human Rights Council Third Session: December 1-12, 2008	2008	INGO	Analysis	UPR
13	ICTJ	Contribution Substantielle à l'Elaboration d'un Cadre de Fonctionnement pour le Comité de Pilotage Tripartite des Consultations Populaires sur la Justice de Transition au Burundi	2008	INGO	Analysis	National Consultations
14	Observatoire de l'Action Gouvernementale	Les consultations Nationales au Burundi, Experiences Acquises, Défis et Stratégies pour la Mise en Place des Mécanisme de Justice Traditionnelle	2009	NGO	Research	National Consultations

15	Association Dushirehamwe	L'Intégration du Genre dans la Consolidation de la Paix au Burundi, Leçons apprises et perspectives	2010	NGO	Analysis	Gender and Peacebuilding
16	Association pour la Paix et les Droits de l'Homme (APDH) and Impunity Watch	La justice de transition dans une perspective communautaire - Etude de cas dans les communes de Mwumba et Bugisa de la Province de NGOZI	2010	INGO/NGO	Research	
17	CENAP and Interpeace	Traiter du passé et construire l'avenir: La place de l'histoire dans la thérapie collective	2010	NGO/INGO		
18	République du Burundi and BINUB	Les Consultations Nationales sur la Mise en Place des Mécanismes de Justice de Transition au Burundi – Rapport	2010	Official/UN	Research	Opinion Pool
19	Amnesty International	Recommandations au Comité Technique au Sujet de la Création d'une Commission de Vérité et de Réconciliation	2011	INGO	Analysis	Legal recommendations
20	ASF	Promouvoir le Système du Statut de Rome et Accroître l'Effectivité de la Cour Pénale Internationale - Etude de base pour le Burundi	2011	INGO	Research	International Justice – ICC
21	Association Dushirehamwe	Analyse du Rapport des Consultations Nationales sur la Mise en Place des Mécanismes de Justice de Transition au Burundi	2011	NGO	Analysis	National Consultations and Gender
22	Astrid Jamar and Impunity Watch	Abstract of Desk Study Burundi – Violence Against Women	2011	INGO/Academic	Analysis	Violence Against Women

23	FORSC	Memorandum de la Société Civile Burundaise sur la Mise en Place de la Commission Vérité et Réconciliation au Burundi	2011	NGO	Analysis	TRC Recommendations
24	ICTJ	Le processus de justice de transition au Burundi Défis et perspectives	2011	INGO	Analysis	TJ
25	International Crisis Group	Burundi: From Electoral Boycott to Political Impasse - Africa Report N°169	2011	INGO	Analysis	Political Context
26	République du Burundi	Rapport du Comité Technique Chargé de la Préparation de la mise en place des Mécanismes de Justice Transitionnelle	2011	Official	Analysis/Draft law	TJ Legal framework
27	Trauma Healing And Reconciliation Services	Etude sur les Besoins en Accompagnement Psychosocial des Victimes lors du Processus de la Justice Transitionnelle et Particulièrement Pendant la Phase de Préparation et d'Exécution	2011	NGO	Research	Psychosocial & TJ
28	Impunity Watch (IW)	Premier Rapport Annuel du Premier Rapporteur Spécial (RS) Pour la Promotion de la Vérité, la Justice, les Réparations, et les Garanties de Non-Répétition des Abus (VJNR) – Pablor de Greiff – Lecture Croisée du Rapport avec la Situation au Burundi	2012	INGO	Analysis	Special Rapporteur and Burundi
29	IW	La Destruction de la Fosse Commune de Kivuyka a Bubanza	2012	INGO	Analysis	Mass Grave
30	IW - Benjamin Vanderlick and Aloys Batungwanayo	Les lieux de mémoire, initiatives commémoratives et mémorielles du conflit burundais: Souvenirs invisibles et permanents	2012	INGO	Research	Commemoration



31	OHCHR	Analyse du projet de loi portant création, mandat, composition, organisation et fonctionnement de la Commission Vérité et Réconciliation discuté à la session du Conseil des Ministres du 14 novembre 2012	2012	UN	Analysis	Draft Law
32	RCN	Justices Transitionnelles - Contributions à la Construction d'un Modèle Burundais - Travail de Capitalisation des Représentations Théâtrales et Groupes de Parole menées auprès des Burundais entre 2004 et 2011 sur la Question de la Gestion des Crimes du Passé et de la Justice Transitionnelle".	2012	INGO	Analysis	Activity Analysis
33		Memorandum sur le Projet de Loi mettant en place la Commission Vérité et Réconciliation au Burundi	2012	NGO/INGO	Analysis	TRC legal recommendations
34	Diane Bernard, Damien Scalia et Thibaut Slingeneier – ASF	Justice en transition - Etude de Capitalisation des programmes d'Assistance Judiciaire d'ASF au Burundi (1999-2004)	2013	INGO/Academic	Research	Judicial analysis of 1993
35	American Friends Service Committee	Dialogue and Exchange Programs Report - Study tour of Burundian Parliamentarians for understanding the different stages of the TRC (with a focus on the law) to South Africa	2013	INGO	Analysis	Activity Analysis
36	Human Rights Council Working Group on the Universal Periodic Review	Draft report of the Working Group on the Universal Periodic Review Burundi Fifteenth session Geneva, 21 January–1 February 2013	2013	UN	Analysis	UPR

37	IW	Sensibilité au genre des processus de Vérité, Justice, Réparation et Non-Répétition au Burundi	2013	INGO	Research	Gender & TJ
38	IW	Policy Brief: Le projet de loi sur la CVR envisagée au Burundi	2013	INGO	Analysis	TRC Draft Law
39	IW	Policy Brief: La prise en compte des violences basées sur le genre au Burundi	2013	INGO	Analysis	Violence Against Women
40	IW - Mathieu Boloquy	Programmes “Les Victimes à La Une” - Perceptions de victimes Burundaises vis-à-vis des Mécanismes de Justice Transitionnelle	2013	INGO	Research	Victims
41	Anne-Aël Pohu et Selim Mawad – RCN & IW	La marche des vérités	2014	INGO	Graphic Novel	Obstacles to Truth
42	Edem Comlan – IW	La Prise en Compte des Violences Basées sur le Genre au Burundi : Analyse des Perceptions et Obstacles	2014	INGO	Research	Violence Against Women
43	IW	Des Paroles et des Vœux de Burundais - « ...Il faut que cette commission soit mise en place le plus vite possible pour éviter que les anciens ne partent sans avoir dit ce qu’ils ont vu... »	2014	INGO	Analysis	Activity Analysis – TRC Perceptions
44	International Alert – Dushirehamwe	Analyse de l’Intégration du Genre dans les Consultations Nationales sur la Mise en Place des Mécanismes de Justice Transitionnelle au Burundi	2010	INGO/NGO	Analysis	TJ and Gender

45	Bitsure Jeanne, Nyanzobe Seconde, and Séraphine Nisabwe	Security Council Resolution 1325: Civil Society Monitoring Report - Burundi			Analysis	Women and Transitions
46	Global Rights	Justice transitionnelle au Burundi Chronologie des Principaux Evènements	Initiated in 2000 – Regularly updated	INGO	Analysis	Chronological TJ Updates
47	Susanna Campbell (Team Lead), Tracy Dexter, Michael Findley, Stephanie Hofmann, Josiah Marineau, and Daniel Walker	Independent External Evaluation UN Peacebuilding Fund Project Portfolio in Burundi 2007 – 2013	2014	Official (UN) and Academic	Analysis	PBF

List of Reports about Gacaca						
	Author	Title	Year of Publication	Organisation Type	Reports Type	Themes Addressed
1	La Coopération Suisse au Rwanda	Rapport du groupe d'étude institué par le DFAE	1996	Donor	Analysis	
2	UN OHCHR	Gacaca Le Droit Coutumier au Rwanda – Rapport final de la Première Phase d'enquête sur le terrain	1996	UN	Research	Gacaca Survey
3	IRST-Butare (NUR) UN HRFOR	Gacaca Le Droit Coutumier au Rwanda – Rapport de la Deuxième Phase d'enquête sur le terrain	1996	UN/Academic	Research	Gacaca Survey
4	GoR, Ministry of Defence, Ministry of Interior and Communal Development, Ministry of Justice, Ministry of Planning	Justice and Security of Persons and Goods - Working Paper	1996	Official	Policy	Justice and Security
5	GoR, Minister of Justice - Dr. Faustin Nteziyayo	Participatory Justice and The Search for the Truth	1998	Official/Acadmic	Analysis	Truth Seeking
6	Newick Park Initiative	Recommendations on Involving Local Communities in the process of Justice	1998	INGO	Analysis	Justice and Participation

7	Penal Reform International (PRI)	The Gacaca Research Project in Rwanda – An in-depth field study concerning Gacaca and community service	1999	INGO	Analysis	TIG
8	LIPRODHOR	Rapport d'Activités de fin de 1ère phase du projet de suivi des accusés de génocide mis en liberté (PSAG) – Problématique des Libérations des Accusés de Génocide Rwandais	1999	NGO		AccusedLiberation
9	PRI	The Gacaca Research Project in Rwanda – An in-depth field study concerning Gacaca and community service	1999	INGO	Research	Gacaca and TIG
10	Daniel de Beer	Loi Rwandaise du 30 Août 1996 sur l'organisation des poursuites des infractions constitutives du crime de génocide ou de crimes contre l'humanité – Commentaire et Jurisprudence	1999	INGO	Analysis	Judicial Prosecution
11	Fergus Kerrigan - DCHR	Discussion Paper – DCHR's Judicial Defenders project in Rwanda and the New Gacaca Proposal	1999	INGO	Analysis	Gacaca Policy
12	Simon Gasuberege, <i>Et. Al.</i> - NUR CCM	Résultats d'une enquête exploratoire sur les attitudes des membres des communautés locales et des prisonniers vis-à-vis de l'indemnisation des victimes des crimes de génocide et contre l'humanité	2000	Academic	Research	Compensation
13	Liprodhor	Résultats de la recherche sur les attitudes et opinions de la population rwandaise	2000	NGO	Analysis	Opinion Poll
14	Alice Karekezi NUR CCM	Juridictions Gacaca, lutte contre l'impunité et la réconciliation nationale	2000	Academic	Analysis	Gacaca Policy

15	RCN	Etude RCN sur le système judiciaire au Rwanda : Les juridictions Gacaca	2000	INGO	Analysis	Judicial System
16	LIPRODHOR	Résultats de la recherche sur les attitudes et opinions de la population rwandaise	2000	NGO	Research	Opinion Poll
17	Alice Karekezi (NUR - CCM)	Juridictions Gacaca, lutte contre l'impunité et la réconciliation nationale	2000	Academic	Research	Gacaca Policy
18	RCN	Etude sur le système judiciaire au Rwanda: Les juridictions Gacaca	2000	INGO	Analysis	Judicial system
19	Jeroen Corduwener	Reportage. Rwandase bevolking berecht vermeende genocidairs. Traditionele rechtspraak moet wonden helpen helen. Van onze medewerker in Rwanda	2000			
20	Martien Schotsmans	A l'Ecoute des rescapés – Recherche sur la perception par les rescapés de leur situation actuelle	2000	INGO	Research	Survivors opinion pool
21	Martien Schotsmans - ASF	L'Etat de la Jurisprudence sur l'indemnisation liée au contentieux du génocide	2000	NGO	Conference	Compensation Jurisprudence
22	Simon Gasibirege	Conditions psychosociales d'efficacité de gacaca: contribution à la mise en oeuvre effective du projet national des juridictions gacaca	2000	Academic	Analysis	Gacaca & Psychosocial conditions
23		After War: Reconciliation and Democratisation in Divided Societies – Lessons Learned, Summary Report	2000	Bergen Seminar	Conference	TJ
24	Fergus Kerrigan	Background Paper: The proposed New Gacaca Tribunals in Rwanda	2000	INGO	Analysis	Gacaca Policy

25	Daniel De Beer	Les Juridictions Gacaca au Rwanda - Round Table Meeting – Rapport de Mission	2000	INGO	Conference	Mission Note
26	NPI	Concern About Current Government Proposals for community Courts (“Gacaca”)	2000	INGO	Analysis	
27	Peter Uvin	Mission Gacaca – Conclusions Tentatives	2000	Academic	Analysis	Gacaca Policy
28	Eddy Boutmans	Report on the Informal Seminar on Donor Support for a 'Modernised Gacaca' in Rwanda	2000	Official (Belgium)	Analysis	Gacaca Policy & Funding
29	Alice Karekezi, CCM (UNR)	Juridictions Gacaca, lutte contre l'impunité et la réconciliation nationale	2000	Academic	Research	Gacaca JT
30	Stef Vandegiste	Nota Betreffende het voorontwerp van wet tot oprichting van gacaca-tribunalen	2000	Official (Belgium)	Analysis	Gacaca Policy
31	Commission Nationale des Droits de l'Homme (CNDH)	Projet de Monitoring de la mise en place et du fonctionnement de l'institution judiciaire Gacaca (2000-2003)	2000	Official	Research	Gacaca Monitoring
32	Klaas de Jonge – PRI	Interim Report (1) on gacaca research and its preparations	2001	INGO	Research	Gacaca preparation
33	Klaas de Jonge - PRI	Interim Report (2) on gacaca research and its preparations (August-September 2001)	2001	INGO	Research	Gacaca preparation
34	Technical Cooperation Unit of the UN Field Operation in Rwanda (HRFOR)	Gacaca - As An Alternative to Formal Legal Procedure to Deal with Individuals Suspected of Complicity in the Genocide	2001	UN	Analysis	Gacaca Policy

35	The Danish Center for Human rights (DCHR)	Legal Aid in Rwanda, A Report on the Legal Assistance available in Rwanda	2001	INGO	Analysis	Legal Aid
36	LIPRODHOR	Four years of genocide trials. What basis for Gacaca Courts?	2001	NGO	Analysis	Gacaca Policy
37	Martien Schotsmans	Mission d'appui aux systèmes du secteur de la justice au Rwanda	2001	INGO	Analysis	Support to Justice
38	CLADHO, IBUKA, CCOAIB, PRO-FEMMES, Twese Hamwe, LGGL	Document d'observation des élections Gacaca sans titre	2001	NGO	Research	Gacaca Elections Monitoring
39	ECCG - CCAC	Compte Rendu Du Forum Européen sur les Grands Lacs – Sujet Gacaca, système de juridiction traditionnelle rwandaise	2001	Official (UE)	Minute?	EU Gacaca Report Meeting
40	Joseph Ntamahungiro	Mémo sur les Juridictions Gacaca	2001		Analysis	Gacaca
41	Martin Imbleau	Amnestie Internationale – Notes de Mission de Martin Imbleau Mission Gacaca Rwanda	2001	INGO	Analysis	Note de Mission
42	Alison Des Forges	Rwanda Mission Notes - 28 May – 9 June 2001	2001	INGO	Analysis	Note de Mission
43	IDEA	The Gacaca Facilitation Initiative: A proposal to Support the Rwandan Modernised Gacaca Process	2002	INGO	Analysis	Policy - NGO support
44	PRI	Gacaca Research Report No.3: Jurisdictions in the pilot phase	2002	INGO	Research	Gacaca Monitoring



45	Cagep Consult – USAID	Assesment of the Judicial Sector in Rwanda	2002		Analysis	Judicial System
46	Heidy Rombouts	Note d'observation du lancement Gacaca en Néerlandai	2002	Official	Analysis	Gacaca Launch
47	Evêques du Rwanda	Message des Evêques du Rwanda pour la Période des «Juridictions Gacaca» - Pour une justice qui réconcilie	2002	Church	Analysis	Gacaca & Reconciliation
48	LIPRODHOR	Juridictions Gacaca, Potentialités et Lacunes Révélées par les Debuts	2003	NGO	Research	Gacaca Monitoring
49	PRI	The guilty plea procedure, cornerstone of the Rwandan justice system, PRI Research on gacaca report, Report IV	2003	INGO	Research	Gacaca Monitoring
50	LIPRODHOR	Gacaca Courts - Possibilities and gaps observed from the start	2003	NGO	Research	Gacaca Monitoring
51	PRI	Gacaca and reconciliation: Kibuye case study 1	2003	INGO	Research	Gacaca Monitoring
52	PRI	Gacaca and reconciliation: Kibuye case study 2	2003	INGO	Research	Gacaca Monitoring
53	PRI	Gacaca and reconciliation: Kibuye case study 3	2003	INGO	Research	Gacaca Monitoring
54	PRI	Gacaca Research Report No.5: Cell-level preparations	2003	INGO	Research	Gacaca Monitoring
55	Cordaid, ICCO, KERKINACTIE, Novib	Tell our government it is OK to be critised ! - Rwanda Monitoring Report	2003	NGO	Analysis	Rwanda & Critiques
56	Stef Vandeginste	DGDC Gacaca One Day Meeting – Personal Note	2003	Academic	Conference	Personal Conference Note

57		Matrice Indicative d'interventions des Partenaires Internationaux dans le Domaine de la Gacaca	2003	Donor	Conference	Statistics
58	Geert Bossaerts, Niyibizi Ruben, Rutazana Francine (11.11.11, Liprodhor, PAPG)	Note sur le Processus Gacaca en Cours au Rwanda	2003	NGO	Conference	Gacaca
59	CLADHO	Rapport d'Enquête sur les Violations des Droits Humains et les Cas d'Insécurité des Témoins dans les Juridictions Gacaca	2004	NGO	Research	Security
60	CLADHO	Rapport d'Enquête sur les Violations des Droits Humains et les Cas d'Insécurité des Témoins dans les Juridictions Gacaca	2004	NGO	Research	Human Rights Monitoring and Insecurity
61	PRI	From Camp to Hill, The reintegration of released prisoners, Research Report on the Gacaca, Report VI	2004	INGO	Research	Gacaca Monitoring
62	DFID	Security and Justice Routes to Reconciliation. Rwanda Case Study	2004	Official (UK)	Analysis	Security and Reconciliation
63	Dr. Mbonyinkebe Deo	Etude sur les Elections des Juges - Inyangamugayo	2005	Academic	Research	Gacaca Election
64	ASF	Rapport Analytique I	2005	NGO	Research	Gacaca & Security
65	PRI	Gacaca Research Report No.7: Integrated report on the pilot phase, January 2002 - December 2004	2005	INGO	Research	Gacaca Monitoring
66	Kris Berwouts	Bujumbura refuse le statut de réfugiés aux Rwandais fuyant les «Gacacas»	2005		Analysis	Gacaca & Refugees

67	SNJG	Série de tableaux indiquant l'avancement des Juridiction Gacaca	2005	Official	Analysis	Gacaca Statistics
68	Liprodhor	Etat d'Avancement des Juridictions Gacaca	2005	Declaration	Gacaca Statistics	
69	SNJG	Tableau indiquant l'état d'avancement des procès et les décisions des Juridictions Gacaca	2005	Official	Analysis	Gacaca Statistics
70	ASF	Monitoring des Juridictions Gacaca – Phase de Jugement – Rapport Analytique N°1 (Mars–Septembre 2005)	2005	INGO	Research	Gacaca Monitoring
71	PRI	Gacaca Research Report No.8: Information gathering during the national phase	2006	INGO	Research	Gacaca Monitoring
72	Liprodhor	“Ils ont Commencé les Traveaux d'Intérêt Général” (et autres articles)	2006	NGO	Analysis	TIG
73	Kris Berwouts	Mail “Rwanda/Gacaca: Severes Critiques de l'Eglise Catholique contre les proces Gacaca au Rwanda”	2006	NGO	Analysis	Gacaca & Church
74	SNJG	Gacaca Jurisdictions: Achievements, problems and future prospects	2006	Official	Analysis	Gacaca statistics
75	ASF	Monitoring des Juridictions Gacaca – Phase de Jugement – Rapport Analytique N°2 (Octobre 2005–Septembre 2006)	2006	INGO	Research	Gacaca Monitoring
76	The Economist Intelligence Unit	Country Report: Rwanda	2007		Analysis	Country report
77	PRI	Gacaca Research Report No.9: Community service	2007	INGO	Research	Gacaca Monitoring

<b>78</b>	PRI	Gacaca Research Report No.10 : Judgments on property offence cases	2007	INGO	Research	Gacaca Monitoring
<b>79</b>	Amnesty International	Rwanda: Suspects must not be transferred to Rwandan Courts for trial until it is demonstrated that trials will comply with international standards of justice	2007	INGO	Analysis	Suspects Transfer
<b>80</b>	International Legal Assistance Consortium	Justice in Rwanda: An assessment	2007	INGO	Analysis	Judicial System
<b>81</b>	ASF	Monitoring des Juridictions Gacaca – Phase de Jugement – Rapport Analytique N°3 (Octobre 2006–Avril 2007)	2007	INGO	Research	Gacaca Monitoring
<b>82</b>	HRW	Law and reality - Progress in Judicial Reform in Rwanda	2008	INGO	Research	Legal system
<b>83</b>	PRI	Gacaca Research Report No.11: Testimony and evidence in the gacaca courts	2008	INGO	Research	Gacaca Monitoring
<b>84</b>	ASF	Monitoring des Juridictions Gacaca – Phase de Jugement – Rapport Analytique N°4 (Mai – Decembre 2007)	2008	INGO	Research	Gacaca Monitoring
<b>85</b>	IBUKA, Médecins du Monde	Psychological support of of the survivors of the Genocide against the Tutsi of Rwanda: Action during and after the Gacaca process	2009	NGO/INGO	Analysis	Gacaca Policy and trauma
<b>86</b>	PRI	Gacaca Research Report No.12: Settlement of property offence cases	2009	INGO	Research	Gacaca Monitoring

87	PRI	Eight years later: an update on the monitoring of the Gacaca process in Rwanda	2010	INGO	Analysis	Research Summary
88	ASF	Monitoring des Juridictions Gacaca – Phase de Jugement – Rapport Analytique N°5 (Mars 2008–Septembre 2006)	2010	INGO	Research	Gacaca Monitoring
89	PRI	Eight years later: an update on the monitoring of the Gacaca process in Rwanda	2010	INGO	Analysis	Research Summary
90	HRW	Justice Compromised – The legacy of Rwanda's Community- Based Gacaca Courts - Case Studies	2011	INGO	Analysis	Research Summary
91	HRW	Justice Compromised – The legacy of Rwanda's Community-Based Gacaca Courts	2011	INGO	Research	Gacaca Monitoring
92	HRW	Justice Compromised – The legacy of Rwanda's Community-Based Gacaca Courts	2011	INGO	Research	Gacaca Monitoring
93	SNJG	Summary Of The Report Presented At The Closing Of Gacaca Courts Activities	2012	Official	Analysis	Research Summary
94	SNJG	Gacaca Courts in Rwanda, describing the phases of implementation of the Gacaca Court process from June 18, 2002 to June 18, 2012	2012	Official	Analysis	Gacaca Evaluation
95	SNJG - CCM (NUR)	Evaluation of Gacaca Process: Achieved Results Per Objective	2012	Academic/Official	Research	Gacaca Evaluation
96	HRW	Justice Compromised – The legacy of Rwanda's Community-Based Gacaca Courts - Case Studies	2012	INGO	Analysis	Research Summary

<b>97</b>	SNJG	Summary Of The Report Presented At The Closing Of Gacaca Courts Activities	2012	Official	Analysis	Research Summary
<b>98</b>	SNJG	Gacaca Courts in Rwanda, describing the phases of implementation of the Gacaca Court process from June 18, 2002 to June 18, 2012	2012	Official	Analysis	Gacaca Evaluation
<b>99</b>	SNJG - CCM (NUR)	Evaluation of Gacaca Process: Achieved Results Per Objective	2012	Academic/Official	Research	Gacaca Evaluation