TRAINING & SENSITISATION
ON TRANSITIONAL JUSTICE IN BURUNDI AND RWANDA:
INTERNATIONAL AID FOR WHOSE SAKE?

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Résumé

À première vue, les processus de justice transitionnelle (JT) burundais et rwandais semblent différents. Le processus burundais a réalisé peu d'avancées au cours de la dernière décennie tandis que les Gacaca ont jugé plus de deux millions de cas au Rwanda. Néanmoins, les pratiques quotidiennes autour de leurs mises en place partagent de nombreuses similitudes. En effet, ces deux processus 'traitant du passé' ont été fortement affectés par les dimensions politiques nationales et les interactions avec la communauté internationale. Les pratiques quotidiennes des professionnels de la JT impliquent une série d'activités qui réinterprètent et disséminent le discours international de la JT. Ces activités incluent l'organisation de formations et de campagnes de sensibilisation ainsi que du plaidoyer, des projets de recherche, de monitoring et du soutien à la société civile. Ce chapitre porte sur l'institutionnalisation des efforts de formation et de sensibilisation sur les concepts de JT, ceci à travers une description ethnographique démontrant comment l'aide internationale a opéré similairement dans des contextes très différents.

Les activités de formation sont supposées contribuer au renforcement de capacité et celles de sensibilisation à promouvoir un changement social. Il est toutefois important de se demander ce que ces activités apportent réellement aux personnes visées ainsi qu'à toute la communauté. En observant l'utilisation répétitive de concepts vagues et leur réinterprétation à travers ces activités, ce chapitre démontre comment les pratiques de la JT ont institutionnalisé le fait que 'la justice', la 'vérité' et la 'réconciliation' peuvent être accomplies à travers des initiatives de formation et de sensibilisation. Spécifiquement, le chapitre traite de ces deux questions : En quoi la 'boîte à outils' de la JT consiste-t'elle concrètement en terme de discours et d'activités ? Quelles sont les frictions entre le discours politique et la pratique ?

1.   INTRODUCTION

Although Burundian and Rwandan Transitional Justice (TJ) processes appear to be very different at first sight, daily practice and implementations share many similarities. The Burundian TJ process was in a deadlock situation for a decade whilst *gacaca* ruled on approximately two million cases of genocide crimes in Rwanda. Still in both contexts, domestic politics and interactions with the international community have held an important role vis-a-vis these processes 'dealing with the past'. Daily practices involve TJ professionals implementing a set of activities reinterpreting and disseminating the TJ international discourse: organising trainings, sensitisation campaigns, lobbying, conducting research, monitoring projects and supporting civil

society. This chapter will describe the institutionalisation of efforts to train and sensitise on TJ concepts by detailing ethnographically how international aid operates very similarly in very different contexts.

As the main part of its TJ policy, the Rwandan government mandated the participation of its population in the *gacaca* courts. Local population elected *Inyangamugayo* (persons of integrity) to rule on genocide crimes and crimes against humanity committed from 1 October 1990 to 31 December 1994 during which an estimated one million Tutsi and Hutu moderates were killed. It aimed to establish truth, to fight against impunity, to encourage reconciliation and reintegration.[2] From 2002 to 2012, 15,300 courts have ruled on nearly two million cases.[3] Prior and during the process, donors, NGOs and national institutions organised trainings for *Inyangamugayo* and sensitised the population to encourage their participation in the *gacaca* process.

In 2000, Burundian political actors and belligerents engaged officially to implement 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.[4] In May 2014, a law was adopted for the implementation of a Truth and Reconciliation Commission (TRC) remaining silent about following judicial consequences and mechanisms. Throughout dozens of aid-dependent organisations provided trainings on TJ concepts in order to encourage people's participation in the stagnant TJ process. These two different contexts involve important efforts in training and sensitisation; this chapter will unpack these TJ activities using ethnographic methods.

Since the ethnographic turn in development studies, the analysis of daily practices receive increasing attention and underline the social dynamics behind increasingly technocratised aid work.[5] Such research on aid practices

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[2] As stated in the preamble of the Gacaca Organic Law No. 16/2004 of 19/06/2004.

[3] See *e.g.* E.g. "Rwandans should celebrate Gacaca Legacy", *The New Times*, 18 June 2012; Avocats Sans Frontières, *Monitoring des Juridictions Gacaca – Rapport Analytique N° 5*, 2010.

[4] See e.g. VANDEGINSTE, S., "Burundi's Truth and Reconciliation Commission: How to Shed Light on the Past while Standing in the Dark Shadow of Politics?", *International Journal of Transitional Justice*, Vol. 6, No. 2, 2012; RUBLI, S., "(Re)making the Social World: The Politics of Transitional Justice in Burundi", *Africa Spectrum*, Vol. 48, No. 1, 2013.

[5] FERGUSON, J., *The Anti-Politics Machine: "Development", Depoliticization, and Bureaucratic Power in Lesotho*, Minneapolis, University of Minnesota Press, 1990; LEWIS, D., MOSSE, D. (eds.), *Development Brokers and Translators: The Ethnography of Aid and Agencies*, Bloomfield, Kumarian Press, 2006; FECHTER, A. M., HINDMAN, H., *Inside the Everyday Lives of Development Workers: The Challenges and Futures of Aidland*, Sterling, Kumarian Press, 2011; OLIVIER DE SARDAN, J. P., "*Anthropologie et Développement : Essai en socio-anthropologie du changement social*", Marseille/Paris, APAD/Karthala, Collection "Hommes et Sociétés", 1995.

around the world denounces the negative impacts of the professionalisation and technocratisation of the international aid sector.[6] It also indicates that this evolution are affecting aid processes with unexpected outcomes: by enabling depolitisation,[7] reproducing inequality,[8] and silencing contradictions within the aid environment.[9]

The daily practices and working patterns of practitioners on the ground are considered crucial to empirically understand the limits of TJ. In regards to TJ practice, Sandrine Lefranc writes that TJ was established through the creation of a professional network rather than the conceptualisation of good practice.[10] She considers the network components came opportunistically to this new market to offer services such as meetings, lobbying towards donors, inquiries and handbooks for universities and practitioners.[11] Furthermore numerous research on TJ practices in different contexts underline the frictions in between policy intentions and benefit for beneficiaries.[12]

The activities I analysed promote unclear concepts such as 'truth', 'pardon', 'justice', 'reconciliation', and 'reparation'. These are good examples of Andrea Cornwall's 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".[13] These buzzwords are disseminated through different channels, and mainly trainings

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[6] E.g. MOSSE, D. (ed.), *Adventures in Aidland: The Anthropology of Professionals in International Development*, New York/Oxford, Berghahn Books, 2011.

[7] UVIN, P., *Aiding Violence: The Development Enterprise in Rwanda*, West Hartford, Kumarian Press, 1998; HOLVOET, N., ROMBOUTS, H., "The Challenge of Monitoring and Evaluation under the New Aid Modalities: Experiences from Rwanda", *Journal of Modern African Studies*, Vol. 46, No. 4, 2008.

[8] E.g. ROTH, S., "Professionalisation Trends and Inequality: Experiences and Practices in Aid Relationships", *Third World Quarterly*, Vol. 33, No. 8, 2012.

[9] E.g. BAAZ, M., *The Paternalism of Partnership: A Postcolonial Reading of Identity in Development Aid*, London, Zed Books, 2005.

[10] LEFRANC, S., "La professionnalisation d'un militantisme réformateur du droit : l'invention de la justice transitionnelle", *Droits et Société*, Vol. 73, No. 3, 2009.

[11] LEFRANC, S., "La justice transitionnelle n'est pas un concept", *Mouvements*, Vol. 53, No. 1, 2008, p. 68.

[12] E.g. FRENCH, B., "Technologies of Telling: Discourse, Transparency, and Erasure in Guatemalan Truth Commission Testimony", *Journal of Human Rights*, Vol. 8, No. 1, 2009; GIBSON, J., "The Truth About Truth and Reconciliation in South Africa", *International Political Science Review,* Vol. 26, No. 4, 2005; HAMBER, B. *et al.*, "'Telling it like it is...': Understanding the Truth and Reconciliation Commission from the Perspective of Survivors", *Psychology in Society*, Vol. 26, 2000; SHAW, R., "Memory Frictions: Localizing the Truth and Reconciliation Commission in Sierra Leone", *The International Journal of Transitional Justice*, Vol. 1, No. 1, 2007; VERDOOLAEGE, A., "Managing Reconciliation at the human rights violations hearings of the South African TRC", *The Journal of Human Rights*, Vol. 5, No. 1, 2006.

[13] CORNWALL, A., "Buzzwords and fuzzwords: deconstructing development discourse", *Development in Practice*, Vol. 17, No. 4/5, 2007, p. 473.

and sensitisation tools. The projects I observed were presented as technical support and ignored how messages can be adapted and reinterpreted by their conveyers and recipients.

Trainings are supposed to contribute to capacity building and sensitisation to enhance social change. However, it is questionable what they really bring to the people being targeted and the whole community. Looking at the repetitive use of undefined concepts, silenced re-interpretation and adaption of the simplistic discourse through activities, this chapter will also highlight how TJ practice institutionalised the position that 'justice', 'truth' and 'reconciliation' can be achieved through training and sensitisation initiatives. I will address the following questions: 1. What does the 'TJ toolkit'[14] entail concretely in terms of discourse and activities? 2. What are the frictions between policy discourse and practice?

Such technical approaches do not solely characterise aid to TJ processes but many other sectors such as health, education, gender, human rights issues. The field of TJ is an example to illustrate how practice consolidated a set of instruments: a 'toolkit' along with a 'universal lexicon' that hide gaps between ideals and reality, policy and outcome. Such empirical analysis will underline 'technocratisaton' and 'depolitisation' of TJ practice. As a result of this, aid provided does not necessarily empower the population to overcome their challenges. It will be demonstrated that complex social dimensions hidden behind a technocratic façade partly result from legacies of the conflict as well as such silences have the potential to instigate tackled issues rather than alleviate them.

2.   EMPIRICAL DATA: DESCRIPTIONS OF DELIVERED ACTIVITIES BY TJ PRACTICE

The extensive use of training and sensitisation results from contemporary aid strategies promoting aid efficiency by 'empowerment', 'ownership', and the 'strengthening' of civil society. Efforts towards capacity building and development of its good practices have been widely undertaken around the world by international organisations.[15] Training and sensitisation projects that I analysed claim to inform people about TJ concepts or specific procedures, to encourage them to take part in these processes, to seek truth, reconciliation, to heal their trauma whilst contributing to justice. I observed that such activities

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[14] Critical scholarship on TJ used this term to address the strong patterns existing in current TJ practices – see e.g. HINTON, A. L. *et al.*, *Transitional Justice: Global Mechanisms and Local Realities After Genocide and Mass Violence*, New Jersey, Rutgers University Press, 2010; SRIRAM, C. L., PILLAY, S. (eds.), *Peace Versus Justice? The Dilemmas of Transitional Justice in Africa*, Cape Town, James Currey Publishers, 2010.

[15] E.g. CLARKE, P., OSWALD, K., "Introduction: Why Reflect Collectively on Capacities for Change?", *IDS Bulletin*, Vol. 41, No. 3, 2010.

also aimed to seek funding, lobby for particular issues, undertake strategic exercises and/or present research output.

Building on previous experience with INGOs, I undertook 10 months of fieldwork in Bujumbura and Kigali. Over the course of this time I drew upon a range of ethnographic methods, including participant observation, semi-structured individual interviews and analysis of working patterns.[16] Gathering a few thousand documents relating to these policies, I collated workshops and sensitisation tools relating to the Burundian TJ process (2004-2014) and the *gacaca* process (1998-2012). Burundian and Rwanda 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 mainly in conference rooms in hotels in the capitals of Bujumbura and Kigali and the cultural cities of Gitega and Butare. Hence empirical data is not exhaustive of activities undertaken in relations with the two processes under consideration.

In Rwanda, I identified three sets of trainings of trainers, 14 sets of trainings of *Inyangamugayo*[17] and three training tools related to *gacaca* law from 2000 to 2008.[18] To this can be added 18 international workshops discussing the *gacaca* Policy Model.[19] *Gacaca* officials established 20 different sensitisation tools that they used to sensitise the population during the *gacaca* process.[20] This does not include all sensitisation tools produced by INGOs for the same purpose. In Burundi, even though the official TJ process has not yet been launched, many activities have been undertaken to sensitise and train the population. Around 15 different workshops have been organised,[21] and four

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[16] WOLCOTT, H., *Ethnography: A Way of Seeing,* Oxford, AltaMira Press, 1999; HAMMERSLE, M., ATKINSON, P., *Ethnography: Principles in Practice*, London / New York, Taylor & Francis, 2007.

[17] E.g. Training of Judges of Pilot Phase (2002); Training of Cell judges on data gathering (2004); Training of Sector Judges before Launch of Judgment Phase (2005), Training of Cell Judges on prosecution of 3rd Category crimes and mediation procedure (2006), Training of Sector and Appeal of 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).

[18] 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.

[19] E.g. 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).

[20] BABALOLA, S. *et al.*, "Evaluation of the Gacaca Promotional Campaign in Rwanda – Report of Main Findings", Ministry of Justice & Ministry of Health, not dated.

[21] E.g. "Colloque sur la Justice en période de Post-Conflit" (Bujumbura, 2005); "Atelier sur la gestion des dépouilles mortelles et la question des personnes disparues" (Bujumbura, 2011); "Colloque international Repenser le Changement Post-Conflit – Quels modèles de coopération en Afrique des Grands Lacs ?" (Bruxelles, 2011), "Atelier international sur les Mécanismes de

different types of sensitisation tool have been found. I myself attended dozens of trainings and workshops. Non-observed events 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 will describe four different projects delivered by international aid organisations to enhance capacity building and empowerment. These anecdotic examples were selected to represent different delivery formats and targeted audiences. In turn, the case studies will present an event sensitising high-level political and institutional actors, a training programme for local implementators, a sensitisation activity for a small group of people and materials used for mass sensitisation. The following points will be addressed within each vignette: background information highlighting frictions between policy engagements and practice, re-interpretation of buzzwords through dissemination, power dynamics in play and technocratic obligations that silence legacies of conflicts. Prior to the conclusion, I will present a 4-month workshop that a colleague and I put together in order to encourage creative and critical thinking among TJ practitioners. Such experimental research was interesting to explore challenges and limits of trainings to transfer knowledge and enhance changes beyond the mainstream technocratic approach.

2.1. Sensitisation of High Level Stakeholders and the Creation of Standards

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 all sorts 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 discuss jointly a forthcoming model.

In his opening speech, Pie Ntavyohanyuma, the President of the National Assembly, defined 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

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).

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."[22]

Presentations during the one-day workshop covered, respectively, the national consultations, assessments and challenges of TRC implementation, lessons learnt from foreign experiences, the Togolese and Moroccan TJ processes. It was logistically organised 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 held a strong symbolic message. First, it represented both a reiteration directed towards donors that Burundian authorities care about human rights, sustainable peace and a demonstration of willingness to implement TJ mechanisms. Secondly, European nations demonstrated that they are 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; their own engagement towards TJ was embodied by their presence and financial support for the event. At the time, most actors (including myself) believed that the Burundian TJ process would move forward shortly after that event. However until early 2014, the process remains on hold as the TRC law was constantly postponed on the parliamentary agenda.

A number of details underlined the political dimensions behind the technical surface of the workshop. For instance, the selection of Togolese and Moroccan cases was not politically neutral. These are two cases where truth-seeking mechanisms were put in place without judicial prosecutions. This reflects a preference by key political parties to encourage truth and pardon and leave aside judicial questions.[23] Such preferences have been indirectly expressed (and were refused by the UN) since early TJ negotiations due to the implication of some political actors in past crimes. Addressing the role of leading former opponents in blocking TJ, Vandeginste 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".[24] Similarly this workshop in gathering high-level policy makers

[22] Pie Ntavyohanyuma's speech at AWEPA TJ Workshop, July 2011, Author's translation.
[23] E.g. RUBLI, S., *op. cit.*
[24] VANDEGINSTE, S., "Bypassing the Prohibition of Amnesty for Human Rights Crimes under International Law: Lessons Learned from the Burundi Peace Process", *Netherlands Quarterly of Human Rights*, Vol. 29, No. 2, 2011, p. 14.

demonstrated good will 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 process blockage: judicial consequences of truth-seeking and power dependence between policy-makers and certain authors of crimes.

Further 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 towards dispositions to be decided for the then-forthcoming TRC law:

- The composition of the TRC: would it include international commissioners or not?
- The mandate of the TRC: would it have the capacity to name perpetrators and victims or would it remain at the collective responsibility and victimhood?
- The legal mandate and implications of the TRC: how would TRC inquiries relate to judicial bodies? What are implications for temporary immunities? Would the TRC have the capacity to qualify crimes?

In interviews 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. They mainly referred 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[25] produced a draft law which did not include, among other things, international commissioners and did not decide upon judicial prosecutions. That version included a provision that "Its [the TRC's] work cannot jeopardise competences of the Special Tribunal".[26] Both local and international NGOs strongly rejected the draft and undertook strong lobbying against it to potential donors as it did not respect 'international standards'. Whereas there is no such 'standards' in relation to TJ (which will be elaborated in the final section), the lobbying efforts set in stone the three criteria. As a result, the project was put on hold.

Another draft law was leaked from the National Assembly in 2013. A number of provisions were deleted reducing the guarantees provided in the first draft. Some interviewees from civil society regretted not having supported the first draft law.[27] Framing recommendations from international

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[25] 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.

[26] Art. 5, §2, Draft law of "Rapport du Comité Technique chargé de la Preparation de la Mise en Place des Mécanismes de Justice Transitionnelle", 2011, Author's translation.

[27] Interviews with NGO representatives, Bujumbura, 2013.

experts as international standards finally complicated discussions. The AWEPA workshop underlines an important limit of TJ negotiations. Guided by diplomatic relations, it implies potential donors cannot openly asses 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 the 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 into motion by providing technical advices; but civil society rejected the draft law proposed by the technical committee upon a strict interpretation of these recommendations. The process consequently remained on hold for the subsequent 1.5 year. On May 15th 2014, the President promulgated an updated version of the TRC law. This latter did not take into consideration these 'technical' concerns raised by local and international NGOs. The judicial dimensions are again left on hold until the submission of the TRC report to the Government, Parliament and the UN. Simply put, like this high-level workshop, international aid put much effort into 'technical' support to the TJ Burundian process with limited repercussions for victims and theoretical beneficiaries of the process so far.

2.2. Mass Training for Mass Justice: Becoming a Judge in six days

The training of *gacaca* judges is an extraordinary example of mass training of local implementators for transitional justice purposes. Mass justice for mass crimes implied mass trainings for the around 260,000 elected *Inyangamugayo*, cornerstone actors in the implementation of g*acaca* in every Rwandan hill. In line with Lars Waldorf's statement about *gacaca*, "no legal system is equipped to prosecute mass complicity in mass atrocity",[28] I consider that trainings for *Inyangamugayo* adopted a weak methodology to deal with serious matters such as judging genocide crimes. In previous research, I underline a lack of training to be one of the main causes of judicial mistakes committed by these non-professional judges.[29] The following description of trainings and the *Inynangamugayo's* background explores weaknesses of efforts put into models based on trainings which have wider lessons for such interventions.

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[28] WALDORF, L., "Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice", *Temple Law Review*, Vol. 79, No. 1, 2006, p. 84.

[29] JAMAR, A., "Deterioration of Aid Coordination in Gacaca Implementation: Dealing with the Past for a Better Future?", *in* NOACK, P. (ed.), *Rwanda Fast Forward: Social, Economic, Military and Reconciliation Prospects*, London, Palgrave Macmillan, 2012, p. 83. Working closely with INGOs I wrote previously that trainings were limited because Rwandan authorities did not approve INGO's robust methodology. Through further research, I gathered evidence that first trainings were already showing methodological issues as demonstrated in this section.

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

> "to be recognized as having a good behaviour and morals; to be characterized 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".[30]

The majority of elected judges at the cell level were farmers, whereas a large number at the district level were teachers or civil servants.[31] A number of *Inyangamugayo* were removed during the process for alleged participation in the genocide or corruption.[32] Considering that the lack of monetary remuneration could be a source for corruption, many discussions addressed how to compensate *Inyangamugayo* for their role.[33]

Initially Rwandan authorities and INGOs were collaborating to put these trainings together. They were funded by several international donors such as USAID, the Netherlands and Belgium. 15 sets of training (from three to ten days) were given to *Inyangamugayo* from 2002 to 2008.[34] The training process started by training the trainers. The main session was organised jointly by an INGO and the National Service of Gacaca Courts (SNJG, from its 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 lessons were given by six experts from INGOs and different Rwandese institutions. Lectures were organised for groups of around 150 people. It consisted of 16 sessions (1.5 or 2 hours long each) addressing topics such as the philosophy of *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.[35] It was considered that

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[30] Presidential Order N°12/01 of 26/6/2001 Establishing Modalities for Organising Elections of Members of "Gacaca Jurisdictions" Organs.

[31] 15.4 percent of them were illiterate. Human Rights Watch, *Justice Compromised – The Legacy of Rwanda's Community-Based Gacaca Courts*, 2011, p. 66.

[32] HRW reported that in total 92,000 judges were removed. Human Rights Watch, *op. cit.*, p. 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, *Gacaca Courts in Rwanda*, 2012, p. 171.

[33] They received free health insurance for all their family. Radios were distributed to all judges and bicycles to each jurisdiction. They received one-time payment of approximately £4 (*ibidem*).

[34] Different sources including Amnesty International Reports, HRW reports, ASF Reports and email correspondences with NGO staff.

[35] Avocats Sans Frontières, *Training of Gacaca Judges' Trainers for Judgement Phase*, 2004.

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."[36] 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 despite some limits. Overall only two aspects received a negative numerical evaluation: time allocated and practical exercises.[37] From a quantitative perspective, this is only two negative results out of 16 evaluated criteria. From a qualitative angle, the fact that trainers (being trained) consider that there was not enough time and exercises to absorb the new knowledge depicts rather a limited outcome.

Besides, I consider that the intellectual benefits were questionable due to the size of groups and the numbers of topics covered in a very short amount of time. Even if limits are acknowledged, the numeric evaluation provides a positive assessment of the training. Such bureaucratic practice validates a positive appreciation of the project to further continue the process, silencing rather than addressing the limits and consequences. According to the SNJG, it was sufficient as trainers being trained "were individuals already familiar with the law, notably those practicing as judges, students of law and human rights activists."[38]

Upon this basis, trainings of *Inyangamugayo* were then organised. The first set of *Inyangamugayo* training was monitored by NGOs as part of the monitoring programme. Their internal reports on the training illustrate the different levels of trainers' capacities. 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.[39] In practice, this would have contributed to *Inyangamugayo*'s misinterpretation of the law, and it entails serious social implications given that they had the power to decide upon 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. Trainers and trainees were debating about RPF and vengeance crimes, 'genocide ideology', and whether a double genocide took

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[36] *Ibidem*, p. 30.
[37] E.g. "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 ..." (*ibidem,* p. 49).
[38] NATIONAL SERVICE OF GACACA COURTS, *op. cit.*, p. 47.
[39] The *gacaca* Law defines crimes in three categories and provides sentence calculation upon 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.

place and other sensitive matters.[40]

These socio-political issues can be illustrated by the example of one monitored training session which received particular attention from NGO observers because it challenged radically *gacaca*'s philosophy.[41] The specific training session was supposed to address the legal definition of crime of genocide and its application in the *gacaca* law through crimes categorisation. The observers reported that "genocide ideology [was present] at a high scale in their [*Inyangamugayo*'s] remarks."[42] The observers personally affected by the conflict had to leave the lecture "because we were scared by the participants' remarks, we felt insecure." 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 doubt about their impartiality due to the fact most of them shared a feeling of hate regarding the Tutsi."

This example illustrates that technical trainings have the capacity to silence arguments about the conflict naturally taking place in transitional justice processes. It indeed reminds us that justice and truth-seeking are not simply technical exercises where people tell their versions of the story to reach reconciliation, it involves the negotiation over whose truth is more relevant and acceptable. In this training, participants and trainers are negotiating a political definition of what kind of facts can be discussed and with which perspectives in the then-forthcoming *gacaca* trials. Whereas every individual participating in the process had been affected by the genocide in different ways, their experiences of the violence would have important impacts on how each perceived the legal model, their interpretation and implementation.

Later, the SNJG stopped organising trainings jointly with INGOs and refused to allow them to undertake further monitoring of training sessions. Wide-scale monitoring of other phases of the process (data-gathering and judgements) was still organised. These organisations continually reported the *Inyangamugayo*'s difficulties in implementing the *gacaca* law particularly at the cell level. These mistakes and infringements were partly assigned to the lack of training. From a wider perspective, policy-oriented and academic research indicate that the law was interpreted and implemented according to the context and power dynamics of local communities.[43] Bert Ingelaere

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[40] AVOCATS SANS FRONTIÈRES, *op. cit.*

[41] AVOCATS SANS FRONTIÈRES, "Rapport de Suivi de Formation des Juges des Juridictions Gacaca de Secteur et d'Appel dans le District de Bugarura en Province de Ruhengeri", novembre 2004.

[42] E.g. *Inyangamugayo* being trained stated: "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" (*ibidem*).

[43] INGELAERE, B., "Mille Collines, Mille Gacaca. La vie en marge du processus Gacaca", *L'Afrique des Grands Lacs, Annuaire 2008-2009*, Paris, L'Harmattan, 2009; BURNET, J.,

demonstrated how dynamics of the conflict had an important impact on how *gacaca* courts dealt with genocide crimes locally.[44] Monitoring agencies considered that most trials at the beginning were undertaken in a good spirit, the population was enthusiastic, and it was assumed that *Inyangamugayo* would improve their work throughout the process and follow-up trainings.[45]

NGOs did not envisage that the Rwandan authorities would cease collaborating with them and ignore observed issues. However it was predictable that a model relying on one week of training was limited. 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, the trainers 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 lead systematically to 'fit Inyangamugayo providing impartial justice well received by all parties and the whole community'.

In addition to issues relating to fragile training methodology, international actors who financially supported the *gacaca* process insisted on providing 'pure technical' aid. This case illustrates as well the capacity of technocratic exercises to silence socio-political issues challenging the process. This undermines the complexity of post-genocide legacies, and the daily complexities of a damaged social fabric. Such analysis of *gacaca* training is relevant to question again how trainings and state-imposed reconciliatory institutions have the capacity from a technical approach to repair social fabric after mass violence.

2.3. Bottom-up Approach and Silencing Worst Practice: Flirting for the Sake of Women Voices

Many sensitisation workshops have been organised to discuss TJ processes within the 'population' in both the Rwandan and Burundian hills. Gathering people for half or a full day, discussions had either been organised as focus groups or were launched with different tools (theatre performances, 'expert's presentations', audio and video projections). In addition to local officials and HR activists, ethnic and gender balance are criteria for gathering participants from the community. In practice, all the workshops I observed gathered the local educated elite, they covered too many topics and pretended to adopt a 'technical' and 'politically neutral' position. The primary message conveyed can be reduced to this: 'truth', 'justice' and 'commemoration' will 'heal',

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"Truth, reconciliation and revenge in Rwanda", *Genocide Studies and Prevention*, Vol. 3, No. 2.
[44] *Ibidem.*
[45] E.g. Avocats Sans Frontières, *Monitoring des Juridictions Gacaca – Rapport Analytique N° 2*, 2006, p. 39; Interviews, Kigali, 2010, 2012, 2013.

'pardon' and 'reconcile'. Nonetheless the personal position of organisers was often perceptible, even though not openly stated. This section will look closely at 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.[46]

This specific project model put together several 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; encouraging healing and reconciliation by giving people the opportunity to talk about their suffering related to past violence. It was supposed to include 15-20 people. When we arrived at the venue, there were only three women. One of them asked why the workshop only gathered women. The organiser answered "it is because it is a fashionable topic and donors like it." While presenting the material giving various perceptions on the conflict, one of the women went to pick up some friends and by the end there were five participants.

The observed activity barely achieved set goals. Debates were then undertaken to discuss their perceptions of the 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 very abstract. At one point, a participant said that Burundi should have laws that forbid war crimes. The organiser did not think it would be relevant to inform her that these laws already exist. No specific need was identified. The intellectual benefit was very limited as supporting pedagogic material and discussions were not related to each other. At the end of the activity, the NGO thanked participants by offering them drinks and nibbles. The organiser requested the restaurant to provide drinks and food for planned numbers of participants (20 instead of 5). After a few beers, they were sharing sexually-oriented jokes, the organiser had his hands on the thighs of women sitting next to him. Once the husband of one them joined, the organiser stepped away from her but continued to flirt with the other woman. I felt very uncomfortable, and remained sitting at the same table while observing.

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 voices, but an extreme example in which the trainer does not embody the message he is promoting. He put fashionable keywords together which responded to donors' expectations and which looked good on project documents. In theory, he adopted a gender-approach to sensitise on TJ concepts and hence empower women. He was supposed to create a space

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[46] No further indication will be provided in order to maintain confidentiality.

of expression for women voices in relation to violent past. In reality his own view with regards to women took over and he was very sexist. The fact that such behaviour took place in front of a foreign observer indicates that he did not consider it to be ethically questionable. Furthermore it reminds us that bureaucratic evaluation obligations are insufficient to know what is really happening in the field despite increasing interests and funding obligations for efficiency. From a technocratic perspective, this event was undoubtedly a failure: there were too few participants, limited capacities were transferred, and more importantly it reproduced male domination of women. Finally it showed that overambitious models can be manipulated for all sort of purposes without it being noticed by supervisors and donors.

2.4. Sensitising the whole population through radio broadcast

In Burundi, radio programmes addressing matters related to TJ are broadcast weekly by a synergy of the main radio channels and printed press under the umbrella of one INGO and financially supported by international donors. They define a new story-line every week, which focuses on one particular TJ concept ('buzzword') or link several of them together.47 Each programme praised the 'classic discourse' of the TJ, it evaluates pro and cons of tackled dimensions, they interview the population about their views, they confront local authorities with their population. These media activities project an image of TJ with aims that support each other (rather than being competitive – this is further explained in the next section).48 As a result, limited attention is given to overcoming political and social challenges of the implementation of the TRC.

The situation is different in Rwanda, where the press was held officially responsible for encouraging killings during the 1994 genocide. Therefore the government restricted the creation of local radios. The media campaign over *gacaca* was an important step to get the population involved. Many different materials have been developed and circulated for that purpose. The evaluation of the *gacaca* media campaign affirms that the best assimilated materials are jingles.49 This means that people's understanding and participation in the

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47 For instance, programmes have debated the following topics in the past months (end 2013 to early 2014): should the TJ process be depoliticised?; economic crimes committed during conflicts; the TRC draft law; debates with population and MPs about the TRC; 'vetting'; evidence disappearance; resort to International jurisdictions?; women 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.

48 See e.g. BRONWYN, A., "The Irreconcilable Goals of Transitional Justice", *Human Rights Quarterly*, Vol. 30, No. 1, 2008.

49 BABALOLA, S. *et al.*, *op. cit.*

process is based on a message of a few seconds that encourages them to go to *gacaca* Courts and tell the truth. It indicates that difficult messages cannot be easily disseminated en masse, and more importantly it depicts the shallowness of media sensitisation campaigns.

There has been undeniably important improvement in media professionalism.[50] Newly-constituted media in Burundi paid important attention to ethnic balance within their staff. There are also noticeable attempts to try and confront political views. In the long run, a key question remains untackled: To which extent can media contribute to TJ process? Journalism rules are limited in relation to TJ goals. First, short and simple messages are used to address complex legacies of conflict. Second, media only have the capacity to disseminate messages. Very limited attention has been paid into what messages are to be transmitted and what should follow messages' dissemination. Most materials promote a neutral and ambitious speech by referring to automatic relationships between truth telling, reconciliation and trauma healing. By the end, media releases and distributions of vulgarisation tools are not followed by other activities, there is no further effort to support the societal change promoted discursively.

3.   ANALYSING THE PROFESSIONALISED DISSEMINATION OF TJ 'BUZZWORDS'

A scrutiny of TJ practice illustrated that despite implementing agencies describing their activities in a very similar way, every individual involved and local contexts impacted on every step of projects. On the one hand, TJ practices follow a bureaucratic pattern. 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. Its professionalisation further advocates for a universal lexicon upon which each activity is justified. On the other hand, empirical analysis identified a number of unexpected outcomes left untackled. It can be concluded that TJ practice is nothing but universal and apolitical. Consequently this technical façade silences effects of institutionalised practices and universal lexicon full of 'buzzwords'. This is a result of bureaucratic funding requirements and a quest for political legitimacy which will be analysed in turn.

3.1. TJ Activity Toolkit: Following Bureaucratic Requirements

A number of contemporary authors have tackled the TJ 'toolkit approach' and associated risks. Sriram and Pillay consider it "will lead to the creation of certain bodies simply because this is what is done in other post-conflict

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[50] FRÈRE, M.-S., *op. cit.*

situations, without consideration of any demand for it or its purpose and legitimacy".[51] On the same topic, Hinton describes metaphorically "international actors and local elite as engineers ... who have the expertise and knowledge to rebuild the 'broken society' or 'failed state'".[52] Such research discusses the production of an 'international TJ toolkit' with regards to official mechanisms to be implemented at national levels. This chapter furthers such analysis by bringing insights on TJ implementation at lower policy levels. There are indeed a number of TJ service providers that prepare and support the official processes. All observed implementing agencies train practitioners to build their capacities and sensitise the population to encourage their empowerment. These two types of activities fulfil with ease the essential bureaucratic requirements for funding such as organising the programme in a logical framework[53] and pretending to offer technical apolitical support.

This logical framework exercise requests linage between 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) numerical indicators measuring the project's results. For training and sensitisation, they only need to assess the number of participants, number of programmes broadcast, and statistics about participants' satisfaction. For this reason, all workshops are concluded by the distribution of evaluation sheets. Open sections for comments often involve complaints about per-diems or requests for more training. In one observed workshop, some complained on these sheets that there was not enough meat in the lunch buffet; others wanted the perdiem to be given on the first day of the training. These are typical examples showing how these activities are perceived as a commodity and source of additional income by participants. More importantly, it underline the disconnection of trainees with workshop contents and it reminds us that aid practice does not question sufficiently the quality of contributions nor the effects of their activities in the long run on social fabric. A deep analysis of the impact on communities would be impossible due to the high number of people targeted and limited capacities available.

Looking into the vices and virtues of INGO capacity development, Rick James considers that "the content of capacity development reflects donor priorities, particularly in their changing context of 'results-based management' and 'risk assessment.'"[54] James finds that aid actors "appear caught in a

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[51] SRIRAM, C. L., PILLAY, S. (eds.), *op. cit.*, p. 7.

[52] HINTON, A. L. *et al.*, *op. cit.*, p. 7.

[53] GIOVALUCCHI, F., OLIVIER DE SARDAN, J. P., "Planification, gestion et politique dans l'aide au développement : le cadre logique, outil et miroir des développeurs", *Revue Tiers Monde*, vol. 2009/2, n° 198, 2009.

[54] JAMES, R., "Vices and Virtues in Capacity Development by International NGOs", *IDS Bulletin*, Vol. 41, No. 3, 2010, p. 15.

relentless spiral of activity, forever too busy to stop and think about their own future capacity needs and to plan accordingly."[55] Indeed, NGOs are constrained by aid dependency, donors are in demand to pay out budgets while dealing with slow and complex processes. Concerns for credibility perpetuate these malpractices. Concerning limits of capacity building initiatives, Eade 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."

Such literature on aid practice indicates bureaucratic approaches to capacity building are not solely a characteristic of TJ. Due to accountability towards donors and credibility concerns, these limits are not given sufficient attention. Furthermore, aid actors do not acknowledged the distortion of conveyed 'universal messages' as analysed in the following section.

3.2. Universal TJ Lexicon: Who cares about the message as it is universal?

'Right to truth', 'reconciliation', 'justice', 'reparation', 'pardon', 'trauma-healing', 'commemoration', 'gender-sensitive' are repeated like buzzwords in TJ observed activities. With variations, these buzzwords are articulated around TJ discourse mantras addressed throughout the chapter: 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 then reintegrated. This is embedded in the holistic vision of transitional justice promoted by the UN and INGO. In a workshop, an NGO staff stated "Whereas UN had principles on which it cannot compromise, we will have a defective solution in Burundi." Similar remarks are frequently circulating despite every person having his/her own understanding of 'truth' and 'justice', as well as preferences according to their experiences of violence. The above quote gives the illusion of universal principles ignoring complex and various facets of TJ. Even key promoters of these principles acknowledge there are not international legal standards relating to transitional justice strictu sensu.[56]

Coming back to Cornwall's concepts of aid buzzwords in which ambiguity is essential for endorsement of diverse audiences, all TJ concepts "can float free of concrete referents, to be filled with meaning by their users".[57] The empirical

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[55] *Ibidem*, p. 20.

[56] E.g. JOINET, L., "La justice transitionnelle dans le monde francophone : état des lieux", *Dealing with the Past Series*, 2/2007, online: http://www.cnudhd.org/rapportjustice.pdf.

[57] CORNWALL, A., *op. cit.*, p. 473-4.

data described how these buzzwords are circulated through different channels to various audiences. The description of these initiatives indicated constant re-interpretation of the message's content and questioned real results towards theoretical beneficiaries of these policies. This phenomenon follows Levitt and Merry's process of 'vernacularization' which they describe as varying according to a number of factors: "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".[58]

Tracing the 'vernaculization process' of the TJ universal lexicon has also underlined various appropriations by both message conveyers and recipients. Through activities I observed, institutions and individuals that implement these trainings and sensitisation projects have introduced (consciously or not) social and political dimensions to the promoted technical speech at several occasions. These political and social positions become tangible through the selection of examples to illustrate concepts, contextual references to the political context, and suggested interpretation of concepts. The section on *gacaca* already mentioned how the technical discussions on the definition of genocide crimes involved disputes about political interpretation of the conflict. In a training in Burundi, one trainer suggested justice for a specific political actor while introducing the complementarity between memory and history for reconciliation.

Indeed, the targeted audience accepts and interprets the message in its own way. Research on *gacaca* demonstrated how the populations have implemented procedures in their own ways[59] despite strictly-defined legal models and sensitisation campaigns. In Burundi, various positions emanated in workshop discussions on TJ initiatives. Some 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." Others are critical and skeptical, but these views are not welcomed.

On several occasions, I observed participants asking critical questions about the theme presented. For instance, one participant questioned trainers on why this reconciliation initiative would be different if every previous attempts proved it did not work (as violence occurred again). Instead of addressing difficulties and offering strategies to overcome them, the consultant explained that some NGOs have great results in terms of reconciliation, and "all parties

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[58] LEVITT, P., MERRY, S., "Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States", *Global Networks*, Vol. 9, No. 4, 2009, p. 446.

[59] E.g. BREED, A., JAMAR, A., "Optical Illusions of Gacaca Courts: Representations of the Rwandan Popular Model dealing with Genocide Crimes", Forthcoming.

should now be able to get along as they suffered the same way". In all events observed, there is no exploration of the real risks in stake. Consultants systematically found arguments to deny complexity and encourage people to believe in truth, justice and reconciliation.

Extensive research on TJ demonstrates that discussing truth and justice implies the existence of competing views.[60] In other words, the several aims promoted by the toolkit approach are not reconcilable. By extension, this implies that individuals perceive and remember the events according to their own experience and kinship with people involved. Power relationships and local contexts have an important role on who defines what truth will "shine out"[61], who will be commemorated and who will face justice. Failing to acknowledge these power dynamics can instigate 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 how individuals and communities react to messengers and their speech, as well as their own experiences and environment.

In relation with 'international standards', concerns related to universalisation of TJ lexicon are not new.[62] For instance, Subotic comments the 'lawyerization' of TJ as the "use a legalistic frame to portray their claims as universally objective and uncontroversial because they rely on human rights standards".[63] Framing TJ as international standards is a useful claim for TJ practitioners to legitimise their interventions, but entails several risks. First it only deals with a certain past depending of used buzzwords and interpretations given within each context. This leaves other relevant issues outside discussions (e.g. refugees and IDPs return, land issues, vetting). It creates false expectations for theoretical beneficiaries particularly due to those massive media campaigns undertaken in Burundi and Rwanda.

More importantly it creates the illusions of apolitical and technical activities while potentially instigating tensions by silencing and ignoring them.

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[60] E.g. LAPLANTE, L., "The Peruvian Truth Commission's Historical Memory Project: Empowering Truth-Tellers to Confront Truth Deniers", Journal of Human Rights, Vol. 6, No. 4, 2007; LEEBAW, B. A., "The Irreconcilable Goals of Transitional Justice", *Human Rights Quarterly*, Vol. 30, No. 1, 2008; FLETCHER, L., WEINSTEIN, H., "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation", *Human Rights Quarterly*, Vol. 24, 2002; HAMBER, B., WILSON, R., "Symbolic Closure Through Memory, Reparation and Revenge in Post-Conflict Societies", *Journal of Human Rights*, Vol. 1, No. 1, 2002.

[61] As translation of the phrase "faire éclater la vérité" in French that is frequently used in Burundi by TJ practitioners and the population.

[62] E.g. NAFTALI, P., "The Subtext of New Human Rights Claims: A Socio-Legal Journey Into the 'Right to Truth'", *in* FRENCH, M. *et al.* (eds.), *Diverse Engagement: Drawing in the Margins*, Cambridge, Cambridge University, 2010; LEFRANC, S., *op. cit.*

[63] SUBOTIĆ, J., "The Transformation of International Transitional Justice Advocacy", *International Journal of Transitional Justice*, Vol. 6, No. 1, 2012, p. 118.

Current training and sensitisation practices are indeed taking place within contexts of power inequalities and sufferings; however no attention is given to socio-political dimensions of 'vernacularization' nor to the meaning 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 in their approach for positive contributions towards theoretical beneficiaries. Without such giving them sufficient attentions, efforts are concentrated around virtual and performative technical contributions disconnected from people's experiences.

4. EXPERIMENTING CRITICAL TRAININGS: 'BUJUMBURA TRANSITIONAL JUSTICE SUMMER SCHOOL'

Considering civil society difficulties in pushing TJ process forward in Burundi, another scholar[64] and I set up a summer course using academic methodologies to exchange with TJ practitioners based in Bujumbura. Upon frequent encounters in the small TJ sphere in Burundi, we observed a similar understanding of the TJ stagnation in Burundi.[65] In line with analysis described in previous sections, I considered that practitioners should be encouraged to think out of the box, to look at their contributions with critical distance to better grasp underlying stakes behind their 'technocratic' contributions. During the last set of my doctoral fieldwork (July to October 2013), we organised joint sessions to strengthen analytical capacity and knowledge about TJ literature in the hope to encourage them to be more critical and creative. It enabled us to challenge traditional training patterns,[66] and also to identify a number of limits related to academia's contribution to practice and the concept of capacity development.

Concretely, 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 giving them reading in advance, to later discuss during half-a-day sessions. The key

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[64] Salif Nimaga (who undertook doctoral research on International Criminal Courts at the Free University of Berlin and who worked in Burundi as an advisor 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.

[65] Discussions are vague and going in circles around the Arusha Peace Agreements and the National Consultations; most NGOs and civil society representatives have a limited and vague understanding of daily used concepts leaving the TJ process very abstract.

[66] The project was created spontaneously with available means (versus project with heavy management constraints), focusing on consistent and qualitative training (versus mass and quick training), putting the emphases on capacity incentive (versus material incentives through perdiem), encouraging self-reflection through reading and discussions (versus long expert presentations).

audience included local staff from INGOs, members of civil society networks working on TJ and one Burundian scholar. A similar exercise was also undertaken with diplomats. Through this experience, participants received a deep introduction to debates on TJ definitions, multiple meanings behind truth-seeking, justice, reparation and victims, as well as political and technical stakes hiding behind these neutral concepts. We opted for a long-term and participative training in order to encourage participants to create their own perspectives.

Through these sessions, we observed that TJ local practitioners had integrated idealistic views on TJ discourse promoted by the UN and INGOs. As a result, they look for a technical fix for these socio-political matters, they "demonised" institutional actors considering the lack of political will is the key obstacle. Our main success was to see widened-up their understanding of TJ in terms of competing dimensions behind TJ key concepts, its chronological sequences (longer that what the technocratic approach suggests). By the end, they integrated that there is no easy solution, that the UN does not have any magic mechanism, or in other words that the potential implementation of the TRC will not solve all issues related to consequences of violence. Nonetheless, we encountered difficulties to meet their expectations with our critical approach training, to detach them from their idealised and decontextualised information about foreign processes resulting from previous trainings and sensitisation campaign.

While discussing 'capitalisation', participants considered more sensitisation and trainings should be undertaken to share their 'new knowledge' and limit population expectations. Used to institutionalised patterns widely promoted by aid actors, participants consider training and sensitisation as empowering actions. This concrete interaction with the research participants raises important questions bridging academia and practice: is it a necessary link, how can it be achieved better, 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 interaction between 'conveyers' and participants; and it will inevitably have unexpected effects.[67]

5. CONCLUSION

The audit bureaucratic culture and TJ toolkit approach resulted in the widespread delivery of high-policy level conferences, short-term trainings, or media sensitisation by aid actors in many contexts. In addition to describing

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[67] The workshop was further analysed in JAMAR, A., NIMAGA, S., "From a Holistic Vision to Choking on an Apple: What Burundi can Teach us about the Theory and Practice of Transitional Justice?", Paper presented at the Conference "Borders and Boundaries in Transitional Justice", Faculty of Law, University of Oxford, 27th June 2014.

the production of TJ tools, this chapter addressed how 'empowerment' and 'capacity building' are implemented. Within a technocratic aid environment, 'buzzwords' are useful concepts in the same way trainings and sensitisation are easily delivered projects. This chapter described different consequences within each context. A short training concerning judicial capacities contains more serious issues than a radio jingle encouraging people to reconcile. In that sense, the lack of follow-up of *gacaca* closure by most previous donors and supporters raised serious concerns about the process. At 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 in the unfolding of the process.

The chapter focussing on intermediary implementation illustrated how practice is disconnected with its policy promises. It is not groundbreaking to discover that one-off short trainings and mass sensitisation have little capacity to empower the population to overcome concurrent wills of revenge and reconciliation; injustice and fight against impunity; silencing and truth-seeking; statu-quo and reparation. In addition to these well-established limits, the description of micro-social negotiations over how to deal with the past brought attention to the important, and often unbalanced, power relationship between the message conveyers and recipients.

In every context, technical approaches tend to silence these micro dynamics in play. Through the analysis of knowledge in development projects, Norman Long points out the paradoxical aspect between empowerment and knowledge transfer projects: it "capsize(s) 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."[68] These power-relations should be dealt with even more seriously when coming to dealing with the sensitiveness of post-conflict contexts. According to Tshepo Madlingozi, the relationships 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."[69] 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 efforts to answer moral concerns and obligations towards most serious crimes.

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[68] LONG, N., "Conclusion", *in* LONG, N., LONG, A. (eds.), *Battlefields of knowledge: the interlocking of theory and practice in social research and development*, New York, Routledge, 1992, p. 275.

[69] MADLINGOZI, T., "On transitional justice entrepreneurs and the production of victims", *Journal of Human Rights Practice*, Vol. 2, No. 2, 2010, p. 213.

In the case of Rwanda, the international community has expressed guilt for not reacting to the 1994 genocide, this has been put forward to support the Gacaca process despite the Gacaca model offered limited legal guarantees.[70] Today, erstwhile supporters are reluctant to take into account and act upon problems raised by monitoring agencies. Most donor interviews repeat that the Rwandan genocide is so morally reprehensible that any attempt to deal with its consequences should be praised.[71] 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 in play between the international community and domestic authorities, but the former have in the end limited impact once the policy is being implemented. In practice, international aid supported technically these NGOs to deliver similar activities to engage with the population with limited attention to dynamics taking place. TJ policy documents have increasingly claimed for for victim- and people-centred efforts. The structure of implementation described in this chapter shows that the practice on the ground still adopts a top-down technical approach, and is far from a genuinely locally-driven process.

Brighton, July 2014

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[70] E.g. JAMAR, A., "Deterioration…", *op. cit.* In order 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, Code of Criminal Procedure, and International conventions in regards to human rights.
[71] Interviews with donor representatives, 2012, 2013 and 2014.