



Innovative Media for Change

Opportunities and Challenges of Media Collaboration in Transitional Justice

Julia Viebach, Leila Ullrich, Matilde Gawronski, and Carolyn Hoyle

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Abbreviations |

AHRC	Arts and Humanities Research Council
BIRN	Balkan Investigative Reporting Network
ESRC	Economic and Social Research Council
FH	Fondation Hironnelle
FPU	Free Press Unlimited
HRW	Human Rights Watch
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTs	International Criminal Trials
ICTY	International Criminal Tribunal for the Former Yugoslavia
IFJ	International Federation of Journalists
FY	Former Yugoslavia
IJNet	International Journalists' Network
IWPR	Institute for War and Peace Reporting
KE	knowledge exchange
NGO	non-governmental organisation
OTJR	Oxford Transitional Justice Research
PI	People's Intelligence
RJ	restorative justice
SCSL	Special Court for Sierra Leone
TJ	transitional justice
TRC	Truth and Reconciliation Commission

| Glossary of Key Terms

citizen journalist public citizen who is actively involved in the process of collecting, reporting, analysing, and disseminating information.

media communication channels through which news, entertainment, education, or promotional messages are disseminated.

new media means of mass communication using digital technologies. It usually contains interactive user feedback and creative participation. Examples include mobile phone apps, media online platforms, and crowdsourcing.

social media online communication channels dedicated to community-based input, content sharing, and collaboration, enabling users to participate in social networking. Examples include Twitter and Facebook.

traditional media conventional form of print, analogue, and digital media. Examples include newspapers, radio, and television.

transitional justice full range of processes and mechanisms associated with a society's attempts to address the legacies of human rights violations, mass violence, and authoritarian rule in order to ensure accountability, justice, and reconciliation. Measures include judicial and non-judicial mechanisms such as trials, reparations, truth-telling, amnesties, institutional reform, memorialisation, or a combination thereof.

verification the process of identification of the content (the 'what', 'who', 'when', and 'how') and the metadata (for example, the original digital source, time and geo-location of recording) of a piece of digital information. This identification is usually done by cross-referencing the available information with other available sources.

Foreword |

Nearly a year ago, in June 2015, my colleagues from Fondation Hirondelle and I were at the University of Oxford for a two day workshop on *Innovative Media for Change*, with our partner [Oxford Transitional Justice Research](#) (OTJR) and the [Oxford Centre for Criminology](#). We were thrilled by the event for several reasons.

The first reason is related to an old saying attributed to Lord Hewart: ‘Not only must Justice be done, it must also be seen to be done’. This has never been so true as it is today with the development of justice without borders. Let us remember the Pinochet case in 1998, in which a Spanish judge indicted a former Chilean dictator who was on British soil. Whether be it the principle of universal jurisdiction, as in that case, or the way international justice is working, justice must not only be done, but also closely monitored and analysed for audiences that may be thousands of kilometres apart from each other and often far from the place where the judicial proceedings are happening. Ever since the Pinochet case, this justice without borders has continued to develop, boosted by the development of electronic media and social networks.

Hence the extraordinary importance of the media and academics to report and analyse both judicial news linked to mass human rights abuses and reconciliation processes that are put in place. Our conviction is based on the need to bring together the right to justice and the right to information. Media have a key role to play, given the extent to which for better or for worse they forge public perceptions. Media can inform, but they can also deform public opinion.

Indeed, Fondation Hirondelle was founded as a reaction against hate media in Rwanda which incited and encouraged genocide perpetrators to kill during those terrible weeks of 1994. The aim of Fondation Hirondelle is to provide professional, balanced, impartial news and information and,

thanks notably to OTJR, enrich it with research, analysis, and opinion pieces by academics and transitional justice practitioners from all horizons.

The second reason we were thrilled to collaborate with OTJR and the Oxford Centre for Criminology was to launch, with our partner OTJR, the first French and English online media dedicated to transitional justice issues: JusticeInfo.net. Our challenge was to bring together in a single platform international news and information on transitional justice and high-level academic analyses, accessible to very different audiences – victims' groups, lawyers, media, people interested in transition societies, academics, diplomats, and those in the political sphere.

We also wanted JusticeInfo.net to be independent. For, given the emotionally-charged legal and ethical issues concerned, it seemed to us essential to maintain a healthy distance from the tribunals and other justice mechanisms – which are also subject to pressure in conflict or divided societies – without nevertheless resorting to radical ideological criticism.

Nearly a year after the launch of our partnership with OTJR, JusticeInfo.net is meeting the challenge. Thousands of people in America, Africa, Asia, and Europe read the website, and JusticeInfo.net articles are republished by various online and print media. But we hope this is only the beginning of a story that started, in June 2015, with a workshop in Oxford.

Pierre Hazan

Editorial Advisor, JusticeInfo.net

Introduction |

Background to the report

This report is the result of a two day *Innovative Media for Change* interactive workshop held in June 2015 at the University of Oxford, hosted by [Oxford Transitional Justice Research](#) (OTJR) in conjunction with the [Oxford Centre for Criminology](#) and the Swiss NGO [Fondation Hirondelle](#) (FH). *Innovative Media for Change* was generously funded by the ESRC ‘kick-start’ Impact Acceleration Account scheme.¹ The workshop brought together academics, transitional justice (TJ) practitioners, journalists, and representatives of new media and social media initiatives in order to:

1. initiate a long-overdue discussion on pathways to impact through partnership between academia, TJ practice, and the media;
2. gain knowledge on the role of the media in TJ contexts; and
3. raise awareness of the online media platform JusticeInfo.net and discuss its potential in informing TJ practices.

Between 2013 and 2015, OTJR and FH developed a collaborative project, the innovative multimedia online platform JusticeInfo.net that went online in June 2015 and was launched at the workshop *Innovative Media for Change*.

JusticeInfo.net draws together the expertise of academics and journalists in the field of transitional justice in order to more effectively inform policy-making and practice. In doing so, it combines real-time journalistic coverage, policy advice, and academic analysis of TJ processes, globally.

¹ We would also like to thank the Planethood Foundation for its ongoing financial support for OTJR activities, the Faculty of Law and the Centre for Criminology for their administrative support, and the Leverhulme Trust Fund. Thanks also to Talita Dias and Daniel Franchini for drafting summaries of the plenary sessions. Last, but not least, we would like to thank the many workshop rapporteurs, who drafted summaries of the working group discussions: Elena Butti, Rachel Rawana, Claire Vergerio, Isabel Ebert, Jessie Hronesova, Julia Liebermann, Vincent Druliolle, Yuna Han, Ndjodi Ndeunyema, and Tijana Stolic.

[JusticeInfo.net](#) functions as a resource for the general public, local media, and policy makers and practitioners, helping them to engage with and tailor justice initiatives to meet both local needs and the constraints of political decision making. OTJR delivers rigorous [academic analysis](#) of ongoing TJ processes, while FH covers the journalistic reporting of the online platform. [JusticeInfo.net](#) is a unique collaborative project that is a result of a previous ESRC funded Knowledge Exchange project on ‘[Ways of Knowing Atrocity](#)’ that was run by OTJR, King’s College London, Swisspeace, and the Oxford Centre for Criminology.

This collaboration led to an in-depth discussion about the role of media in TJ processes and the mechanism for furthering knowledge exchange between the media, TJ practice, and academia.

Aims and overview

This report intends to be a repository for TJ practitioners, journalists, non-governmental organisations, and researchers. It aims to further discussion between and within these professions concerning the role of the media in transition contexts. It raises questions that need to be addressed when designing media interventions in transition contexts and when collaborating with local, national, and international TJ and media actors. Although the sections ‘The Role of Media in Transitional Justice’ and ‘Knowledge Exchange in Difficult Settings’ make recommendations, we do not want to suggest a ‘one size fits all’ approach that would fundamentally neglect the complexity not only of transition contexts, but also of the varying relationships between the media and transitional justice more specifically. Therefore, this report should be read as a first attempt to map the diverse experiences, challenges, and complexities that emerge when the varied roles of media meet TJ processes.

The report is divided in three sections. The first section, ‘Workshop Summaries’, provides precises of the panel presentations and discussions of the working group sessions and frames these in broader TJ terms such as truth, punitive justice, and victim-centred approaches. The second section, ‘The Role of Media in Transitional Justice’, outlines and discusses key challenges of media in transitional justice and develops a preliminary

typology of media roles in transition contexts. This section also develops recommendations on how to navigate the different roles of the media in transitional justice in order to achieve balanced reporting that does justice to the complexity and diversity of TJ experiences. The third part, 'Knowledge Exchange in Difficult Settings', formulates ideas and key challenges around knowledge exchange between the media, TJ practice, and academic research. In doing so, it draws together the vibrant discussions of the workshop and provides some initial reflections on furthering the conversation and collaboration between these different professions. It concludes with recommendations for transitional justice, media, and academia on measures to be taken in order to better understand the constraints of knowledge exchange in transition contexts.

The results presented here are drawn from the presentations during the plenary sessions and discussions at the interactive break-out sessions, filtered by analysis from the report authors. The different parts of the report highlight contested areas as well as points that were agreed upon. The recommendations were formulated by the authors after a rigorous analysis of the workshop material and further consultations with workshop participants. Unless otherwise indicated, points made refer to speakers (particularly regarding the workshop summaries), workshop discussants, or additional literature on the topic. The views expressed herein therefore do not necessarily represent the views of the Oxford Centre for Criminology, of Oxford Transitional Justice Research, or of Fondation Hirondelle.

All the workshop panels can be accessed as video on our YouTube channel and in audio format in the OTJR podcast series. Please visit the Oxford Transitional Justice Research website for more information.

A knowledge gap

Innovative Media for Change aimed to fill an important knowledge gap in the research and practice of media in TJ processes. It asked what role media play in TJ processes and what particular role it plays at different stages of transitional justice; as, for instance, in the early stages of the current transition in Colombia. While scholarship and practice at present have failed to comprehensively address these questions, there have been important stud-

ies on the role media have played during violent conflict and human rights violations, globally. For example, we have profound insights into the many ways in which the media, particularly radio, newspapers, and television, have manipulated, legitimized, and incited the use of violence in Rwanda, the former Yugoslavia (FY), and other arenas of mass atrocity and genocide. However, we still know little about the role that media can play in dealing with the legacy of gross human rights violations, particularly in divided societies. *Innovative Media for Change* thus interrogated the media landscape of ongoing TJ settings to analyse the role media played during the conflict and the ways its reporting can either further polarize or build bridges between divided societies. In addition, there is a knowledge gap at present about the relationship of the media to formalized TJ mechanisms and the role it plays within their institutional structures and practices. *Innovative Media for Change* took this lacuna as a starting point to look specifically into the role of media in the practice of fact-finding at international criminal trials and the challenges that arise when two different professional fields overlap, in an attempt to report on and build an evidentiary foundation for human rights violations. It also explored the role of different media outlets in institutional outreach of Criminal Tribunals in different transition contexts such as Sierra Leone and Uganda. *Innovative Media for Change* therefore explored different formalised TJ measures such as international criminal tribunals and truth and reconciliation commissions and their relationship with media.

The potential and pitfalls of new media

At present, we are witnessing an acceleration and proliferation of information through social media outlets and websites dedicated to the reporting of ongoing TJ processes. This new media has come to play an important role at least in areas where internet access is available. Beyond the more common opportunities offered by Twitter, Facebook, YouTube, and other similar platforms, some more TJ-specific new media outlets have also emerged. One of these is the recently launched online platform [Justice-Info.net](#), which at present is in a developmental stage. Other new media outlets that have emerged include [People's Intelligence](#) (PI), [eyeWitness](#),

and other mobile apps designed to help ordinary people to collect evidence on human rights abuses. New media therefore provides opportunities for people affected by human rights violations to actively demand a right to information and to effectively exercise their right to freedom of expression. In particular, social and new media can empower people to feed information they regard as worthy of reporting into a national or even international media agenda. Ordinary people can thus become citizen journalists who can potentially shape TJ processes and even produce evidence for international criminal trials (ICTs). Yet, new technologies also bring new risks: citizen journalists often take personal risks they may not always understand when reporting about human rights abuses. The power of social media can also be misused to produce hate speech, which can result in further polarization within divided societies. New media has also come to the forefront in human rights advocacy, where it can be used to promote human rights awareness, lobby for particular TJ measures, or to make information about abuses publicly available. Against this backdrop, *Innovative Media for Change* critically discussed how media is related to, and different from, human rights advocacy. It concluded that the role of media as ‘witness to human rights violations’ is fraught with tensions and lack of security for the people involved such as citizen journalists. Moreover, it critically assessed both the potential and pitfalls of these new technologies in the local and global media landscape. Discussions concluded that a better understanding of the potential and pitfalls of new media is crucial for using innovative media to bring about positive changes in transitional justice.

Bridging professions through collaboration

Innovative Media for Change also explored the relationship between media, academics, and TJ practitioners. This objective was rooted in the observation that these professional fields are in need of an in-depth exchange of knowledge and experience. We strongly believe that a better understanding of the challenges, roles, and limitations of these different fields can foster effective and sustainable cooperation between them. Such cooperation can make an important contribution to TJ decision-making – in the

medium to long term – by providing affected communities and politicians with reliable information and analysis of TJ needs, perceptions, and processes. We hope that the results of this workshop serve as a starting point for further exchange and discussion between these actors in transitional justice. All exchange, however, starts with communication through language. Therefore, it is first necessary to know the meaning of terms used and agree on a mutual understanding. We need to consider what we really mean when talking about ‘the media’, ‘the transition’, or ‘the victim’. Often-times, different languages can prevent meaningful exchange from leading to tangible results. This workshop was a first attempt to communicate about and with each other. We would like to thank all participants for their meaningful contributions, the sharing of ideas, concerns and in particular for looking to the future with us in order to bring about *Innovative Media for Change*.

Workshop Summaries

The role of media in the Colombian peace negotiations

Panel: Ailín Martínez, Roddy Brett, and Diana Dajer

Introduction

Colombia has recently been undergoing a major change from armed conflict to peace. In this volatile transformation context and ongoing peace negotiations between diverse conflict parties, media can play a crucial role in raising awareness, rallying public support, or in polarizing not only conflict parties but also civil society. As a recent example of transitional justice, Colombia is a fruitful case study with which to shed light upon the neglected question of the role that media can play in early phases of a TJ process. Against this backdrop, the panel looked into and critiqued the various roles media currently is playing and could play in the near- to long-term future. It also explored the effect of media upon the volatile transitional context of a country that has been in a state of civil war for more than fifty years.

The panel approached these questions from different angles in order to draw a comprehensive picture of the media-TJ nexus in Colombia. Ailín Martínez, who works for [Conciliation Resources](#), introduced a media practitioner's point of view. Roddy Brett, an academic based at the University of St Andrews, took an outsider perspective as someone who was influential in the UN-led investigation into the role of victims in peacebuilding. Finally, Diana Dajer, who worked for the Colombian government, explored media through an academic lens, arguing that media in Colombia is not an impartial actor.

Media as storyteller: truth narratives?

Truth has developed into one of the key frameworks of TJ processes. Truth is regarded as a crucial outcome not only of truth and reconciliation commissions (TRCs) but also of court proceedings and localized truth-telling initiatives. However, truth is often contested, particularly in transition contexts, where divergent and diverse experiences of the conflict prevail and

conflict parties portray their own versions of what happened. This complicated situation of finding ‘a truth’ that allows for multiple and broadly-accepted versions of past atrocities also characterizes transitional justice in Colombia. After fifty years of conflict, actors such as the Revolutionary Armed Forces of Colombia (FARC), paramilitaries and government forces, including the current political actors, have strongly influenced certain narratives regarding the truth of what happened during the conflict, and about events and matters brought forward during the peace talks. For instance, the FARC transmits weekly news through a YouTube channel, whereas the government has created an online course.¹ All panellists stressed that the Colombian media landscape is dominated by mainstream outlets that are controlled by a small economic and political elite. In Colombia, online media offer an opportunity to challenge the stronghold of the traditional media, but face accessibility and outreach challenges. Ailín Martínez outlined that only 34% of Colombians have access to the internet and 54% use the internet as a source of information. Thus, a monopoly of truth by traditional mainstream media seems to hinder more inclusive and broader truth narratives of what happens. As Roddy Brett stressed, often marginalised and indigenous (victim) groups are left outside public narratives and therefore cannot add their version to the truth-telling script. The language used and choice of events to include in or exclude from media coverage create further problems for narratives of truth’. With regard to language, Ailín Martínez emphasized two interrelated points. Firstly, the language used by media can either victimize or demonize groups by ‘emotionalizing’ the discourse or by ascribing certain adjectives to events in order to label them as ‘helpless’, ‘innocent’, and so forth, or, on the other end of the spectrum, as ‘cruel’, ‘inhumane’, etc. Secondly, technical and more academic language can also create exclusion since the audience capable of understanding it is limited to an educated elite. The question of media as ‘truthful storytellers’ therefore mirrors the more general discussion in the field of transitional justice concerning the problems of finding ‘the truth’ and the questions of what kind of truth, and whose truth, is told by whom.

1 Ailín Martínez, conference paper ‘The role of the media in the Colombian peace negotiations’, 2015.

Media and the quest for impartiality

Intimately linked to the media's potential for truth-telling is the question of whether the media can be an impartial actor in transition contexts. Impartiality in post-conflict contexts should be assessed against the role media played during the conflict itself.¹ With regard to Colombia, the speakers offered different opinions, which reflect once more the complexity of conflict and post-conflict settings. Diana Dajer argued that the media in Colombia had been victimized on a number of different occasions. As an example, Diana Dajer mentioned the case of Guillermo Cano, director of *El Expectador*, one of the most widely-read Colombian newspapers. Cano was killed in the 1980s by a drug cartel because he publicly opposed drug trafficking in his newspaper. Roddy Brett stressed instead that the media in Colombia rather acted as an 'indirect perpetrator' and as such played a significant role in the conflict. Roddy Brett not only analysed the role of traditional media during the conflict, but also highlighted that social media in particular played a negative role during the early stages of transitional justice. For example, he reported that one of the victims who participated in the Havana delegation received threats on Twitter, with misinformation about the individual disseminated. According to Roddy Brett, this was not a one-off occurrence, but happened to about 40% of the victims in the Havana delegation. Whether it is seen as a victim or as an indirect perpetrator, media does not inevitably open up a space for impartial coverage of the conflict or of peace negotiations, respectively. In fact, the monopolized media landscape in Colombia poses an ongoing challenge for the TJ process. Roddy Brett argued that media ultimately is a reflection of the structural context in which it is embedded and that it seeks to shape. Ailín Martínez suggested that partnerships with international media such as JusticeInfo.net could be an alternative way of pluralizing the media landscape in Colombia and to ensure more nuanced and impartial media reporting about past and present.

1 On this point see also 'The Role of Media in Transitional Justice' in this report.

Future perspectives: the Colombian media as civic educator?

A positive outlook for development of media and its connection to the ongoing TJ process is to further shape the educational role of media. This would foster the public's ability to make informed decisions when voting for or against the peace agreement. Civic education through media consumption could, furthermore, facilitate a better understanding of the conflict itself, its legacies for the whole of society, and also for particular socially-marginalized groups. It could in turn mediate bottom-up TJ initiatives and raise awareness of such localized processes. Although this perspective is challenged by the aforementioned information monopoly, the influence of conflict parties (including censorship) on the media and the limited access to alternative media outlets there are some developments under way that could potentially strengthen and democratize the media landscape. For instance, Roddy Brett reported that independent websites have recently been established, such as *Verdad Abierta* and *Razón Pública* that raise critical voices and seek to introduce alternative narratives to the public discourse. Furthermore, already in the 1990s a local media initiative, the *Collective of Journalists of Montes de María*, played an important role in local reconciliation initiatives ongoing at the time, through the screening of movies and communal debates on the issues raised in the films shown. More recent alternative outlet initiatives, as mentioned by Ailín Martínez, include *Proyecto Rosa*, which uses multimedia to showcase victims' narratives, and El Tiempo Online, which launched a feature reporting on artistic interpretations of reconciliation and peacebuilding. Although overall these are positive developments, mainstream media still too readily reflects polarized society in Colombia. In order for alternative media to grow stronger and alter the dominant truth narratives, Diana Dajer stressed the need for a strong partnership between media, academia, and practice, nationally as well as globally. She further argued that media monopolization can only be counter-balanced by bottom-up journalism. As she concluded, moments of crisis need political imagination and the media could provide such an imagination by boosting citizen participation. At this point, we can only hope that alternative media will act upon this call and create a more inclusive, better informed, and more nuanced platform for such a shift, from both bottom up and top down.

Media and the search for criminal evidence: learning from the (non-) cooperation between journalists and International Criminal Tribunals

Panel: Ella McPherson, Nerma Jelacic, and Payam Akhavan

Introduction

(Criminal) evidence collection is key to the reporting of human rights violations and the practice of International Criminal Trials (ICTs). The relevance of media more broadly, and journalists in particular, as contributors to the fact-finding mission of ICTs is not disputed. Today, more than ever before, media – traditional journalists, war correspondents, citizen-journalists social media, field-based NGOs, etc. – are all contributing in different ways to the practice of ICTs; in particular, to evidence collection. However, as potential evidence has become abundant, this raises a number of issues including the difference between information and evidence, the question of verification, the challenges and risks of evidence collection, the role of journalistic privilege in the trial process, and the fundamental difference between the professional categories involved.

Against this backdrop, we have to ask: what is the role of journalists in the practice of ICTs? What is the relationship between traditional and new citizen journalism, evidence production, and ICTs? What are the benefits, short-comings, and limits of this relationship, given the different professional categories and requirements involved? This panel brought into discussion academics (Ella McPherson, University of Cambridge), media and outreach practitioners, (Nerma Jelacic, Commission for International Justice and Accountability), and legal practitioners (Payam Akhavan who worked for the ICTY and ICTR) in order to explore these and other questions related to media and evidence production in the practice of ICTs.

Information vs evidence

Evidence is crucial to reporting on human rights violations, whether for the purpose of advocacy or prosecution in court. However, there is a need to distinguish between journalistic media information and evidence.

Not all information has evidentiary value. Despite the access that traditional journalists and citizen journalists can have to first hand information about human rights violations and international crimes, ICTs require that all evidence meets stringent legal standards.

This problem of collecting information of evidentiary value occurs, as observed by Ella McPherson, since social media has introduced new channels for ‘civilian witnesses’ to produce, gather, and convey information and potentially valuable evidence, in particular in the digital video format. She made clear that while social media information is by no means the only source of evidence in human rights violation reporting, its importance lies in particular in the limited time and resources available to human rights institutions. Such freely available, open-source information can in fact be key to the fact-finding work of organizations with little access to affected areas and few resources available to conduct first hand data gathering in the field. With more abundant first hand information available, however, a problem of verification problem arises.¹ Ella McPherson illustrated her point by referring to different examples of footage in YouTube videos that all seemed to document human rights violations in different conflict contexts. While all the videos *seemed* ‘genuine’, only one could be verified, one was genuine but lacked verification to a legally acceptable standard, and one was a fake. These examples show the importance and challenges of verification procedures for reporting on human rights violations, particularly for ‘open-source’ information and evidence gathered by citizen journalists.

Moreover, the issue of verification is contentious not just for ICTs, eager to have evidence of a standard acceptable for trials, but also for the sources of the evidence, in particular citizen journalists, who have a clear interest in

1 Verification is the process of identification of the content (the ‘what’, ‘who’, ‘when’ and ‘how’) and of the metadata (for example, the original digital source, time and geo-location of the recording) of a piece of digital information. This identification is usually done by cross-referencing the available information with other available sources. Examples of new tools for cross-referencing are Google Maps and Twitter. Verifying the veracity and genuineness of the available information is a key challenge upon which the transformation of information into evidence depends. Despite the known verification methodology verification is, however, not always straightforward or altogether achievable and remains a highly demanding task for courts, which work against the ‘beyond reasonable doubt’ standards.

having their information verified but lack access to verification opportunities. Gatekeepers of information can play a key role in this respect. Against this backdrop, Nerma Jelacic asked: what is the value of evidence collected by journalists and media organisations for the purpose of building criminal cases? During her work with the [Syria Justice and Accountability Centre](http://syriaaccountability.org/),¹ she observed that recent events in Syria have drawn the interest of fact-finding practitioners towards the evidentiary challenges encountered in building criminal cases against high-ranking leadership figures involved in the conflict. The Syrian conflict is an example of the problems attached to 'evidence' collected on the ground by media activists and fact-finding organizations, in particular of the independent kind. Despite the risk faced by such professionals to collect evidence during an ongoing conflict, there is a high chance that their efforts will be disappointed, as legal courts may not be able to use it due to their own specific standards and requirements regarding the collection and admissibility of evidence

Lawyers, journalists, and non-professional fact-finders: a practice gap?

While journalists can support ICTs when it comes to evidence, there remains a tension between the two fields of practice, as pointed out by Payam Akhavan. At the source of this tension, as Ella McPherson argued, is the contrast between the requirements of the professional field of 'fact-finding' and that of the non-professional field of the 'civilian witness'. Each field of practice is defined by specific methods and 'rules of the game'. A key rule of fact-finding is verification, or ascertaining the veracity of information, including social media data. Civilian witnesses, while being close to the events on the ground, lack the knowledge to verify the information they provide and can rarely access the networks that can do this for them. This not only relates to the need for robust verification, but also to the very methods of collection and the quality of the information. The unequal access to verification methods is a crucial challenge for civilian witnesses and for their ability to have their collected information considered genuine. In this respect, a promising new development in the field of verifica-

1 <http://syriaaccountability.org/>

tion is the [‘eyewitness app’](#), which facilitates the first-hand verification of information by both the authors of the information and its recipients.

Journalistic evidence collection can be a very risky practice. Citizen reporters often endanger their lives in order to report abuses they have witnessed. ICT fact-finders, while also at times incurring clear risks, operate within a much more regulated environment. In addition, the journalistic mission is by nature different from that of the international criminal fact-finder. While both seek the truth, it is truth of a different quality and use. Despite this, these different professional fields can mutually reinforce each other’s practices and missions. In particular, journalists can provide valuable leads to ICT fact-finders or actively testify in trials, as Payam Akhavan pointed out. ICTs, at the same time, can be spurred on by the truths uncovered by journalists – as was the case at the ad hoc [International Criminal Tribunal for the Former Yugoslavia](#) (ICTY) – and ICTs can function as a platform for disseminating information and insights that journalists have revealed through the trial process.

Between risk and privilege: protecting journalists

Journalists and journalistic evidence can play a key role in (international) criminal proceedings concerning mass atrocities. Journalists can both provide material evidence and appear as witnesses in court. This latter role, however, can be refused by the invoking of so-called ‘journalistic privilege’. ‘Journalistic privilege’ legally protects journalists from being compelled to disclose their sources or confidential information in court, even if this information may be relevant to the case in point. This privilege is well recognized in domestic legal systems and becomes all the more relevant in the context of evidence on international crimes and human rights violations, provided by civilian witnesses, activist journalists, war correspondents, or professionals present in the field. It protects those whose professional duty is not to gather evidence but who may nonetheless have access to it, such as international organizations and NGOs. Yet the application of journalistic privilege is not always straightforward in international criminal trials and it may lead to key questions about how to balance the value of journalistic information for such trials with the protection of journalistic sources.

Payam Akhavan reported on two leading cases relating to journalistic privilege at the ICTY in order to illustrate challenges in international criminal trials and the consequent relative value of journalistic information. In the [Simic](#) case an issue arose about the potential testimony of a former International Committee of the Red Cross (ICRC) staff member, privy to relevant information. Due to the ICRC's special role and, in particular, its neutral character in the field, the Court accepted and justified its absolute privilege, which allowed the ICRC and their former employee to refuse to testify. Conversely, the ICTY Trial Chamber of the [Brdjanin](#) case denied Washington Post journalist Jonathan Randal the journalistic privilege he had attempted to invoke, the justification being that such privilege could only be relevant when anonymous sources were involved, whereas in this case the testimony would merely confirm a story that had already been published. In an Interlocutory Appeal however, the Appeals Chamber upheld Randal's privilege on the basis of the difference between journalists in general and war correspondents in particular.¹ The latter group, it was decided, were to be granted such privilege because of the high risk nature of their work.

Conclusion

The panel revealed that, in the context of international criminal investigations, journalistic evidence – gathered through new and traditional media and non-ICT fact-finders – can have multiple functions: those of exculpatory evidence, of contextual information, of sources of leads, and of investigative triggers. The discussion also concluded that, while the information collected by these fact-finders can be of key relevance to ICTs, each professional group must nonetheless be guided by its own rules and duties. There needs to be an explicit memorandum of understanding that lays out the limits, prerogatives, abilities, and protective needs of different professions. For example, citizen journalists should be aided in their verification process while at the same time they should be made aware of the intrinsic risk in reporting human rights violations and as far as possible protected against

¹ See <http://nimanreports.org/articles/consequences-occur-when-reporters-testify/> for a summary.

them. The standards required by ICTs and a distinction between journalistic information and legally valuable evidence should be clarified. ‘Cowboy investigative techniques’, by both prosecutors and non-professional fact-finders, should be avoided. ICT practitioners should weigh the effective relevance of journalistic information before involving journalists in their investigative processes. Finally, journalists who participate in trials should be allowed to protect their sources, neutrality, and professional stance, even if this may at times be at odds with the requirements of the legal process.

Media in divided societies: facilitators or spoilers of justice and accountability?

Panel: Nicole Stremlau, Iginio Gagliardone, and Marija Ristić

Introduction

Media has played and still plays a fundamental role in fuelling conflict and division along ethnic, racial, or religious lines. Current examples include the ‘media war’ of the Islamist group ISIS (alternatively, IS, ISIL, or Daesh) currently operating in Syria and Iraq, as well as the conflicts in the Former Yugoslavia (FY) and the genocide in Rwanda in the 1990s. Media played a significant role in fuelling and even organizing crimes in Rwanda, and in spreading violent nationalism, which legitimized gross human rights violations in FY. In these cases, media such as radio, newspapers, and television were powerful tools in spreading hatred and fear. In addition, by using dehumanizing language and actively inciting violence they also became direct actors in the conflict. The role of media in conflict was also the subject of several trials at the ad hoc [International Criminal Tribunal for Rwanda](#) (ICTR), as for example the so-called ‘[media-case](#)’. Nevertheless, there seems to remain a knowledge gap on the role that media can play in the aftermath of conflict and the reconstruction of society. A rigorous analysis of the role of media in transitional justice therefore demands a profound understanding of the media landscape and its historical and current relationship to key players in conflict and transition.

The panel drew together different case studies and looked at the intersection of media in conflict and media in transitional justice. The panel brought into conversation the academics Nicole Stremlau and Iginio Gagliardone from the University of Oxford, and the journalist and TJ practitioner Marija Ristić from the [Balkan Investigative Reporting Network](#) (BIRN).

Mapping media actors and understanding reporting styles

In order to assess potential and various roles media can play in a TJ process, a rigorous mapping of media actors and the different ways media

reports on events are crucial. This task is not only relevant as an entry point into research, but also provides a strong foundation for external actors to develop critical media outlets and to support grass roots media initiatives. Against this backdrop, Nicole Stremlau argued that an understanding of the ways conflict parties use media as a tool, the involvement of media as actors in the politics of transition, and the impact of external support for media on hindering or enabling local TJ practices are crucial in order to assess the potential roles of media in transitional justice.

In relation to the use of media by conflict parties, Nicole Stremlau showed, similar to Roddy Brett's argument about the media as indirect perpetrator, that in the Somali conflict media has a known history of misuse. She reported that many warlords established radio stations immediately after taking control of territory. Radio was then used as a propaganda tool and for spreading information about rebel group activities. This development is not only characteristic of the Somali conflict, but can be observed in intra-state crises elsewhere. For example, the office of the prosecutor of the [ICC](#), in its confirmation of charges hearing for the case of [Dominic Ongwen](#), a Lord's Resistance Army (LRA) commander active in the 1986–2008 Ugandan war, referred to the role that Radio Mega, a local radio station in Northern Uganda, played in allowing the LRA to spread messages to local communities through its channels. Similarly, the former head of Kenyan radio station Kass FM, [Joshua Arap Sang](#), is currently on trial at the ICC for inciting violence through his broadcasts. Against this backdrop, Stremlau observed that in Sub-Saharan Africa many insurgency radio stations have been transformed into state-controlled broadcasting stations. This suggests that media was not subjected to a vetting or accountability procedure that would have interrogated its role in the conflict, as was evidenced particularly in the media reforms taking place in the early 90s in Sub-Saharan Africa.

In that regard, Marija Ristić also flagged up that even though media played a central role in inciting violence during the Yugoslav conflict, many journalists kept their positions in the post-conflict setting. She further argued that the reporting style in the aftermath of conflict is fundamentally shaped by the role media actors played during the conflict. For instance, the media reporting of the arrest by Serbian authorities of [Ratko](#)

[Mladić](#), a former Bosnian Serb military leader accused of having committed international crimes, mirrored the ethnic divisions that fuelled the conflict. The Serbian media did not engage with the content of the indictment at all, whereas Bosnian media complained about the shortcomings of international investigations and court proceedings in his case.

Polarizing debates and a polarized media space

The arguments made by Nicole Stremlau and Marija Ristić point to a deeper problem in divided societies: a polarized media space. This holds particularly true for post-conflict settings where the media landscape is aligned to former or continuing conflict alliances and/or ethnic and national groups. Media can easily become an actor in the broader politics of transitional justice. According to Marija Ristić, the media in Serbia, Croatia, and Bosnia is characterised by evident partiality: for example the 2012 acquittal of the Croatian army lieutenant general [Ante Gotovina](#) by the ICTY Appeals Chamber was presented in Croatia as justice being done whereas the Serbian media framed the same event as evidence of an anti-Serb bias. Iginio Gagliardone argued that similar divisive discourses prevail in Ethiopian politics and media. Gagliardone recently conducted a [research project](#) analysing online social media debates in Ethiopia, the analysis of which revealed a highly polarized social media space that in turn highlighted the fragmentation of Ethiopian politics and society. It showed that media does not only polarize debates, but can be polarized in itself as well. This finding points to the need for a closer analysis of (social) media spaces and the ways they reproduce and shape divisions.

Conclusion

As these examples illustrate, media is not only a catalyst for division, but may be also polarized within itself. A rigorous analysis of the media landscape and history in relation to past and present human rights violations is therefore important in order to enable a balanced post-conflict role for media and a positive role in times of transition. As the panel discussions revealed, in fact, a major problem remains biased reporting of media outlets about ongoing TJ measures. This is particularly problematic when the media is associated with former or existing conflict alliances and parties

that promote certain narratives of the atrocities that occurred. In divided societies biased media reporting can reinforce divisions and close spaces for open discussions about the past. As emphasized by the panellists, it seems paramount for external actors to map the existing media landscape and to distinguish media outlets that rely on former conflict parties from those that enable bottom-up and alternative ways of understanding and approaching the past.

Innovative Media for Change? The potential and pitfalls of new media technology in transitional justice

Panel: Pierre Hazan, Christophe Billen, and Leon Willems

Introduction

What is the relationship between journalism, media, ‘new’ technologies and fact-finding, reporting on human rights violations, and TJ mechanisms? Has this relationship changed over time? And if so, to what end? The relationship between media and fact-finding is a long-standing one. For instance, the media has paid attention to war crimes prosecutions since the Nuremberg trials in the 1940s, the trial of Adolf Eichmann in 1961, and the more recent and numerous prosecutions at the ICTY and subsequent tribunals. Trials have been used as public and educational platforms, both by the prosecution and the defence, to communicate with the wider public for different purposes. The media in the courtroom is now a staple of war crimes prosecutions, but new media technologies – social media, apps, IT gadgets – have become key to the broader relationship between fact-finding, reporting on human rights violations, and TJ mechanisms. This panel explored these questions in relation to the development of new media outlets, drawing on the experiences of the presenters: Pierre Hazan, head of JusticeInfo.net, Christophe Billen, founder of the NGO People’s Intelligence, and Leon Willems, Director of the NGO Free Press Unlimited.

‘Old’ media and the courts: an educational tool

Despite new developments and changes in the global media landscape, some aspects of the longstanding relationship between ICTs and media remain, as described by Pierre Hazan. He traced the relationship between media and ICTs back to the Nuremberg trials in the 1940s and the trial of Adolf Eichmann in 1961, the latter being one of the first trials to be explicitly televised and thus to address a global audience. The purpose of its widespread media coverage, as he continued, was to convey a clear politi-

cal message about the suffering of Jewish people at the hands of the Nazi extermination machine. Pierre Hazan further described the role of traditional media in ICTs by introducing the concept of a ‘theatrical approach to justice’: for instance, the ICTY, set up in 1993, with its (digital) broadcasting of trial proceedings. From the very beginning, the ICTY’s courtrooms were designed as TV studios, in particular by being equipped with bespoke areas from which the public could follow the proceedings as they were unfolding in the courtroom. Educating the public was a clear objective of the ICTY and one that was reflected in its very architecture. However, the mediatic aspect of the courtroom yielded unexpected results. Some of the defendants, such as Slobodan Milošević, when participating in the proceedings of their trial, became no longer interested in interacting with the bench, and rather used the camera in the courtroom to directly address the audience at home in order to declare themselves not guilty.

Furthermore, the traditional approach to media coverage of ICTs as an educational tool may prove difficult when access to media is restricted to societal elites, as is the case in Colombia. For instance, Pierre Hazan observed that the coverage of the trial against former Chadian dictator [Hissène Habré](#) before the Extraordinary African Chambers in the Senegalese courts required an innovative approach in a country which is 3,500 km from the place where the trial was taking place, where only 3% of the population have access to the internet, and where the population speak a number of different languages. New media, in contrast, may be a vehicle for reaching out to populations and actively engaging them in transitional justice.

New media and fact-finding: an empowerment tool for the people

Christophe Billen and Leon Willems argued that the relationship between the media and fact-finding no longer takes place primarily in the courtroom. Both Christophe Billen and Leon Willems elaborated on the changes new media brings with regard to reporting on human rights violations and covering TJ measures. It was claimed that the relationship between media and fact-finding is mostly positioned in the field, where events occur that need rapid recording, reporting, and response. This relationship has already developed in new directions. Leon Willems explained

that numerous forms of local media, such as the Dutch-supported Sudanese [Radio Dabanga](#), have become key vehicles for communicating to local communities and from local communities to the outside world. Citizen journalists, in addition, have become key sources of information and reporting, in particular now that politicians and citizens can communicate directly through social media platforms. Moreover, numerous technological innovations such as bespoke apps, secure platforms, and encryption devices have been created to function as secure vehicles of communication in areas where freedom of speech is restricted and where the security of sources and informants may be at risk. Such technologies have a number of key purposes and are aimed at overcoming the limits of the traditional paradigm of the media as a vehicle for the education of a detached public.

One example of this paradigm shift is [People's Intelligence \(PI\)](#), an organization co-founded by Christophe Billen that offers one such technology. The goal of PI is to collect information directly from conflict affected people on the ground through the use of simple technologies. PI's idea was based on what appeared to be a clear gap in the market: a number of platforms exist that allow people to send in information about human rights violations but this data is usually presented in an aggregated format and often simply visualized on maps. This information typically lacks markers that are essential for the purpose of effective fact-finding, such as location, time, number of individuals involved, etc., and it is thus of low efficacy. In addition, upon providing the information to the platform, its author and owner loses track of it, creating problems for the security of both the source and the data. Thus, PI provides a digital mechanism for a two-way dialogue, enabling the provider of the information to retain property rights over it and to remain able to access it and to decide where these data are distributed.¹ However, as Christophe Billen emphasised, a number of challenges remain in the use of new technologies such as language

1 In order to achieve this, PI developed a three-stage process. Firstly, relevant information is collected from people on the ground in as complete a format as possible, i.e., with relevant markers. Secondly, the information is evaluated through triangulation with other sources or a dialogue with the source who provided it in the first place. Thirdly, PI provides feedback to the provider of the information; thanks to contacts with other organizations on the ground, they are able to direct these people towards local centres, which can assist them (e.g., hospitals with antiretroviral therapy in cases of sexual violence).

barriers, technological and general illiteracy, and cultural differences in the use of technology.

Although there are some pitfalls in the use of new technologies, this development facilitates local production and dissemination of information. Leon Willems stressed that it is crucial for new technologies to empower the people on the ground. His organisation, [Free Press Unlimited](#) (FPU), provides information to people in areas where freedom of expression is severely compromised. One example of technologies provided by FPU is the app [Storymaker](#). It was developed by FPU in order to strengthen local journalism and the ability of journalists to make and distribute news video clips through a safe channel. The app was used during the Arab Spring and has today a great number of local users in various places, such as the outskirts of Zimbabwe. The security and safety of journalists and their sources remains crucial, according to Leon Willems, and such devices can prevent their communication from being cracked. With the rise of citizen journalists and the many risks attached to the reporting of human rights violations such new secure technologies are fruitful in mitigating the dangerous environment of human rights abuses.

Conclusion

New media technologies can address the communicative needs of people in times of conflict or transition and are developed for and with them. They aim at being accessible, security-aware, and user-aware (safety of sources, rapid emergency response, easy to use) but also sensitive to the requirements of fact-finding (triangulation, verification, dialogue). With new media being considerably more embedded in, and designed to serve, the needs of local communities, technologies such as the fact-reporting app People's Intelligence or the Free Press Unlimited secure platform Storymaker were built to support two-way dialogues between sources and information collectors, for both journalists and fact-finding professionals. They also allow for the protection of the identity of both parties, for the verification and triangulation of data, and for the referral of individuals in need to the closest response centres. The future of the relationship between media and fact-finding will have to build on these new pillars so that new media and technologies can have an impact locally – informing, relating,

and protecting – as well as on professional fact-finding – providing high quality information to those who can act upon it in institutional environments such as TJ mechanisms. This is key in particular at the present time, when international media outlets often struggle to have an impact locally and where the demand for ‘downward accountability’, i.e., accountability to the public, is on the rise.

Doing more harm than good? Documentaries, social media, and advocacy in transitional justice

Panel: Rob Lemkin, Phil Clark, and Linda Melvern

Introduction

This panel discussed the role that advocacy and documentaries play in transitional justice and, in particular, analysed their relationship with international tribunals. Discussion revealed that advocacy groups and documentaries can cause more harm than good. Often, human rights organizations promote very particular narratives of the conflict and advocate for narrow legal responses to mass atrocities. Similarly, documentaries can have great power in agenda-setting and influencing public opinion, such as the Invisible Children's documentary '[Kony 2012](#)'. The documentary aimed at a public mobilization and an American intervention into Uganda to stop Joseph Kony, the commander of the LRA.¹ It was viewed on YouTube 21 million times but was heavily criticized for misrepresenting the conflict in Uganda and advocating for foreign military intervention.² Thus, advocacy, either through human rights organizations or documentaries, too often misrepresents, decontextualizes, or simplifies mass violence and human rights violations while lobbying for particular TJ measures without applying a 'do no harm' approach. Yet, given the diversity of advocacy agendas and documentaries, it is not fruitful to generalize their impact, as these groups do not play a uniform role. In fact, a critical engagement with the 'truths' constructed through documentaries and human rights reports can give rise to public debates and can open spaces for alternative and informal ways of truth-finding. This panel brought together the filmmaker Rob Lemkin, the academic Phil Clark (SOAS, London), and the writer and

1 Polly Curtis & Tom McCarthy, 'Kony2012: what's the real story?', 8 March 2012, *The Guardian*.

2 Adam Branch, 'Dangerous Ignorance: The hysteria of Kony2012', 12 March 2012, *Al Jazeera*.

investigative journalist Linda Melvern to discuss the relationship between media advocacy and transitional justice and its impact on the latter.

Advocacy through human rights organizations for legal transitional justice measures

Media and human rights organizations (HROs) such as [Amnesty International](#) (AI) or [Human Rights Watch](#) (HRW) have significant public support and the media tends to rely heavily on their analysis when reporting on human rights violations and transitional justice measures. Phil Clark argued that media and international tribunals pay considerable respect and tribute to the work of HROs, and in turn further confirm public faith in them. When HRW or AI release a report, the media often presents such a release as a major news event in itself. International courts and tribunals have also extensively used these reports as sources of evidence.

According to Phil Clark, the ICC office of the prosecutor, for example, has explicitly acknowledged using HRW and AI reports in its investigations in Uganda and the Democratic Republic of Congo (DRC) for their selection of cases, to identify individual suspects, and to determine the types of evidence to be used. In addition, the theory, advanced by Alison Des Forges of HRW, that the Rwandan genocide was primarily organized and perpetrated through hierarchical structures led the ICTR to focus its prosecution on a limited number of elites in Kigali, who were deemed responsible for planning the massacres. Linda Melvern added that misinformation about the Rwandan genocide remains a major problem. Furthermore, she stressed, despite the work of the ICTR and the [Gacaca courts](#), for example, we know very little about the role of the Catholic Church and the influence of France in training and equipping the militia that carried out the massacres.

HROs, on their part, often write their reports with the media in mind, phrasing them in a way that is likely to attract headlines. In recent years, they have also increasingly drafted their reports with explicit acknowledgment that their content may serve as evidence in the courtroom.

More generally, Phil Clark argued that the relationship between media, HR advocacy, and the work of tribunals has led to a dominance of legal approaches in transitional justice, thereby narrowing down alternative

ways of addressing the wrongs of the past. In particular, he argued that the interplay between media, advocacy groups, and transitional justice has led to two major problems in transitional justice: firstly, a simplification of how we understand conflict and societies dealing with it, and, secondly, the tendency of these organizations to advocate for narrow TJ mechanisms to the detriment of a much broader discussion about what particular societies might need in transitional justice.

Documentaries as a participatory approach to 'truth-finding'

Documentaries can do significant harm by distorting history and feeding international and local audiences with a skewed view of what happened and why. Linda Melvern discussed the 2014 BBC documentary '[Rwanda's Untold Story](#)', which sparked controversy at the time of its release, both in Rwanda and among international journalists and academics. The documentary suggests that the current Rwandan president Paul Kagame ordered the shooting down of the plane of the then president, Juvénal Habyarimana: an incident which triggered the genocide. It also claimed that more Hutus were among the victims of the genocide than the 'official narrative' asserts. Linda Melvern observed that the narrative of the documentary is intimately connected to genocide denial that she considers prevalent amongst journalists, defence lawyers, and diplomats. Genocide denial, she explained, is often expressed through the idea of a 'double genocide' that views the killings in Rwanda as the attempts of two ethnic groups to annihilate each other.

However, documentaries can also create spaces for people to share their narratives of the past, help with truth-finding, and thereby lay the foundation for a shared future. Unlike courts, documentaries can make an important, if at times inchoate, contribution to truth-finding efforts. One such example is the documentary '[Enemies of the People](#)', by Rob Lemkin. It tells the story of a quest to find truth and closure after the atrocities of the Khmer Rouge in Cambodia. The documentary gave voice to individuals who had perpetrated major acts of violence during the Khmer Rouge regime. For instance, for the first time, [Nuon Chea](#), Pol Pot's deputy, acknowledged his role in the decision-making of exterminating the civilian population. This confession naturally sparked the interest of the

investigators of the [Extraordinary Chambers in the Courts of Cambodia](#) (ECCC), a hybrid court set up through an agreement between the UN and the Cambodian government to try the most responsible Khmer Rouge agents for violations of Cambodian and international law between 1975 and 1979. The ECCC wanted to use the documentary as evidence in court and tried to obtain access to witnesses who had contributed to it. However, the work of the court is not highly regarded amongst the Cambodian people. Rob Lemkin explained that many people, especially in the rural areas of Cambodia, are more interested in understanding why the killings happened, rather than in obtaining convictions for the accused. The Court itself cannot provide a venue for such a truth-finding effort as its legal process narrowly focuses on establishing the guilt or innocence of particular accused persons. He further explained that there is also resistance to truth and reconciliation processes by the Cambodian authorities, who are concerned with avoiding any reputational damage that could result from uncovering the ties between the Pol Pot regime and the current government. Thus, the documentary was an important step to uncover the truth about the [Killing Fields](#), an area where more than a million Cambodians were exterminated. In addition, Rob Lemkin and his team arranged informal truth and reconciliation conferences between the low-level perpetrators who participated in the film and Cambodian refugees, who fled the killing fields and now live in California. They talked for the first time via video link to the killers of their families. For Rob Lemkin, this was a small step forward in the process of reaching a common understanding of the past among Cambodians.

Conclusion

HROs play a vital role in streamlining transitional justice and in understanding conflict and peace. HROs exert influence on the media and the way justice is understood and enacted. As argued by Phil Clark, it is paramount to have a better understanding of the mechanisms behind this development and a critical assessment of the role of human rights advocacy in TJ justice – and particularly in providing evidence of human rights violations – in national and international legal proceedings. Documentaries can also play a vital role in shaping evidence and narratives in court

and, at the same time, have the power to set public agendas and influence public perceptions about violence and its aftermath. As the example of 'Enemies of the People' showed, documentaries can have a local impact on the ways in which justice and reconciliation are perceived. Therefore, documentaries can be complementary to more formal and legal transitional justice measures and open up alternative spaces for discussions about past atrocities. Last but not least, documentaries, if done with and for the population concerned, can reveal and initiate bottom-up and participatory ways of dealing with the past.

Reaching out to whom?

Transitional justice institutions, media, and outreach to local communities

Panel: Alison Smith, Gerhard Anders, and Gaelle Carayon

Introduction

Since the establishment of the ICTY and ICTR and the realization that these courts have largely failed to have an impact upon societal transformation in FY and Rwanda, there has been growing pressure on international criminal courts to become more ‘victim-oriented’. In response to these pressures, new courts such as the ICC and the Special Court for Sierra Leone (SCSL) have developed outreach strategies using different types of media, such as interactive radio programmes and partnering with local media outlets, to create a ‘two-way communication’ between international courts and affected communities. Outreach aims at promoting local understanding, managing expectations, and preventing misinformation and misconceptions about far-away courts. The three panellists considered the role of media in outreach through the lens of their different professional experiences: Alison Smith’s perspective as a former legal adviser to the SCSL, Gerhard Anders’s (University of Edinburgh) insights as an academic doing research in Sierra Leone, and Gaelle Carayon’s experiences as the Post Conflict Policy Advisor of [REDRESS](#), an NGO working on victims of international crimes. The discussion centred on the outreach role and impact of international criminal justice institutions such as the SCSL and the ICC, as well as the challenges faced by outreach practitioners on the ground, including the high expectations of victims, cultural and language barriers, but also a lack of coordination and resources within these courts. A key question raised was whether new media such as social media can be more effectively used to engage affected communities in the work of international criminal courts than traditional media and outreach methods.

Why outreach, and reaching out to whom?

Alison Smith argued that the purpose of outreach is not to promote support for the courts or for any other TJ mechanism, but to put victims and affected communities in a better position to make informed decisions on whether, and how, to engage with these justice institutions. However, this understanding of outreach was challenged by the research Gerhard Anders conducted in Sierra Leone. His ethnographic fieldwork revealed that the outreach programmes of legal TJ institutions, such as the SCSL, often fail to create a two-way dialogue between courts and affected communities. In fact, his research suggests that outreach more often looks like a top-down enterprise with little room for victims' input into the work of the courts. Overall, the panellists somewhat disagreed on the purpose of outreach: Alison Smith expressed the view that outreach should better inform local populations about international criminal proceedings, thereby contributing to 'local ownership' of international criminal courts. Gerhard Anders, on the other hand, argued that outreach cannot and should not contribute to local ownership, as 'distant justice' is a requirement for the independence and legitimacy of these courts. Importantly however, it was argued that outreach cannot be divided into victims' and perpetrators' outreach, as people tend to have the same information needs (what the court is, how it works, what a fair trial is, development of court cases, etc.). The question is, rather, whether outreach should only provide information about the mandate and proceedings of international criminal courts, or if it should also provide a space for telling the narratives of affected communities. To that end, media can play an important role.

Media and outreach

The panellists agreed that media should play an important role in outreach activities, especially in making them more creative and interactive through the use of social media. With regard to the ICC, Gaelle Carayon argued that media can help to make outreach more accessible to the general public. While showing videos and using other basic technologies may not be very interactive, these simple tools can be important in communicating with technologically marginalized groups such as women and elderly people.

Alison Smith and Gaelle Carayon emphasized that it is paramount for international courts to design and implement outreach themselves, as their aims, interests, and mandate differ from that of the media. Journalists can thus be a partner in outreach but courts should remain the main actors. In addition, Alison Smith identified two roles media can play in outreach. Firstly, media can be a 'target group', since it is part of the general public and has the same information needs, including institutional information about the court (e.g. its political backers and funders, who appoints judges and prosecutors, etc.). Secondly, media can be a potential partner, which, however, is subject to journalistic ethics and independence. This role involves both the media providing outreach activities with air time on the radio and other outlets and the court offering training in judicial reporting to journalists. She emphasized that, while the media can be an important partner, alongside civil society, it is absolutely crucial that courts do outreach themselves. This is because there are some messages which will only be credible if they come directly from a court. For instance, she explained, it was only when the Prosecutor of the SCSL stated himself that children wouldn't be prosecuted that villagers stopped hiding their children.

Gerhard Anders painted a somewhat different picture of media and outreach in Sierra Leone. He described the operation of the SCSL as a 'show stream': courtrooms were especially set up for the limelight of the media. He was critical of the considerable energy devoted to public relations strategies: for instance, concerning the public frenzy around the testimonies of Naomi Campbell and Mia Farrow during the Charles Taylor trial in The Hague. Outreach, however, was much less glamorous: a TV set, a generator, and a small speaker was all the equipment they had for outreach in one of the villages that he studied. He concluded from his research in Sierra Leone that local outreach targets audiences who live in an information-rich environment, which means that they already know much about the SCSL. Their knowledge also made them critical of the court. For example, some people in the outreach sessions criticized the court's focus on retributive justice to the detriment of more redistributive views of justice, including compensation. In addition, outreach in Sierra Leone was dominated by a one-way-dialogue due to problems of translating legal terms and content into non-specialist language and the use of

out-dated media technology. Gerhard Anders stressed that outreach could be designed to be more interactive through the use of social media and new media technologies such as Twitter and mobile phone apps.

Conclusion

Outreach can play an important role in making international criminal courts closer and more accessible to affected communities. A more effective use of social and other media in outreach strategies can help to transform the ‘two-way dialogue’ between courts and affected communities from theory to practice. This would empower local communities to voice their views and concerns about international criminal proceedings and may render these institutions more legitimate in their eyes. Yet, as Gerhard Anders’s research in Sierra Leone suggests, we are still far from such an ideal interplay between outreach and the media. In fact, the purpose of outreach is often contested, making it difficult to establish exactly what role media should play in it. Journalists may also be reluctant simply to act as the handmaidens of courts and their messages. Besides, outreach is often neither the priority for TJ institutions nor journalists. The example of the SCSL suggests that more money and effort is invested in the media coverage of courtroom proceedings than in community outreach. Despite these challenges, a more productive relationship between media and TJ institutions with regard to outreach is possible. Media can, for example, mediate between TJ institutions and the population, creating interactive spaces for exchange of information and asking critical questions through the use of new media technologies in particular.

The Role of Media in Transitional Justice

Introduction

Transitional justice practice and scholarship has paid little attention to the role that media plays in transition contexts.¹ In established democracies, media can play the role of a ‘watchdog’, among others, and democratize and pluralize public debates. Mass media is used here as an open channel of communication to the wider public. In transition contexts, however, the role of media is more complex, contested, and potentially more dangerous. In fact, as workshop discussions revealed, media is often fragmented and polarized itself, mirroring pre- and post- conflict social divisions. The acceleration and proliferation of social media adds further complexity: social media can empower people to become independent citizen journalists,² but at the same time, because of its ‘free nature’, it does not guarantee and guide the production and re-production of information on the basis of accepted journalistic principles and best practice. Generally, as described below, media can exercise multiple functions in transition contexts that come with many challenges which may affect their practice.

This section first reflects on media in TJ more generally, before drawing out several key challenges that media meets in transition contexts. It will then develop a preliminary typology of different roles media can play in transitional justice. In a final step, this section collates some recommendations aimed at media, TJ practitioners, and academia.

Media in transitional justice

Media has the potential to ‘provide a safe battleground to help transform destructive conflicts into non-destructive debates’³ and to put transitional justice themes on the public agenda. For instance, in Spain the media

1 Lisa Laplante & Kelly Phericie (2009), ‘Mediating post-conflict dialogue: the role of media in transitional justice processes’, *Marquette Law Review* 93:251–81; Nicole Stremlau & Monroe E. Price (2012), ‘Media in transitional justice’, *International Journal of Communication* 6:177–99. See also the online debate of The International Centre for Transitional Justice ‘The role of media in transitional justice’, <https://www.ictj.org/news/debate-role-media-transitional-justice>, 30 April 2014.

2 See further Institute for War and Peace Reporting, video clip ‘The Role of Social Media in Transitional Justice’, <http://wezank.com/portfolio/role-social-media-transitional-justice/>.

3 United Nations Educational, Scientific and Cultural Organization, UNESCO (2014): Report ‘Media and Conflict Prevention’.

played a crucial role in breaking the '*pacto del olvido*' following the state atrocities committed under the Franco regime. Spanish media challenged the silence surrounding these atrocities, which in turn led to the exhumations of mass graves and a public debate about these events.¹ This exemplifies that media can play an important role in facilitating public debate and deliberation on difficult truths about a collective past.²

The media's framing of events can also determine the parameters for interpreting TJ measures and their key aims, including 'justice', 'reconciliation', and 'truth'. For example, the South African Truth and Reconciliation Commission (TRC) (1995–2002) enjoyed broad media coverage which made the quest for a mutual understanding of the past a truly societal event, but at the same time also influenced public opinion about the work of the TRC.³ Likewise, the media portrayal of the trial of Milošević at the ICTY (2002) had a great impact upon public opinion in Serbia. As discussed in one of the panels, Milošević instrumentalized the media to depict himself as an innocent hero of the war and to dismiss the ICTY's work as mere 'victor's justice'.⁴ As these examples illustrate, the media has the power to shape but also to distort and manipulate public perceptions of what justice, truth, and reconciliation mean in transition contexts. The media's use of language can either promote or mitigate polarization in divided, transitional societies. For example, the way that events are depicted during conflict can easily dehumanize or glorify certain societal groups or give credibility to dichotomous labelling of 'perpetrators' and 'victims' which, in turn, shapes identity formation and perceptions of

1 Madeleine Davis (2005), 'Is Spain recovering its memory? Breaking the *pacto del olvido*', *Human Rights Quarterly* 27:858,873–74.

2 Laplante & Phericie 2012, 267.

3 See further South African TRC Report, Vol. 1, 108–10. Also, Paul Gready (2013), *The Era of Transitional Justice: The Aftermath of the South Africa Truth and Reconciliation Commission and Beyond*, New York, NY: Routledge Series of Transitional Justice.

4 See further Payam Akhavan (2001), 'Beyond impunity: can international criminal justice prevent atrocities?', *American Journal of International Law* 95(1):7–31; also Jelena Tosic (2007), 'Transparent broadcast? The reception of Milošević's trial in Serbia', in Marie-Bénédicte Dembour & Tobias Kelly (eds.), *Paths to International Justice: Social and Legal Perspectives* 83, 90, 94.

victimhood.¹ The way in which media represents information, events, and TJ mechanisms can either promote or hinder reconciliation and justice processes.

Media can also function as a ‘watchdog’ for TJ mechanisms by critically assessing their role and impact in the societies concerned. In other words, media has the potential to be an intermediary between the public and TJ institutions. This is particularly true in light of the proliferation of new media channels, including social media, grassroots communication, and multimedia platforms, that enable direct communication to and from society.

Against this backdrop, it seems crucial firstly to draw out some of the key challenges faced by media in transitional justice and, secondly, to break down the different and often overlapping roles that media can play in transition contexts. In doing so, *Innovative Media for Change* is a starting point for further reflection and analysis of this emerging and important new field of research and practice in transitional justice.

Key challenges

The *Innovative Media for Change* workshop identified several challenges for the role and identity of media in TJ processes that relate new key developments in the global media landscape. These challenges are centered on (a) new technologies, and (b) balancing different rights.

A. *New technologies*

Many workshop participants drew a sharp distinction between ‘traditional’ and ‘new’ media in discussing their role in TJ processes. The idea of ‘old journalism’ – the impartial reporter – was contrasted with the plurality of uncontrolled discourses, generated by social media and other types of new media. The advent of social media has challenged the traditional role of the journalist as the exclusive disseminator and evaluator of information.

1 See also Kieran McEvoy & Kirsten McConnachie (2012), ‘Victimology in transitional justice: victimhood, innocence and hierarchy’, *Journal of Criminology* 9(5):527–38; Tristan Anne Borer (2003), ‘A taxonomy of victims and perpetrators: human rights and reconciliation in South Africa’, *Human Rights Quarterly* 25(4):1088–116.

This shift in the media landscape has revolutionized access to information, but has also created new distortions. In many transitional societies, traditional media is in the hands of a few strong economic and political groups promoting their interests and hegemonic discourses. For example, in the wake of the conflict in FY, the media was widely used as a propaganda tool by conflict parties and journalists were perceived as ‘servants of the state’. In a similar vein, the discussion on media in Colombia, for example, revealed that the most powerful media outlets are often controlled by political and societal elites that pursue their own agendas through them. By breaking journalists’ monopoly over public debate, social media has democratized information and analysis. But participation in social media is limited to those who have access to the necessary technology. Yet many of the people affected by conflict and human rights violations come from the lower socio-economic strata of society and have limited or no access to the internet. Traditional media outlets such as radio stations are usually more important sources of information for marginalized groups, such as victims of human rights violations.

B. Balancing the right to freedom of expression and the right of freedom from discrimination

The shift in information power goes hand in hand with a new type of journalist: the citizen journalist. While professional journalists are bound to evidentiary standards, such as using multiple sources and fact-checking the veracity of sources, citizen journalists simply exercise their right of freedom of expression and their right to information through social media, and cannot be held accountable to professional and ethical standards. Yet, particularly in conflict and transitional countries, journalistic impartiality and commitment to reporting the truth is essential not only to prevent conflict escalation through one-sided media reports, but also to ensure people’s security.

According to Leon Willems, the Director of Free Press Unlimited, the emergence of citizen journalists and their ability to bring news of events online quickly has made obsolete the prerogative of traditional journalists to bring the news first. This in turn warrants and necessitates deep thinking about the function and role of professional journalism. One important

question concerns how traditional journalists should engage with citizen journalists and social media discourse. Marija Ristić gave the example of her organization the Balkan Investigative Reporting Network, which runs a media platform with a public commentary section. Whenever a TJ topic is posted, the debate often blurs into hate speech. The discussion turns to who committed a crime and what is a lie. There is, therefore, a constant editorial struggle between facilitating a debate and involving as many people as possible on the one hand, and deleting comments that could amount to ‘hate speech’ on the other. These developments raise the question of how we should balance the right to freedom of expression and the right to freedom from discrimination.

A typology of media roles in transitional justice

The discussions of the workshop shed light on the vastly different roles that media can play in TJ processes. This section develops ideas around a typology of key roles media can play in transition contexts: (a) the media as victim, (b) the media as perpetrator, (c) the media as witness, (d) the media as truth-finder, and (e) the media as activist.

A. *The media as victim*

The polarized social environment in which TJ processes or peace negotiations unfold makes every journalistic report liable to heavy criticism and contestation. Many journalists also face threats to their security due to their reporting. The 2015 report of the International Federation for Journalists (IFJ) counts 109 journalists and media staff killed across 30 countries.¹ In Kenya, for example, the ICC has even been referred to as a ‘silent killer’, as journalists reporting on its cases in Kenya have allegedly been killed due to their ICC association.² In 2013 in transitional Egypt, three Al Jazeera journalists were arrested and initially sentenced to up to 10 years imprisonment for allegedly ‘spreading false news’, giving rise to

1 International Federation of Journalists Report, 2015.

2 The Hague Trials Kenya, ‘ICC: A silent killer in Kenya’, 11 May 2015: <http://america.aljazeera.com/articles/2015/8/24/kenyas-dark-path-to-justice.html>.

Al Jazeera's 'Journalism is Not a Crime' campaign.¹ Journalists have often endured conflict and violence themselves. This experience may make unbiased reporting in the aftermath of human rights violations difficult and prone to a one-sided view by journalists themselves regarding past abuses and official attempts to right the wrongs of the past.² For instance, this problem occurred during the media coverage of the Liberian Truth and Reconciliation Commission, despite formal training in transitional justice received by journalists covering the events. According to a review of the Liberian TRC media coverage, it was hard to tell when a story was news or opinion.³ Journalists who have been victimized during conflict are more prone to play an activist role in promoting particular views on TJ measures or to lobby for certain victim groups. To that end, bringing knowledge into the open about the way in which media was victimized and threatened during the conflict is a crucial step towards enabling media to reflexively acknowledge the need to contextualize and evaluate journalistic reports, despite the trauma experienced.

B. *The media as perpetrator*

The next question concerns whether new media, such as social media, is more conducive to hate speech and conflict instigation than traditional media due to its speed, its reach, and the sense of anonymity prevalent among its users. For example, Iginio Gagliardone and his team have tracked online debates in Kenya and Ethiopia, analysing to what extent social media users could become 'potential perpetrators' by stirring violence through 'hate speech'. Of course, media was a tool or even a party to conflict long before the advent of social media. The radio, for example, played an important role in inciting violence in the lead-up to the Rwandan genocide in 1994 and the Kenyan election violence in 2007–8. In addition, in her presentation on the conflict in Somalia, Nicole Stremlau explained

1 <http://www.journalismisnotacrime.com/en/>; see also Al Jazeera Stream, 'Journalism is not a crime'; Al Jazeera, 'On the record: Journalism is not a crime', 6 April 2014.

2 See further Laplante & Phericie 2012, 280.

3 Lawrence Randall & Cosmer Pulano Jr (2008), 'Transitional justice reporting audit: a review of media coverage of the truth and reconciliation process in Liberia', Liberia: Liberia Media Centre.

how traditional media such as radio stations, newspapers, and satellite television networks were central to the waging of war and used by warlords to cement control over territory. When it emerges that media has acted as direct or indirect perpetrator of crimes, it should be held accountable for its actions. The ICTR, in its 'media case' charged Rwandan Radio Mille Collines and the newspaper *Kangura* with incitement to genocide.¹ Too often, however, media is not held to account for its role in conflict: for instance the ICTY missed the chance to try national media that was instrumental to spreading and legitimizing violence in FY. Generally, media in TJ does not exist in a vacuum, but inherits the role it played during the conflict. It is not uncommon in transition contexts for media outlets to be associated with partisan political parties and local powers. This clearly undermines their post-conflict independence and may potentially affect their ability to analyse objectively the facts of the past and thus to contribute neutrally to the building of the future.² It is therefore crucial to comprehensively reform the post-conflict media sector by enacting new media laws and guidelines, so that the role played by the media during conflict may be identified and reframed or adapted (at times even erased) to the needs of a post-conflict context.

C. *The media as witness*

When thinking about the role of the media in transitional justice, the first image that typically comes to mind is not that of media as victim or perpetrator but rather that of media as witness. Traditionally, a journalist's role in conflict is to witness and report on unfolding events such as mass crimes. This also means that sometimes the journalist may become a witness in the legal sense. In FY, journalistic reports and photos of unfolding crimes caused international outrage and thereby paved the path for the

1 On the role of media in the Rwandan genocide see further Allan Thompson (ed.) (2007), *The Media and the Rwanda Genocide*, London: Pluto Press.

2 Monroe E. Price (2000), 'Restructuring the media in post-conflict societies: four perspectives: the experience of intergovernmental and non-governmental organizations', 2 *Cardozo Online Journal of Conflict Resolution*, (1)31, 3.

establishment of the ICTY.¹ Yet, once trials began, journalists were also called to testify as witnesses before the ICTY. This raised certain questions.² Should war correspondents be compelled to testify before courts or does that undermine the perception of their impartiality and put them under risk? Should they collect evidence in a way that ensures its admissibility in court or does that interfere with their journalistic responsibility of informing the public of unfolding events? These questions become even more complex when taking into account the development of new apps such as [eyeWitness](#) that enable citizen journalists or accidental witnesses to transform what they witness into evidence that is admissible in court. Yet Leon Willems and Christopher Billen cautioned that this new technology is no silver bullet: it is difficult to fully eliminate the security risks involved in the recording of evidence of war crimes. In fact, there is an inherent danger that people will take risks which they do not fully understand in order to collect evidence with apps that may actually have little value for future court proceedings, if there are any proceedings at all. And, while courts recognize ‘journalistic privilege’ – whereby professional journalists generally (though not absolutely) cannot be compelled to testify in court – it is not clear whether the same privileges will be extended to citizen journalists. As becomes clear, the role of media as witness is fraught with tensions and uncertainty concerning the verification of data collected and the risks associated with being citizen journalists, who lack protection

1 Ed Vullyami of *The Guardian* and others reportedly were the first Western journalists who discovered the existence of concentration camps in FY. One of the videos they provided (ITN Channel and *The Guardian*) which was also used by ICTY as evidence was <https://www.youtube.com/watch?v=w6-ZDvwPvk8>. See also <http://www.theguardian.com/world/1992/aug/07/warcrimes.edvullyami>, which Vullyami wrote in 1997 and ‘provides the first eyewitness account in a British newspaper of the starvation and human rights abuses being inflicted on the captives’; <http://www.independent.co.uk/news/world/the-bosnia-crisis-sight-that-shook-the-world-it-was-these-emaciated-ribs-filmed-in-a-serb-camp-that-1539303.html>; and <http://www.theguardian.com/media/2000/mar/15/pressandpublishing.tvnews> (in this article Vullyami refers to the claim that he and his colleagues had ‘fabricated’ their footage); http://shorensteincenter.org/wp-content/uploads/2012/03/1994_01_gowing.pdf (this other article claims, however, that TJ reporting in conflict does not trigger ‘action’). For an assessment of the impact of the ICTY see Janine Natalya Clark (2014), *International Trials and Reconciliation: Assessing the Impact of the International Criminal Tribunal for the former Yugoslavia*, Oxon: Routledge.

2 See further <http://nimanreports.org/articles/consequences-occur-when-reporters-testify/>

and knowledge of the risks undertaken. This, in turn, can lead to victimization of those journalists.

D. *The media as truth-teller*

Many journalists and media NGOs such as Fondation Hirondelle and FPU promote the idea of ‘impartial journalism’: they only report ‘the facts’ and are committed to ‘uncovering the truth’. Yet a unitary and untested ‘truth’ is a notable absentee of complex post-conflict settings, as, for instance, in Colombia, the site of a fifty-year long multi-party conflict. How can the media then do justice to conflicting versions of ‘the truth’ and to the diversity of voices and opinions emanating from conflict and post-conflict scenarios? What role can professional versus citizen journalists play in truth-finding? To that end, journalistic standards and guidelines on TJ reporting may help to mitigate the pitfalls of ‘truth-telling’. The International Journalist Network (IJNet) states on its website ‘We have an obligation to report on the conflict fairly and in a balanced way. We must make every effort to report the complexities and opinions of all factions and sub-factions in a conflict. We should always make our own allegiances clear. As journalists, we must let the reader know where we stand if we are on any one side.’ This ‘duty to report fairly’¹ is a fruitful starting point for media in transition contexts to reach a balanced view on accounts of the conflict and ongoing TJ measures. Even if the search for a single ‘truth’ and one overarching narrative of the conflict is almost impossible, the media can mediate diverse accounts of the past by reporting fairly and transparently. The workshop considered that the traditional journalist may find a new role in the ‘duty to report fairly’: he or she can help to analyse, contextualize, and deconstruct the different and sometimes divisive narratives promoted by both conflict parties and social media channels. A balance between new and old media where citizen journalists democratize access to information and professional journalists add analysis and context may help people to navigate an uncontrollable flow of information and help to apply ethical standards of truth-reporting.

1 Institute of War and Peace Reporting, *Guidelines for Peace Reporting*, published on IJNet website, 2008: <http://ijnet.org/en/blog/guidelines-peace-reporting>.

E. *The media as activist*

Innovative Media for Change discussions revealed that the media often fails to produce a nuanced account of TJ processes, thereby exacerbating existing political and social tensions instead of critically examining them. For example, powerful actors in divided societies often invoke the ‘terrorism discourse’, which media picks up on. For instance, during the human rights trial of Peru’s former president Alberto Fujimori the national media in Peru was sympathetic to its former president, distorted information about the trial, and framed the legal process in sensational terms.¹ In addition, in post-conflict situations media often represents communities using generalizing and divisive categories, such as ethnicity or religion, instead of drawing on their common experiences of suffering and war. *Innovative Media for Change* discussions made the case for a more balanced relationship between media and advocacy on the basis of the professional journalistic mandate. It was argued, for example, that when reporting about militant organizations or governmental military forces it remains important for journalists to report objectively and not become a voice for their agendas. By the same token, journalists should not be linked to advocacy groups, including TJ advocacy groups, to preserve their ‘neutral reporter’ role. In a more positive way, however, the media can contribute to ‘victim-centred approaches’ by recording grassroots testimonies, by covering needs expressed, and by putting these on the public agenda. This form of ‘media activism’ can facilitate voices that cannot speak for themselves and at the same time translate information and ‘bring it in’ so that this may be used and acted upon by grassroots and victims’ organizations. However, regardless of the nature of the link between journalists and TJ actors, biased reporting damages the potential for collaboration on the ground since people will not provide information if media is perceived to advocate a certain point of view.

1 See further Lisa Laplante ‘Media and transitional justice: a complex, understudied relationship’ in ICTJ online debate, 14 May 2014: <https://www.ictj.org/debate/article/media-and-transitional-justice-complex-understudied-relationship>.

Recommendations

Innovative Media for Change is a starting point for further reflection and thorough academic research into the various roles the media can play in transition contexts. As the workshop revealed, it is paramount to share experiences and exchange knowledge gained in different transition contexts in order to bring this issue forward. New and traditional media are both susceptible to manipulation and bias in different ways, but a better cooperation between media, practice, and academia can be a fruitful way to maximize their informational and analytical roles while reducing their divisive potential. The following recommendations have been developed:

- A redefined and expanded typology of media's roles in transition contexts is crucial to design better media interventions and to foster partnerships between TJ institutions and media.
- The media should rely on journalistic principles and report about TJ as objectively as possible in order to gain trust not only from the public but also from TJ institutions. To that end, the development of international guidelines and best practices is recommended.
- TJ institutions, academics, and the public at large should hold to account media actors who incite violence: 'media vetting' and media reforms in these contexts would be a first important step in that direction.
- TJ scholarship needs to do a greater amount of rigorous research on the role of media in transitional justice. To that end, continued knowledge exchange through a three-way dialogue between TJ practice, media, and academia would be fruitful.
- Any best practice guidelines developed to guide the relationship between the media and TJ mechanisms should be based on an understanding of the role, capabilities, and limits of traditional as well as new media and citizen journalism in these processes.

Knowledge Exchange in Difficult Settings

Reflections on a Partnership between Media,
Academia, and Transitional Justice

Introduction

Knowledge exchange (KE) has become a key prerequisite in academia, mirrored in the attempt to accelerate impact through dialogue and partnership outside the academy. An essential idea of KE is for academics to exchange knowledge generated by their research with civil society, government, business, and other non-academic sectors. Emphasis is on a ‘two-way-dialogue’ in order to enhance the impact of research on policy-making and practice.¹ However, little effort has been made to understand the challenges or the benefits of KE in the specific context of transitional justice, a field that remains highly contested and undefined both in research and in practice.² In contexts of transition the exchange of knowledge between different professions, actors, and institutions seems a priori a complex task to fulfil: such collaborations challenge professional boundaries and identities. To that end, *Innovative Media for Change* is a first attempt to discuss the complex relationship between media, academics, and TJ practitioners and their institutions, to draw out challenges, and to create spaces for further collaboration in the burgeoning field of transitional justice. This section will discuss possible functions of KE in transitional justice, assess the context of KE, suggest key challenges, and finally draw out some recommendations for media, transitional justice, and academia in order to enhance collaboration between those professions in the difficult context of transitions.

Possible functions of knowledge exchange in transitional justice

As the discussions of the workshop demonstrated, a more efficient partnership and dialogue is needed in order to create better communication channels for the people directly affected by human rights violations and mass violence. In addition, KE may facilitate well-informed decision making for people on the ground and build the basis for the implementation

1 ESRC KE, <http://www.esrc.ac.uk/collaboration/knowledge-exchange/>.

2 See, for example, Laurel Fletcher & Hugo van der Merwe (2013), ‘Editorial Note’, *International Journal for Transitional Justice* 7(1):1–7, 4.

and application of local policies and even international legal standards that address TJ issues. KE can also help people to gain access to information by providing thorough analysis of ongoing TJ measures that is produced, collected, and interpreted by the three professions acting collaboratively. Producing and using information through KE would thus contribute to the empowerment of the people on the ground.

Assessing the context of knowledge exchange

Post-conflict settings

When discussing KE it is important to assess its practicalities against the background in which it is operating. In other words, transition contexts, as discussed by *Innovative Media for Change*, are too often characterized by polarization, ethnic or religious divisions, various and often competing political and/or military actors, and a population that is in need of unbiased information. Moreover, transition contexts are often quickly changing environments. This complex post-conflict setting is highly demanding for media as well as for TJ practitioners to navigate, as we have highlighted in previous sections.

*New roles of media*¹

Whereas the relationship between TJ and academia has a longer tradition in the field,² little attention has been paid to the former's relationship with media even though media is certainly a relevant actor that has the potential to (re)shape the aftermath of human rights violations. Indeed, in disaster management, media and citizen journalists have been acknowledged as important mediators of communication from the ground to international humanitarian relief organizations.³ This helps to tailor humanitarian

1 For a detailed discussion on the role of media in transitional justice see, in this report, 'The Role of Media in Transitional Justice', p. 37.

2 On the intersection of human rights activism, academia, and the historical development of transitional justice, see further Paige Arthur (2001), 'How transitions reshaped human rights: a conceptual framework of transitional justice', *Human Rights Quarterly* 31(2):321–67.

3 See further 'Modern humanitarian response: how communication can help', *The Himalayan*, 16 February 2016: <http://thehimalayantimes.com/opinion/modern-humanitarian-response-communication-can-help/>.

interventions to the needs of the affected populations and to assess the impact that such interventions have. In peacebuilding more attention has been drawn to the possibilities that new technologies offer, such as easier data collection, crowdsourcing, and better access to information.¹ In transitional justice, new apps such as [eyeWitness](#) or the [PI](#) project, alongside initiatives such as FPU, offer new ways to enhance reporting on human rights violations and early warning mechanisms that protect the people on the ground and enable verification of data collected.

Key challenges

Alongside the changing role of media from a traditional watchdog and neutral third party to an involved actor, several new challenges arise. The workshop discussions identified the a number of pitfalls to a partnership between the professions that are centered on (a) mandates and professional identities, (b) professional ethics (c) working environments, and (d) language used.

A. Mandates and professional identities

The mandates of TJ institutions such as courts or TRCs are usually clearly defined in terms of temporal and jurisdictional limits. As workshop participants discussed, this contrasts with the rather open, undefined, and even contested roles² that the media and academia may play in transition contexts. The media and academia have much more leverage in their roles than TJ institutions. This, while being in many ways an asset, can also lead to communication problems and tension in everyday collaboration. For instance, should the media's priority be to collect evidence that can be used in courts or should they rather focus on giving a voice to the people on the ground and report on topics relevant to them? This question is intimately connected to the professional identity of each professional group and their

1 See further Helena Puig Larrauri (2013), 'The Use of New Technologies: Expanding Opportunities for Peacebuilding?' Critical Reflections KOFF Roundtable Discussion: http://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Critical_Reflection_ab_2013/Critical_Reflection_New_Technologies_2013.pdf.

2 Indeed, there was considerable discussion around the question of whether media should be a neutral party or advocate for one side or the other.

delineation of the boundaries of their own roles. In academia, for example, researchers often develop their research while holding normative positions and playing an activist role in advocating for certain TJ measures or the needs of victims. Therefore, it seems paramount for these different practitioners to clarify – to themselves as well as to each other – their mandates and professional identity when engaging in KE in TJ contexts.

B. Professional ethics: the media and transitional justice

Principles of journalistic ethics play a key role in media practice, but often run contrary to TJ practice that has no clearly defined guidelines or principles. In legal practice, such as at the ICC or at the ad hoc tribunals, legal professionalism can contradict journalistic principles and lead in turn to tensions in the relationship and to misunderstandings between the professions.¹ In addition, certain journalistic ethics such as ‘truth and accuracy’, ‘independence’, and ‘accountability’² are particularly relevant but are often only half-heartedly applied by journalists operating in TJ contexts. For instance, in Colombia and Bosnia, as was discussed in two of the panels, media coverage of the ongoing TJ processes lacked objectivity and independence, and this may have negatively affected how civil society and political elites perceived these processes.³ In the case of Bosnia, the work of the ICTY was either portrayed as ‘not enough justice’ or as ‘being unfair and biased’ depending on which side media outlets positioned themselves. Generally, it was agreed that this problem holds true for most of the countries in which workshop participants had experience. Therefore, it seems to be crucial to aim for more balanced and objective media coverage that relies on truth and accuracy rather than advocacy for one side or the other. In terms of the relationship to TJ institutions, it seems particularly relevant that the media maintain journalistic principles in order to foster reliable collaboration and understanding based on ethical best practice.

1 See further ‘Media and the search for criminal evidence: learning from the (non-) cooperation between journalists and International Criminal Tribunals’, p. 12.

2 Ethical Journalism Network, ‘5 Principles of Journalism’: <http://ethicaljournalismnetwork.org/en/contents/5-principles-of-journalism>.

3 See further ‘The role of media in the Colombian peace negotiations’, p. 8, and ‘Media in divided societies: facilitators or spoilers of justice and accountability?’, p. 18.

C. *Working environments: the media, transitional justice, and academia*

A crucial issue in KE between the professions seems to be the divergent demands that are placed on media, TJ institutions, and academics in their professional environments. For instance, the media (particularly traditional media) is bound to market logics and financial business plans. In addition, more pressure is put on the media since technologies have created an extraordinarily competitive market that answers to a different logic than a decade ago, when social media and new technologies were not yet on the rise. Thus, stories have to attract a broad readership. While the media is bound to market demands, the TJ sector is bound to its own regularities, such as the particular working structures of a court or TRC. Furthermore, human rights NGOs, development organizations, and civil society actors in TJ are restricted by the requirement to attract external funding bodies and by temporal limitation to their projects. Time seems to be an important aspect in defining challenges in this multi-professional relationship. For instance, trials can last over many years, in tension with the fast-moving and developing media landscape (and audience fatigue) focused on selling quick, interesting, and catchy stories that too often are at odds with the pace of rather slow-moving, procedure-bound TJ measures. Time constraints are also part of academic research, which relies upon external funding bodies, impact assessments, and publication pressures that contrast with long-term transition processes and often limit academic research to catchy, publishable topics. In turn, collaboration with non-academic partners is often only a short-term side project. Against this backdrop, it appears difficult to establish long-term partnerships between the professions and to find common ground that is built upon the recognition and understanding of all these divergent working environments.

D. *Language and communication: the media and transitional justice*

One crucial issue that came up during the workshop discussions was the importance of language. Challenges in communication were identified that are partly due to different professional languages, but are also due to different understandings of TJ processes and measures. The language issue arises with the question of what is meant by 'media', 'victims', or 'truth'.

During the workshop it appeared that each profession had different ideas concerning these key terms, so it is paramount first to discuss and clarify divergent understandings of key TJ terms before any fruitful KE can take place. This will prevent misunderstandings and miscommunications, and also help to establish common terms for engagement. Furthermore, communication between the media and TJ institutions is often difficult because, on the one hand, the media may misrepresent the work of TJ institutions and, on the other, TJ institutions rarely share their technical and procedural insights. Often TJ institutions condense their communication efforts into media packages and other monitored outputs such as the ICC does through its own YouTube channel. Media practitioners, in fact, raised concerns that communication with TJ institutions is too often limited to official press releases which fail to do justice to the breadth and depth of processes happening inside the institutions. At the same time, TJ practitioners expressed concerns about journalistic reporting styles that were oftentimes felt to be biased, inaccurate, or filled with politicized terminology. Therefore, more transparency and openness on both sides is necessary to build better communication channels. Indeed, the outreach work of courts, TRCs, and other TJ institutions could be a starting point for improving communication and for clarifying key terms of reference, since they target the people that are most affected by transitional justice. They also play an important informative function for communities of interests such as academia and the media.

In sum, the media, TJ institutions, and academia should work towards establishing a common language so that communication and translation for different audiences can occur more smoothly and without the risk of excluding anyone from engagement with them: in particular, when actors such as victims are directly encouraged to participate in proceedings. To this end, academia could play the role of mediator in the relationship between the media and TJ by sharing technical expertise and in-depth knowledge with both. In addition, academia could also contribute by translating the technical language of TJ institutions into the more accessible language of the media. Since more and more emphasis in academia is put on communicating to non-academic audiences, such a three-way-dialogue could

lead to a sustainable partnership between the professions, and also to well-informed decision making in the countries concerned.

Knowledge exchange: new horizons?

Innovative Media for Change developed some initial recommendations on how to improve and encourage KE between the media, transitional justice, and academia. It is crucial to this end that KE benefits the people most affected by violence and TJ processes.

General recommendations

- KE through the integration of local scholars into outreach programs of TJ institutions which would enable a better integration of local needs and perspectives. This would also allow for the translation of technical language and due processes within TJ institution into local concepts.
- KE development through the training of journalists in TJ-specific terminology and procedures. This training can be undertaken in collaboration with TJ institutions and academia.
- Improving KE through common understanding and clarification of key terms and professional boundaries, for instance through a common glossary for transitional justice.
- Improving KE through the inclusion of the public in dialogue in order to better understand the ways in which KE should be built to address the needs of populations.
- KE through international media platforms such as JusticeInfo.net which bring together media, transitional justice, and academia, and which provide the wider (global) public with analysis, information, and a forum for debate.
- KE improvement through a thorough reflection on all sides (media, transitional justice, and academia) upon ways to engage with each other and upon the limits and risks that come with KE in transition contexts.

Recommendations for the media

- KE development through partnership between local and international media outlets.
- KE development through rigorously applying principles of journalistic ethics, including accuracy and objectivity.
- KE development through defining the diverse roles which the media may play in transition contexts and observing its remit.

Recommendations for transitional justice

- KE development through more transparency and openness towards the media in transition contexts.
- KE development by including the media and academics in outreach programmes.
- KE development through mapping of media landscape and actors.
- KE development through inclusion of relevant academic analysis in internal, institutional knowledge-building processes.

Recommendations for academia

- KE development through training in communication skills given to non-academic audiences.
- KE development through a better understanding of divergent working environments and professional boundaries of the media and transitional justice.
- KE development through defining the academic role in a three-way-dialogue.
- KE development through a better understanding of the challenges that arise in KE in transition contexts, and awareness-raising of the challenges to academic funding bodies such as, in the UK, the ESRC or AHRC.

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About the Authors

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About OTJR

[Oxford Transitional Justice Research](#) is an interdisciplinary network of academics and students working on issues of transition in societies recovering from conflict and/or repressive rule. Founded in 2007, it is now a large and diverse academic community conducting research in this field. OTJR is dedicated to producing high quality scholarship that connects intimately to practical and policy questions in transitional justice, including research with the following themes: domestic and international prosecutions, institutional reform and the rule of law, truth commissions, reparations, amnesty processes, memorialisation, and other emerging topics.

About Fondation Hironnelle

[Fondation Hironnelle](#) is a Swiss non-governmental organization of journalists and humanitarian aid professionals. Since 1995, it has been creating or supporting independent, civic-minded news media in conflict, post-conflict and crisis zones. FH works to create or support sustainable media that can run themselves without further help from FH or international aid donors. To this end it also develops media management, advertising, and revenue-generating structures which can help ensure the financial and institutional independence of its media in the longer term.

This report is the result of the two day Innovative Media for Change interactive workshop held in June 2015 at the University of Oxford and is intended for transitional justice practitioners, journalists, non-governmental organisations, and researchers. Summarizing the workshop sessions and drawing recommendations from them, it aims to further discussion between and within these professions concerning the role of media in transition contexts. It raises questions that need to be addressed when designing media interventions in transition contexts and when collaborating with local, national, and international transitional justice and media actors.

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