

Episode 7, season 2 (May 2021) Spotlight on DRC

Welcome to Justice Visions, the podcast about everything that is new in the domain of Transitional Justice (TJ). Justice Visions is hosted at the Human Rights Centre of Ghent University. For more information visit Justicevisions.org.

Marit: Welcome to this episode of Justice Visions. My name is Marit de Haan, PhD researcher at the Human Rights Center of Ghent university and part of the Justice Visions research team. I will be hosting today's episode, which might come as a surprise to some of our listeners who might've been expecting to hear the voice of our regular host Tine Destrooper, but I will be taking over this role just for today. In our last episode, we talked about accountability and human rights in Sri Lanka, following a resolution that was recently adopted by the UN. In today's episode, we will focus on a different context, namely the Democratic Republic of Congo or the DRC, because some promising efforts have been taking place there on developing a national transitional justice strategy. Last January, civil society organizations held a series of high level consultations with relevant State Actors in Kinshasa to design such a national strategy for TJ.

This is a particularly significant development as it has shed light on the need for the decentralization of transitional justice, stressing the importance of a balance between bottom up justice processes in provinces and state led TJ mechanisms. It is also an unprecedented development in the history of TJ in the DRC, a case where conflict is still ongoing. So these new developments, formally position TJ discourse at the center of policy debates in dealing with past and also present human rights violations. So in this episode we hope to reflect on why these developments are taking place today and what their relevance is to victims.

Our co-host and interviewer for today is Christian Cirhigiri, one of the PhD research fellows with the Justice Visions research team who works on the topic of victim participation in the DRC. Welcome Christian, to this episode of Justice Visions!

Christian: Thank you very much, Marit. Indeed, it is wonderful to focus today on recent TJ developments in the DRC more broadly and more specifically on the perspectives for victim participation (VP) in TJ, a research focus that we hold very dear within Justice Visions.

Marit: Thank you, Christian. And can I maybe ask you to introduce us briefly to these recent developments in the DRC?

Christian: Since 1996, the DRC has struggled with cycles of violent conflicts with high levels of human rights violations against civilian populations, who by the way, continue to experience individual and collective victimization as a result of conflicts. Now, through the comprehensive peace agreement, which was signed in December 2002 between the then Congolese government, key warring parties and civil society leaders in 2003, the DRC government established a truth and reconciliation commission as one of the key institutions for bringing an end to hostilities and to paving the way to the democratization of institutions. However, this first truth and

reconciliation commission was short-lived due to several political and operational challenges. Now that you know a little bit more about the context, I'm very much excited to continue the discussion with our guest today who will shed more light on these ongoing efforts and recent developments.

Marit: Indeed, we have the privilege to have with us a special guest, Gentil Kasongo, a TJ and Peacebuilding researcher at the regional office of [Impunity Watch](#) in the Great Lakes Region of Africa. With seven years of experience researching human rights in the region, Gentil has worked with civil society actors and victim groups in the North Kivu and South Kivu provinces, providing training of trainers on transitional justice and victim participation; and has been involved in the recent national consultations for the development of a TJ strategy in the DRC. So, Welcome Gentil!

Gentil : Thank you very much, Marit and Christian for having me. It's really a great pleasure to participate in this podcast. As you've just mentioned, I work as a research consultant for Impunity Watch at the Regional Office here in Bujumbura. And I've been involved in transitional justice work with civil society actors and victim groups over the past few years in the DRC. We work mainly in the Eastern provinces of North Kivu and South Kivu, but also we have worked with some local partners in Ituri province who have participated in our activities related to transitional justice and victim participation.

Christian: Now like other contexts of ongoing violence, such as Syria, Afghanistan, Colombia, the DRC is an atypical case in that it is a case of ongoing conflict and does not fit within the traditional post authoritarianism and post-conflict contexts in which TJ mechanisms are usually implemented. So, I was wondering, Gentil, if you could share a little bit of your own opinion, why do you think the DRC is a relevant case for transitional justice?

Gentil: Yes, you are right. The DRC is an atypical case for TJ. At the end of what has been called the second Congo war with the signing of the 2002 Congolese peace agreement under the auspices of South Africa, the country was officially considered as a post-conflict context. The peace agreement ushered in an official transition period from 2003 to 2006. However, the sad reality is that during that transition period and subsequently up to this day, violent conflicts have never really stopped. So in spite of this particular context, the DRC is a relevant case for TJ because there is a legacy of grave human rights violations that needs to be addressed [in that country]. There is a violent past that needs to be dealt with in order to effectively fight against impunity and shape a peaceful future for the country.

Christian: As I briefly explained in the introduction, there was a previous truth and reconciliation commission that was implemented in 2003, but which was unfortunately short-lived. So I'd like to ask you, Gentil if you could share a little bit more about some of the challenges and achievements of this earlier national truth seeking initiative.

Gentil: The [2003-2006 TRC](#) functioned under particular difficult and complicated political and security contexts. The political context was characterized by the logic of power sharing in all the institutions of the transition, which did not allow for an objective and efficient selection of commissioners for the TRC. Even rebel groups, the then government, and then unarmed opposition civil society, all the parties had to participate in the institutions. And then it was not really

easy to select objectively commissioners for the TRC. And the law establishing the TRC was also enacted with a significant delay, almost a year later. So these facts hampered its proper functioning. The political context was also characterized by the preparation of the presidential and the legislative elections, which were set to end the period of transition. Hence the priority of the political decision makers who were supposed to empower the TRC was on the preparation of the elections, relegating the TRC to some sort of secondary priority matters without sufficient resources.

On the other hand, the security context was characterized by persistent localized insecurity and community tensions which did not allow the TRC to work specifically on its main objective, which was to establish the truth about the past atrocities, which started many years ago up until that transition period. But they were more focused on resolving conflicts between communities, especially in the eastern provinces, rather than focusing on establishing the truth, which was its main objective. So those were the challenges, but in terms of achievements, I would say it didn't achieve much apart from some pacification endeavors in the East, which was not actually its main objective. So in the very words of the commissioners, even the Bishop Kuye NDondo who presided the commission, he said the commission failed totally and recommended for a new TRC to be created.

Christian: Would you maybe share some reflections on how victims have participated in this formal truth-seeking initiative and what have been some of the lessons learned regarding victim participation?

Gentil: Since the 2003-2006 TRC failed to hold even a single hearing with respect to its truth-seeking mandate, here was no victim participation in the implementation phase of the TRC as a consequence because they didn't hold any hearing. Nothing was done. Given the complicated political and security context at the time, victims did not participate in the design phase of the TRC either. So there was no victim participation at all in that official mechanism. It has been argued that this TRC failed partly because there were no consultations held involving victims and other stakeholders in the design phase. If victims are given the opportunity to participate through the consultations in the design phase of a TJ mechanism, it can set a good tone for their participation in later stages. At Impunity Watch, there was a comparative research that was conducted on victim participation in formal or official TJ mechanisms a few years ago, with case studies from Burundi, Kenya, Tunisia, Guatemala, and Honduras. That research indicated that for victim participation to be meaningful, victims have to participate in different phases of the TJ processes which was not the case during the first experience with the TRC. So, victims should not act only as witnesses and providers of information, but they should act and be considered as agents of change.

Marit: Thank you Gentil. That's actually very interesting what you mentioned, because this is something we see more often in other cases of transitional justice as well. That there is a bigger focus on victim participation now, but they're often, still not really involved in these different phases you mentioned. So, both the implementation and the design of the actual mechanisms. And maybe it's interesting to turn to you now, Christian, because you focus a lot on this topic of victim participation, specifically in the DRC in your research. And if I'm correct, you just arrived yesterday evening to Kinshasa and you will be conducting fieldwork the coming weeks. So, I would like to ask you what will be the focus of your research stay?

Christian: I will be here for at least six weeks in the first phase of data collection. My research focus is looking at how victims, particularly communities that have been victimized as a result of ongoing conflicts, which Gentil has referred to in both North Kivu and mostly in Eastern DRC have been able to foreground their justice needs and the justice demands through participation mechanism from the bottom up. I'm also interested in examining some of the recent developments that are happening, the ongoing developments of the national strategy for transitional justice. I will be in Kinshasa interviewing some state actors who are behind this initiative to try to see to what extent victim participation is indeed part and parcel of this design phase. And if not, why it has not been the case.

Marit: And maybe as a follow up question to you Gentil, what is quite interesting in the case of the DRC, what Christian mentioned as well, is these bottom-up initiatives of transitional justice and how victims have been participating in them. Would you be able to share some reflections on this more bottom-up mechanisms in the DRC?

Gentil: Yes, there have been some initiatives, especially in the form of traditional justice mechanisms, but not so much so far. Cause the only experience that we have in the DRC where we can consider that victims participated is through what we call by the Barza Intercommunautaire, which is mostly conflict resolution mechanism, but which can have some transitional justice dimensions. Currently Impunity Watch is also conducting another comparative research, focusing on victim participation in informal TJ processes and mechanisms. So, we are trying to look at how, and to what extent victims have been participating in this traditional mechanism and other similar informal mechanisms and processes. So, also there was another experience in the Kasai province after the violence that took place there. It was with the accompaniment of the UN Human Rights Office in the country and the UNDP. They worked with civil societies in Kasai province to think about ways of dealing with the violence that took place there in 2016 and 2017. So that process had the victims participate in the consultations that took place. The idea is that something can be done at the provincial level, even if at the national level, nothing is decided yet.

Christian: Now, I would like us to look a little bit more at these actually present TJ efforts in the DRC. So, as we have already mentioned, there is currently a growing momentum for developing a national strategy on TJ, including the installation of a new truth and reconciliation commission. I was wondering, Gentil, if you could share what is the current status of this TJ development and the perspectives for victim participation that you foresee probably in the future? Cause I hear that you have been at least involved in supporting or accompanying some civil society organizations that took place in the consultations, right?

Gentil: Yes. Following president Tshisekedi's expressed political will to establish a TJ process in the DRC, the former government before the current political shift, drafted two decrees aimed at establishing TJ mechanisms under the leadership of the ministry of human rights. The newly appointed government, as you may be aware, has also indicated that TJ will be one of its priority actions for the remainder of president Tshisekedi's mandate with notably the establishment of a new TRC. There is hope that this time the process will go relatively well, despite enormous foreseeable challenges. And that hope is nourished by the fact that the current political shift in the country seems to be favorable to new TJ processes. I'm not sure whether the drafted

governmental decrees will be used or pushed further for adoption because the main criticism was that they had less power than a law.

There is hope, as I said that this time the process will go relatively well. Contrary to what happened in 2003, up to 2006, because the context has really changed in the political realm in the country because the president is voicing, is expressing the will that TJ processes take place. And apart from that, there is a growing advocacy from personalities like Dr. Denis Mukwege who are advocating strongly for the establishment of TJ processes. And apart from internal advocacy, other external partners are also pushing for TJ processes to take place in the country.

Marit: And what do you think the possibilities are for victim participation in this new process?

Gentil: At Impunity Watch with our local partners in the DRC, we have been preparing victim groups in the two key provinces to play a significant role in the upcoming TJ processes. Since 2019 we have been working with several victim groups in North Kivu and South Kivu. They've been trained on the four pillars of transitional justice, but also on victim participation, how, when, and to what extent they can participate in the processes. So, we have been trying to prepare them to participate when these mechanisms are finally established in the country. And our local partners are still working with them, trying to accompany them in their efforts because we asked them when we were training the victims, we told them that they are the ones to lead the process. They have to take the leading role as agents of change. So hopefully this time they are going to participate because there is a strong advocacy for that, but also many of the victims are now aware of their rights and they are ready to claim their rights to participate fully in the processes.

My only worry is that probably the upcoming presidential and the legislative elections in 2023 might also have a negative impact on the TJ processes as they did during the 2003-2006 transition period. My fear is that probably they are not going to talk more again about transitional justice with so many other challenges going on. The current budget of the country is not enough for other priority issues like education, paying the salaries of civil servants, the army, the security needs are very high. So probably it's going to be difficult, but since there is a political will and a strong advocacy going on for the TJ process to take place, hopefully we're going to see the beginning of the process over the coming months.

Marit: That actually sounds like very promising developments. And it's interesting to see how TJ seems to become a priority on the agenda. And really interesting to hear as well about your work with Impunity Watch to prepare victims as well to potentially participate in these mechanisms and how they can take up a leading role in such processes, but at the same time, also some uncertainties and challenges, as you mentioned for the coming time. And maybe that links well to our last question that we usually ask to or interviewees that is basically where are you looking for inspiration in your work?

Gentil: Ah, that's a, that's a quite interesting question. In my work I look for inspiration in the wellbeing of victims. Because at Impunity Watch, we put, we try our best to put the victims at the center of our work trying to train them, to also work with civil society to accompany, to help the victim groups, to organize themselves. But also in

addition to the wellbeing of the victims, I'm also interested in the process in the country because it's my home country and this region [eastern Congo] is my region where I live, and I would love to see peace, be really solidified in this place, in this region and in my country. And I would like to contribute to ending, to some extent to ending the violence that is taking place through the work we are doing. So that's where I draw my inspiration from the ideals that we pursue and the wellbeing of the victims and in the various civil society organizations that we work with, but also the wellbeing of the country for a peaceful future.

Christian: Thank you very much, Gentil, indeed, for sharing your source of inspiration for the work you do both on transitional justice, but also accompanying civil society organizations, for working very closely with victims, and I can relate with that as well. I feel very much connected to the suffering of victims in the DRC, and I hope that this new national strategy on TJ is going to open a way for justice to be given, to be served to victims. Now, I would like maybe to say also that I enjoyed this conversation and it has been quite insightful to hear your own experience and your own analysis on different issues that transitional justice has been facing in the DRC. And I really look forward to talking to you again. And in the near future hopefully we can have you again, to share a little bit more about the ongoing development, if there is any new updates to share. Thank you very much for taking your time to share with us at Justice Visions today.

Gentil: Thank you so much.

Marit: Thank you so much to both of you, Christian and Gentil, for joining us today and for sharing your insights on this context where as you stress, it's so important to address these human rights violations also today in a complex context of ongoing violence. And in our next episode, we will focus on a very different topic that is still closely related to the context we discussed today, because we will talk about a new parliamentary commission that has been set up in Belgium to deal with the colonial past. So this will be another atypical context of transitional justice that we have been observing from close by. We look forward to connecting with you again. So thank you very much for listening.

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