

Season 6, episode 6 (May 2025)

Innovation and Documentation in Transitional Justice

Tine: Welcome to this new episode of the Justice Visions podcast. My name is Tine Destrooper, and with me today are Brigitte Herremans and Elke Evrard, both of the Justice Visions team. Welcome Brigitte and Elke. And today you're not joining me as co-hosts with another interviewee, but for a three-way conversation among ourselves, because what we wanted to do today is to zoom in on a topic that the Justice Visions team is going to be working on for the next few years, which is the role of documentation in transitional justice processes. And we'll be doing that work on documentation as part of a new ERC-funded research project, which the three of us are going to be coordinating. So before we dive into the substance of that specific project, I think it makes sense to say a bit more about how we understand documentation, why we think it's important in transitional justice. Because often I find that when I talk about this project with colleagues, there's this idea that documentation is just referring to boxes of written documents that are sitting in some archive, maybe collected as forensic evidence. And that, I don't know, it's not the most exciting definition or interpretation of documentation probably. But in our work, what we've really been trying to do over the past few years is to adopt a much a richer notion to also look at the practice of documenting. And so Brigitte, maybe a first question to you is to talk a bit more about how you understand the documentation in the context that you work on, which is primarily Syria and Palestine, and how that documentation, that documentary practice, shapes up in response to or as part of that justice activism that you've been studying.

Brigitte: Sure. Both in the Palestinian and the Syrian context where I've been working over the last years, it's clear that documentation became a practice that a lot of justice actors, but also artists, civil society organizations, let's say more informal actors, really share, because they believe it's important in different ways. They believe it's important because it's a counter-hegemonic practice. They feel that they need to resist both the violations but also the denial of violations that are taking place both by state actors but also non-state actors. And so documentation, let's focus maybe on the Syrian context, was first understood in a quite classical way. There are human rights violations and therefore we need to document the crimes and we need contribute to the documentation of crimes in order to have evidence and that evidence will be used mostly in 'classical' ways. But then gradually there was a very rich understanding of documentation, not only as evidence in a classical way, but also as a contribution for example to truth-seeking mostly for the cases of enforced disappearance and then also for memorialization. So documentation became a very multifaceted way of recording violations and also resisting them. And I think that's really

interesting: both in Palestine and in Syria that it's a practice that is shared by a large variety of actors, both in the formal and the informal realm.

Tine: It reminds me an interview you actually did with a practitioner who was saying documentation is not this 'cold archiving', but it's deeply rooted in the revolutionary experience. It's very forward looking, future oriented. It's creating ways to think about the future and the kind of justice that is possible in the future. And she said something like: "it's not just justice understood as a court case, but justice as a value in and of itself", that documentation is contributing to. So that, I think, is also really beautiful.

Brigitte: Here you see the fact that so many people are involved in documentation who are not professionals necessarily, but who come to understand, to learn, to share. That means that it's not only 'cold', that it is lived, that it has been embodied, but that it also is somehow shared by a variety of actors. It's not just cold archiving, but the cold archiving is also part of it. And I think that's so interesting, the kind of interaction between a variety of actors who understand that what they're doing together serves a higher purpose, if you want, because they need to resist that erasure of these violations.

Tine: Elke, I'm curious to also hear you speak a bit about how that thick idea of documentation, how that manifests in your work, because I think it's also there, but in a very different way, no?

Elke: I think that in my work we also see the importance and the role of new media and new technologies as well as new methods for analyzing all this footage, all this information. So today we see social media is often the first place where human rights abuses are documented with messages, with videos, with photos posted in real time and groups like Bellingcat using open source intelligence tools to research that material. To verify what actually happened, where and when. And then there are platforms that archive all of this content so that it doesn't disappear so that isn't lost. And initiatives like HURIDOCS or Mnemonic that strive to make this information publicly accessible for research, for advocacy, for accountability. And we see with this sheer amount of footage of facts of information out there that machine learning and all of these advances in AI are becoming very useful and have a great potential to help sift through huge volumes of data. This of course also opens new opportunities for survivor-led and citizen-led justice efforts, though at the same time, the expertise and the technical knowledge that these tools require, they can also reinforce certain existing power imbalances between who is creating knowledge, whose knowledge is validated, and so on.

Brigitte: And it's also very important when we look at the issue of epistemic injustice in a lot of contexts that we see, a lot of the knowledge that victims-survivors also carry forward is constantly being denied, erased, pushed back. And, to make this concrete in one of the contexts that I'm working a

lot in, Palestine, we see that so much of the information is not only being denied, but information is also being falsified and is being twisted. We see it for example with recent events such as the killing of health workers which were also correctly documented because you have groups such as Forensic Architecture, Bellingcat, other groups who push back against the denial of the crimes. And not only does it serve the purpose of epistemic resistance, but of course it also serves the purpose of human rights accountability, because without the intervention and the cooperation of international groups, local groups, trying to overcome this epistemic violence, there wouldn't be an international mobilization for justice. And of course this is not perfect but there we see again the purpose of documentation to push for resistance and also to push for ways to overcome that accountability gap.

Tine: I think what you just said, Brigitte, is actually really interesting because you mentioned epistemic justice and injustice, and in a way I think that's also important to highlight is that the reason why we're pushing this idea of documentation as a much more multifaceted practice is not just because we want to empirically better understand all of that documentation work that's happening on the ground, but there's also a very strong normative objective there, no, that the pursuit of epistemic justice through a revision of the concept and the processes that typically underpin transitional justice, that is also part of the work that we do, or that we want to do.

Brigitte: There's a normative objective indeed of saying: well informal documentation and informal actors also need to be acknowledged in the way that they overcome certain gaps and they overcome so much of that defeatism, so much of what we call also the closed 'justice imagination': there are things which are conceived as being possible and within the realm of what is seen as feasible and practical and achievable and so much of what victim/survivors are dealing with on a daily basis, their justice needs fall beyond what is possible. And I think that is so interesting because they push for innovation in documentation and *they* invite more formal actors or more acknowledged organizations, to be part of that realm, but the initiators are often victim/survivors themselves. And I think that is a very interesting evolution that is also acknowledged by these bigger actors in the transnational scene of documentation.

Elke: I think it's also really getting at the politics of documentation and, as Tine mentioned, if we start to think of documentation much more broadly, not only the creation of official archives or using verified footage as forensic evidence, but also all of these everyday community-based acts of documentation or artistic and performative interventions like the creation of memory boxes or body mappings. Then this question of whose voices are included, who is pushing documentation, who is pushing justice efforts, that really shifts. And it brings us to the issue of narrative ownership. Who gets to narrate what happened and in what ways, and it ties, as Brigitte mentioned, to these bigger questions about who controls the justice process itself and which versions of justice are being pursued.

Tine: I think what jointly these things point to is that you're capturing like mostly all of the reasons why we felt documentation needs to be foregrounded more, especially in these transitional justice contexts where we see that there hasn't been all that much attention that has been paid to documentation by scholars of transitional justice, which is quite striking if you think of how central it really is. I mean, at the start of any kind of justice struggle, but also really throughout justice practice, transitional justice practice, from these artists that you just mentioned, Brigitte, to community-curated archives, to forensic evidence. One thing is that documentation is so super central throughout all of these different kinds of justice processes. But then I think what you're also pointing to, both of you, is how much innovation is happening in that realm. And that really also transpires from the examples that you just gave. And I think, we've not talked much about this, but people often have these very ambitious objectives when they start to document. I heard both of you mentioning resistance or disruption of violence, epistemic justice, and then there's of course also the more standard teaching objectives like accountability, recognition, non-recurrence, truth, memorization, etc. So there's all these sometimes explicit, but often implicit, change theories feeding into this. We have all these often very context-based practice-based ideas about how documentation may contribute to these very ambitious outcomes, and really because of how little attention we've been paying to this function of documentation, we really don't know so much about these practice-based theories at all, which is another reason, I think, why we will be focusing more on this work. In addition to Brigitte, as you just mentioned, the very important driving role of grassroots justice actors, whether it's NGOs or diaspora, victim collectives, families, whatever, they are typically the ones driving documentation efforts. And that prominence of grassroots actors, I would say on the one hand, that's an effect of these technologies that you were just referring to, which lower the threshold for documentation, but also has to do with our thicker understanding of what documentation is. And those, I think, are a couple of good reasons to be paying more attention to documentation in TJ. But then there's also just the fact that even if you come from a more, standard TJ approach or formal TJ approach, you know, looking at the toolkit, at the pillars, documentation cuts across all these pillars. But it's mostly just treated as the 'helpmeet', as a condition to make other justice processes possible. So it's really not been the object of analysis all that often, even if it's really the spider in the web of both informal and formal TJ initiatives, it's really been undertheorized.

Brigitte: Yes, true, that's the case, but I would also say that the Syrian context has changed it somehow. There's a lot of research now happening about the functions of documentation and how disruptive documentation is really when it comes to ongoing conflict. So the understanding of documentation also changes. And what I would like to add here, of course, is that documentation also expands the temporal framework within which we can use or conceive of the transitional justice toolkit because there's an

understanding of documentation and its functions at the start of a conflict. In the Syrian context, where the idea was that documentation would help to bring about a transition, over time it really changed to “presencing” the absences, “presencing” the people who have been forcibly disappeared, mostly by the regime, but also by other actors. And so documentation became also a form of, again, resistance. But now, on the ground, we see that it's much more about truth-seeking and memorialisation, because this is of course so important for these families who are waiting for their missed ones to return.

Elke: I think we can see similar shifts in objectives and in underlying theories of change when it comes to addressing historical injustices in Europe, for example, in the context of legacies of colonialism and slavery. And in many of these contexts, we often hear: ‘well, everything is already known. The facts are in the archives, the history is documented, there is this vast amount of research.’ But even so, documentation remains central. Not only for uncovering new facts or validating unheard narratives, but also about reclaiming and reinterpreting what's already there. And then archives, museums as well, they become the sites of struggle over recognition, over whose version of history is endorsed, is sanctioned, is disseminated, and over what forms of redress are then made possible or impossible by that.

Tine: What we're also getting at is these changes in how the language and the practice of transitional justice are used today in contexts that are really defying the moorings of the early paradigm, and that I think speaks to a second ambition of the work we want to be doing in the coming years, which is to really take serious that on the one hand, well actually on the one hand we see these critiques of transitional justice scholarship that have become really dominant, that challenge the foundations of transitional justice, and then on the other hand, in spite of all these critiques, we see actually that the language, the practice of transitional justice is expanding, is circulating, but again to contexts that also challenge the foundations of transitional justice. So we're really at a point in time here, I think, where we see this paradigm shift that is happening. TJ is expanding, it's being used in other contexts where there has been no peace agreement, no recent political transition at least. And so, we're at a point where I think we need to make sense of that paradigm shift, because of course things like the notion of repair are going to mean something entirely different in a struggle over colonial redress than they do in the context of land restitution after conflict. The notion of accountability is going to mean something entirely different, in a context where the regime is still in place, than in a kind of ‘textbook’ post-conflict context. So in a way, both very fundamental critiques that we've been seeing, and this expansion of transitional justice, which we keep referring to here in this conversation, they don't exist in isolation, or an opposition to one another, but they're really pointing to the fact that we should be rethinking, maybe not so much the paradigm of TJ, but especially the change theories underlying TJ. And so for me, that raises the very important question, how do we turn to what these actors that we've been

talking about are doing in practice, into a starting point for rethinking those change theories.

Elke: I think there often we also see that grassroots practices are used as a starting point for formulating that critique of transitional justice, of mainstream approaches to transitional justice. And that's usually a critique of formal institutions and their limitations. But then these alternative practices, they tend to be framed as responses to those institutional failures. And in that framing that we see that there tends to be this positioning of grassroots efforts as being somehow outside of the transitional justice architecture, as something separate or something reactive. And of course, in this project also, we're looking at what happens if we move beyond that kind of oppositional thinking, if we moved beyond that binary between official and unofficial, between formal and informal. And also, as we've argued before, from a historical and empirical point of view, that makes a lot of sense because in many cases, it's been victims, it's being the grassroots actors who've been driving transitional justice forward in terms of documentation and in terms of the other pillars as well. And we always go back to that very evocative example of the grandmothers of the *Plaza de Mayo*, for example, and how their activism was so central to making truth-telling a core part of what we today understand as transitional justice. And so the project is also really about re-centering the role of grassroots actors, not as participants, not as beneficiaries, but as the agenda setters, as the norm creators of TJ. And to do that, to an extent, we also need to move beyond that traditional pillar-based model with those five recognized pillars and think more in terms of ecosystems. And in one of our previous podcast episodes, we talked more about that ecosystemic thinking on transitional justice, where we propose this more inclusive way of understanding the interactions, sometimes positive, sometimes negative between these different spaces and practices and actors in transitional justice, and how it works on the ground.

Brigitte: Yes, and I think it's very interesting when we look at this ecosystemic approach and how ideas travel in Syria. It's telling how this ecosystemic approach takes place in a context where transitional justice wasn't even a concept that was very strongly known. Still even today when you say the concept of transitional justice, عدالة الانتقالية, sometimes people would kind of giggle, because they say: well, we appropriated it somehow. But it still feels uncomfortable because we resist it to a certain extent as well, certainly before the fall of the Assad regime when there was no transition. So there was a lot of resistance to using it, but then it was also the kind of last resort. People started appropriating it, owning it, experimenting it, in a way that made mobilization and resistance possible. And of course there, again, the expertise of international organizations, also helped to shape up that ecosystem. And here I think about example of the Caesar files, of the forensic photographer who is called Caesar who revealed his true identity after the fall of the regime. When he left Syria, he smuggled his archive of over 11.000 pictures of tortured people and their bodies abroad.

Human Rights Watch and other organizations also helped to establish this archive. And out of this more classical idea of documenting torture and documenting the prison system in Syria, grew a concrete victim organization, the Caesar Families Association. And that organization together with other victim organizations very strongly appropriated that idea of working with classical documentation because they had to, they were of course in search of missing loved ones and recognized through this archive pictures of family members. And then they also started to use it, today also in the context of the post-Assad situation. We can think in these binaries of formal and informal, what we often do of course as academics and also practitioners, but these binaries don't always make sense, because on the ground the formal and the informal constantly influence each other. Here we see that the shift really started with the grassroots organizations in relation to formal organizations and institutions and how they woke them actually up from their passivity. So there I think it's interesting to give more attention and again to theorize better what grassroots organizations, informal actors, have done in order to disrupt and shape up the formal realm.

Tine: Actually not just that binary formal-informal I think in a context like Syria pre-December 2024 the language of TJ was used but it wasn't the only language that was used in justice struggles. It co-existed with other languages, with other frames or mobilizing frameworks if you want to. And that I think is also something which we've really not been paying enough attention to, these very porous borders of the TJ paradigm, of the field, or the discourse, however you want to call it, of transitional justice. Because of course, both ideas and practices travel between these different mobilizing frameworks. And I think that is also something that we should be paying more attention to if we want to take serious this notion of ecosystems.

Elke: I think it's also part of what this ecosystemic approach is about, not just about mapping different actors, different practices, but understanding how they're diverging interests, their approaches, their languages, their action repertoires, how they interact, how to affect one another for better or for worse. And of course it also means paying close attention to when things don't work. For instance, when the documentation fails to lead to justice outcomes that feel meaningful to the people who experienced harm. And tracing those gaps is just as important, of course, as highlighting success stories because it helps us understand the limits of current approaches and where we need change, change in the paradigm, change in how we understand, approach and practice transitional justice.

Tine: I think you're getting also to the point of documentation, often we're thinking about it in terms of outcome related objectives, but there's also just the *process* of documenting which can be in itself very meaningful. It imbues agency, etc. so that is also something that I think we often overlook.

Brigitte: Often we overlook it because, we researchers, but also policy makers have a very instrumental idea sometimes of change, resistance,

justice. It has to lead to something tangible. But I always have to think of justice actors but also artists who say: 'well what we're doing is also we're fighting for our existence', we're fighting for the acknowledgement and again we come the basic idea of what is transitional justice doing, it's calling for recognition. And I always have to think of Primo Levi who said that the Nazis said 'when you survive this, no one will ever believe you'. I think that's a very important drive for a lot of people who document, and we see it also today in Palestine, a lot the writers and people who engage in documentation or the recording of their experiences, and also the representation of different forms of violence is about countering that disbelief, countering that very cynical idea of 'nobody will ever believe you'. So in that sense, documentation is not only something tangible that leads to meaningful change, it is also life-saving in and of itself, because documenting means leaving a trace. It might seem a bit abstract, but it is something that a lot of the informal actors that we're engaging with in our research are saying: 'we know that the documentation might not lead to reparations, for example'. But in the end, it's also about fighting back against these instances of erasure and invisibilization. And I think that's something that is not sufficiently taken into account, because it's also difficult to measure that kind of impact. How do you measure documentation as a buoy for life? So these are acts and sites of resistance, these informal archives. They need to be better understood and studied and therefore the kind of interdisciplinary research we're doing is also very important because it's also involving artistic practices that are not studied in that sense of how do they contribute to justice.

Tine: That's going to be the work that we will be doing over the next couple of years is examining that question of how documentation is in practice driving transitional justice efforts. But also really trying to better understand how that can help us as scholars rethink transitional justice and really transitional justice change theories from the ground up, not just to respond to two decades of increasingly critical TJ scholarship, but also to really better capture the reality of those contemporary TJ struggles. So that is our mid- or long-term agenda. Do also feel free to reach out to us if this is a topic that you are working on as you're listening to this episode. But for now, approaching the end of the episode, we always ask this question of the people that we talk to, so I'm also going to ask you, what are some of the practices that are making you hopeful, maybe related to documentation, and that are inspiring to you, as we embark on this new research project.

Brigitte: No surprise, but it's the documentation of enforced disappearance. When we saw the fall of the regime in Syria, over 30,000 people were freed from mostly prison detention centres, but 100,000 people remain unaccounted for. And this is a very painful moment in Syrian history, where a lot of the people also hoped that their family members would be freed, and this didn't happen. But something else is happening now. For the first time we see in Syria that in places where atrocities took place, in Hama, that was in the 80s, in Tadamun, that was in 2013, people are commemorating, are

gathering, are setting up tents of justice. This is one example in Yarmouk camp where family members of the missing are just meeting every week and are inviting other affected family members to join them. So it's an act of solidarity. It's also an act of resistance against the passivity of current transitional government. And that hope and that ambiguous loss is something so important and it's driving all of these efforts today. Every day I hear of new initiatives that are set up. So it's a very hopeful moment because we can conceive of transitional justice in a more standardized setting, but it's also a very painful moment.

Elke: I think for me, maybe briefly returning to that topic of new technologies, something that is incredibly inspiring to me is seeing how it's precisely justice actors involved in documentation who are showing that new data technologies and all of these advances in AI, how they can be successfully leveraged as an innovative tool for advancing human rights practice and research. There has been a very heavy focus on critique and then, of course, on human rights risks and challenges, and rightly so. But I find it so interesting that it's precisely these civil society-driven, bottom-up collaborations between data scientists, between victims-activists, practitioners, and academics that are exploring and underscoring all of these opportunities for improving documentation, analysis, monitoring, reporting on the realization and violation of human rights and to generate these new insights and these new methodologies also for human rights scholarship. So here again we are learning from the way that the actors on the ground are doing this work. And Tine, I would actually be very interested to hear as well what you found inspiring, where you drew your inspiration as well for developing this new project?

Tine: Honestly, for me, it's just that internal drive of justice actors to not let perpetrators off the hook, the relentlessness of that, the dedication. Like with regards to the Caesar archive, for example, Brigitte, that you just mentioned, it's one example. But we see that so often, is that when people start to do this work, there is no clear idea about what the next step is going to be. There's no clear idea about how it's ever going to lead to a meaningful justice outcome, or *if* that is going to happen. But people do the work, they do the labour. I'm also thinking now of the episode we did with Leila Ullrich, like the hard work that goes into this kind of justice effort, justice work, this documentation, and then just a constant creativity and the being attuned to your context of whenever an opportunity comes up in a specific context to seize that opportunity or also sometimes to wait, you know, -to wait for years on end until an opportunity arises. And I'm thinking of a conversation with a colleague, with Marie Dembour, who told me: 'You know the importance of evidence is that 'it doesn't go away', it's always going to be there, it's always going to be threatening to someone at some level.' And victims have this intimate awareness of this. And then also to see that sometimes things do happen. I mean we talked about the fall of the Assad regime but also just last month former president Duterte of the Philippines was arrested by the ICC and I know there have been a lot of

sceptical reactions to that. But I think what we shouldn't forget is just the years and the amount of energy and documentation again and effort and activism and advocacy by a very wide range of, well, primarily domestic justice actors. And I think that has facilitated this thing to happen. And I think that should make us hopeful, maybe about international law at a time when that system is increasingly under pressure, but also and especially about the importance of the work that a wide range of justice actors are doing and the importance also of documentation and all of that.

Elke: It would be lovely to end today's episode on this hopeful note. And so if this topic is of interest to you, please make sure to go to justicevisions.org where you can read more about this project and other work we do. We will also officially kick off this project in fall with a small launch event. So please feel free to get in touch. We'd love to connect.

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