Communicating law, building peace: the pedagogy of public outreach from war crimes courts

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Abstract

There has been a growing interdisciplinary concern with the implications of public outreach processes from war crimes trials for new forms of citizenship in the wake of violent conflict. The enactment of such outreach, through seminars, civil society initiatives and workshops, provides a glimpse of the tensions between different conceptions of justice, belonging and rights in the post-conflict period. Specifically, such events constitute a rare public arena in the more fragmented and securitised domain of international legal practices. This paper focuses on a series of public workshops for survivors of wartime sexual violence carried out in Bosnia and Herzegovina (BiH) 2011-13. Drawing on participant observations and open-ended interviews, we argue that such public outreach programmes can be viewed as a form of pedagogy, where the materials, format and arrangement of the events structure the nature of participation and engagement. In doing so we are making two contributions. First, the discussion advances understandings of public outreach as a form of pedagogy, illustrating how practices of dissent, rejection and resistance animate processes of public outreach. Second, the paper illuminates the role of pedagogy as a governmental instrument, reflecting the micro-situations within which individuals are interpellated into the state.

Introduction

In recent years, and across a number of academic disciplines, scholars have begun to trace the extra-judicial functions of war crimes trials. This is partly a reflection of the growth of judicial responses to wartime violence, where legal instruments have become prominent mechanisms of international intervention both during and after periods of conflict (Kerr and Mobekk, 2007; Weizman, 2012). To use the words of the legal scholar Barbara Ooman (2005) we have seen in recent years a "judicialisation of international relations", where diplomacy and state consolidation have been structured through legal knowledge, institutions and actors. But this interest extends beyond simple prevalence, it also reflects a wider scholarly and practitioner recognition of the social implications of retributive justice beyond a narrow legalistic perspective (McEvoy, 2007; Jeffrey, 2011). In this optic, war crimes trials are seen as providing a set of hermeneutic resources that shape public understandings of both the illegitimacy of violence and the protection of certain rights within a new political system (Boyle and Kobayashi, 2015). Understood in this way, war crimes trials play a central function in shaping public understandings of justice, and in doing so can be "pedagogical tools that strengthen a moral consensus" (Elander, 2013: 100).

Building on this work, the question that remains is *how* war crimes trials can shape a moral consensus that is formed and contested beyond the walls of courtrooms. This orientates attention to the practices of communication, education and learning that are enacted by court officials, political elites and non-governmental organisations (NGOs) to widen the social impact of war crimes cases. Both scholars and practitioners often gather these varied practices under the banner of 'public outreach', a term that conveys a transactional sense of knowledge moving outwards from a legal institution towards the wider society it serves (Lambourne, 2009). But in practice public outreach is always a more dynamic and, crucially, more discursive. Recent explorations of public outreach have begun to trace the varied institutions (Jeffrey, 2011), settings (Lambourne, 2009) and legal implications (Vinck and Pham, 2010) of these processes. Such varied scholarship unsettles an image of outreach as a process of knowledge transmission from a

legal centre to an unenlightened public periphery, illustrating instead the styles of legal subjectivity, deliberation, and political agency that may be fostered through its enactment.

Extending these perspectives we want to consider how, and with what effects, public outreach can be understood as a form of pedagogy. In particular, we are keen to explore how scholarship examining the micro-politics of pedagogic encounters can help enrich understandings of the outcomes of public outreach (Jones, 2012; Staeheli and Hammett, 2010). Work examining pedagogic practice has, as papers across this special issue attest, moved beyond a straightforward understanding of pedagogy as learning and teaching, to think through the moments, sites and interactions through which subjects become empowered or form new capabilities (see Pykett, 2010). In doing so this work has orientated attention on 'pedagogic power', a term that shares with Foucualdian accounts of governmentality a concern with the means through which educational interventions convey social and political agendas while subsequently producing new subjectivities (see Popkewitz and Brennan, 1998). Within our work this approach to power has allowed a focus on the spaces, practices and interactions through which learning about law takes place, while also considering the differential responses of those involved. But crucially, such an account is not one of top-down communication extending outwards from the legal centre to the social periphery. Rather we are keen to retain a resolute focus on the co-production of new subject positions through pedagogic encounters (Richmond, 2012), arguing that public outreach constitutes a tangible pedagogy of power that cultivates a series of (often co-existing) social responses.

This argument is made through data gathered during a 24-month project which explored the establishment of the Court of Bosnia and Herzegovina (CBiH) and examined how the CBiH engaged with survivor communities most affected by war crimes and the judgements of the War Crimes Chamber (WCC). In order to explore the pedagogy of public outreach (which borrows from the International Court for the Former Yugoslavia (ICTY) outreach strategies) it was necessary to observe the geographies within which these processes unfolded, noting the arrangement of materials and the comportment of bodies. As illustrated

below, the responses of individuals to outreach processes often comprised as corporeal responses, actions lost in an audio or textual transcript. Consequently the qualitative research was based on 12-months of ethnographic fieldwork in BiH in an effort to build an understanding of court outreach amongst the various stakeholders of which the ICTY outreach strategies set a post-war precedence as well as explored the perceptions of outreach amongst survivor communities. This included tracking of war crimes trials over a period of 12 months to better appreciate not only the trial process but also to understand the connections/disconnects between outreach and survivor communities. In addition to trial tracking, a series of four public dialogues that focused on raising awareness of rights for survivors of wartime sexual violence held across BiH were observed.

The ethnographic data was complimented by a series of approximately 50 open ended interviews with a variety of participants ranging from international governments to civil society to members of local victims' associations.

We are keenly aware that what is presented here is only a 'snapshot' of the outreach process in transitional BiH and has been filtered, analysed and interpreted through both interpreters and the researchers (see Jenkins, 2015) understandings and experiences to form the basis of this argument. We are also mindful of the sensitive nature of the research and of the importance of being 'present' in the field. Ethnographic research has allowed us to, in some way, mitigate these issues and elements of 'researcher fatigue' (Muir, 2015), which many of the survivor communities have experienced. It also provided a space to explore and acknowledge the emotive nature (both for participants and researchers) of the research and the topic. It is important to mention these issues as the emotive and contested nature of these dialogues played out in the forms dissent, despair and resistance. But before exploring the forms of practice, we need to situate these practices within the broader frameworks of peacebuilding and transitional justice and within the contexts of BiH.

The article is divided into three sections. The first section contextualises the argument within recent work on peacebuilding and transitional justice, scholarship that highlights the growing significance of international humanitarian law (IHL) in debates

4

about the possibility of peace after violent conflict. This section then narrows to explore specifically the experience of transitional justice within BiH, drawing attention to the increasing practice of public outreach from the legal instruments of transitional justice. The third section focuses on the case study material: the enactment of a series of public dialogues on wartime sexual violence organised by the ICTY in partnership with the Swiss non-governmental organisation (NGO) TRIAL and the Bosnian NGO Medica Zenica with support from the UN Women Project office in BiH. These dialogues, whilst organised by the ICTY, drew upon all levels of the judiciary in BiH (international, state, entity, and cantonal). In line with the aims of the paper we explore how these events can be understood as a form of pedagogy and, in doing so, how this illuminates certain forms of human agency and social practice. Specifically, we identify three interlinked forms of practice that characterised public responses to the presentations and discussions that comprised the dialogues: dissent, despair and resistance. While illustrating the plural ways in which individual agency is enacted this perspective unsettles a purely virtuous image of pedagogies of outreach, to emphasise the ways in which it simultaneously provided the platform for the voicing of dissent while illustrating the unequal power dynamics of transitional justice programmes. In this sense, we feel that it is through studies of the pedagogies of public outreach that we can glimpse the social implications of transitional justice, at once drawing into view forms of redress and accountability while also encircling the impossibility of fulfilling demands for justice for the events of the past.

Peacebuilding and transitional justice

Peacebuilding is part of a series of measures (such as peacemaking and peacekeeping) developed to deal with the aftermath of conflict and war. It is also a fluid and highly debated concept within academic and international policy arenas (Manning, 2003; Lambourne, 2004; Ramsbotham, 2000; Richmond and Franks, 2007; Tschirgi, 2004). It stems from an identified goal to build peace beyond the immediate cessation of violence by developing and/or re-establishing the foundations, institutions, and infrastructure needed for a state to function. It is within these contexts that the international community invests both capacity and funding in the (re)development of post-conflict states. Theoretically, multiple conceptualisations of peacebuilding exist, each reflecting a different conceptualisation of the causes and implications of violence. For example, Galtung (1969) argues that peacebuilding requires the development and reconstruction of social and economic institutions and justice practices, reflecting his focus on the potential reproduction of violence through the structures of the social order. In tandem, Lederach (1995) suggests that peacebuilding should investigate the roots of a specific conflict through cultural, relational and structural factors which lead to war and conflict. These approaches are suggestive of a set of corrective measures which may be externally imposed that have the potential to address the defective elements of the social system and lead to more peaceful future coexistence.

In contrast, there is a large body of critical scholarship that inserts the theory and practice of peacebuilding into a wider canvas of postcolonial interventions. For example, Paris (1997: 56) argues,

> Peacebuilding is in effect and enormous experiment in social engineering—an experiment that involves transplanting Western models of social, political, and economic organization into war-shattered states in order to control civil conflict: in other words, pacification through political and economic liberalization.

While Galtung and Lederach point to the structural underpinnings of violence, Paris's critique highlights the ways in which peacebuilding has been wielded as a mechanism for imposing particular liberal social order within a neoliberal economic landscape. Supporting this position Richmond (2004: 131) argues that the dominant peacebuilding

frameworks only highlight the "limited and essentially western nature of the liberal practices deployed to deal with conflict" (Richmond, 2004: 131). This can be seen in the practical application of peacebuilding by international agencies which place both policy and funding emphasis on state building, legitimacy building, nation building, and post-conflict reconstruction efforts. Furthermore, many of these efforts focus on areas such as constitution building; electoral reform, police reform, reconstruction of the judicial system and transitional justice programming (Benomar, 2004; Samuels, 2006). In this sense, emphasis is placed on the rebuilding of political mechanisms required for a society to resume functioning in a post-conflict environment and a top-down or imposer-imposed process (Talentino, 2007) often lacking local ownership and legitimacy of the process (Richmond, 2004). Andrieu (2010: 541) argues that there are two core concerns of this top-down approach which are "the conception of truth as neat, exclusive form of narrative; and the conception of violence as being purely political, not economic or structural," meaning that the top-down approach is often formulaic and does not always encapsulate the complexities and messiness of a peacebuilding process. Yet, Pankhurst (1999) highlights that a top-down liberal peacebuilding programme can provide the needed institutional foundations and an open space for structured dialogue on justice and reconciliation. It is here at this juncture we find an intersection between peacebuilding and transitional justice.

The concept of transitional justice at a theoretical level can be seen as a complimentary mechanism to peacebuilding programming offering a way in which to move from state building and legitimacy building to providing redress for mass human rights violations and atrocities committed during times of conflict and war. Consequently, transitional justice can be seen as a way in which to provide judicial and non-judicial mechanisms to address the violations and atrocities committed and contribute to a transition to a more stable and peaceful (often more liberal democratic) state (McEvoy, 2007; Teitel, 2002). Mechanisms for fostering transitional justice are neither singular nor static, scholars have pointed to (at least) five 'pillars' around which

interventions have been organised:—prosecutions, truth commissions, reparations, institutional reform, and reconciliation initiatives (Nesiah, 2006). In doing so, transitional justice takes similar approaches to peacebuilding which is historically a top-down approach that often privilege the state who aim to comply with an externally imposed "post-conflict checklist" (Sharp, 2013) or a 'tool kit' which can be applied within any transitioning post-conflict context. Thus the trajectories of peacebuilding and transitional justice intersect in critical ways in that transitional justice like peacebuiding can be seen as a Western conceptualisation, commonly imposed process devoid of local ownership, and formulaic in nature as evidenced by the 'tool kit' approach.

In the past two decades, theoretical and practical emphasis has been placed on the idea of 'measurable' results, which are most commonly conceptualised through legal and judicial mechanisms such as justice and accountability (Jeffrey and Jakala, 2015; Subotić, 2015). Transitional justice has its foundation in legalism and places great emphasis on the idea of retributive justice, i.e. Western conceptualisations of justice administered through trials and prosecution. In this sense, justice and law have been regarded as a "magic wand" (Faundez, 2005) and have, as Elander (2013: 95) argues, "by trying those responsible for mass losses, criminal courts sent moral messages on the value of the rule of law that strengthen community attachments." This is seen in some transitional justice contexts such as Sierra Leone and Cambodia, which require a restructuring of judiciary structures and the rule of law. It is at this juncture that hybrid legal systems are developed to bring together international and domestic rule of law, which attempt to localise international law and prosecute war crimes within the communities in which the crimes took place (Jeffrey, 2013). In the majority of transitional justice and hybrid legal contexts communication, engagement and education of the community in regards to the aims and objectives of the rule of law have not been seen as a central component to the process (see Vinck and Pham, 2010). This is the case of Cambodia where civil society took over outreach related activities which were added at a later date to the mandate of the Extraordinary Chambers in the Courts of Cambodia (ECCC). This has had negative

implications to the public perception and support for the ECCC and associated judicial processes (Elander, 2015, 112-113). BiH faces similar issues as will be illuminated in the following sections.

Peacebuilding and transitional justice in BiH

It has been more than twenty years since the signing of the Dayton Peace Accords which brokered a ceasefire which ended the fighting and destruction in BiH between 1992-5. Estimates suggest that over 100,000 people were killed during the fighting and a further 31,500 whom are still considered missing (ICMP, 2016). Approximately 2.3 million Bosnians were forcibly displaced by war (OSCE, 2016) and a further 84,500 are still internally displaced (International Crisis Group, 2014). Furthermore, the war in BiH has become synonymous with wartime sexual violence and rape committed against the civilian population and it has been estimated that between 20,000-50,000 people were subjected to various forms of sexual violence or rape during the war (Olujić 1998).

While the Dayton Peace Accords brought an end to the fighting it also created the foundations for a peacebuilding process. This process supported the evolution of a political system based on the concept of consociationalism or a powersharing between former warring parties in the form of a rotating presidency (Stroschein, 2014). The rotating presidency is a culmination of previously failed peace agreements which relied heavily on ethnic representation at a State level and central power concentrated in the entities. Consociationalism is based on the concept of 'volunteerism' which "requires conscious decisions to cooperate" (Kauffman, 1996: 156) which has proven an obstacle in the past twenty years. Consequently Husanović (2011) describes BiH as a political system of "empty politics" and ethno-religious division in which war criminals remain in positions of power, delegitiming other peacebuilding efforts (see also Toal and Dahlman, 2011; Jeffrey, 2013). One of the outcomes of this constitutional arrangement has been the empowerment of former

war leaders, as they have been recreated as legitimate political actors in the post-conflict period. Subotić (2009: 158) speaks of a "normalization of war criminals into postwar Bosnian political and administrative structures" a process which has "further fuelled interethnic distrust, making attempts at reconciliation seem much more difficult to attain". This, accompanied with limited inclusion of gender and other vulnerable and marginalised groups, has created diverse political implications for the peacebuilding and transitional justice processes in the country.

The Dayton model of power-sharing as a proxy for peaceful coexistence has been reflected in wider discourses of justice circulating in the post-conflict period. The transitional justice effort has been structured from the outset around a retributive model, where key perpetrators are punished for their individual actions. This approach is evident in the establishment of the ICTY in 1993 (while the violence was still taking place) and the later formation of the CBiH and its WCC, the latter two institutions receiving 62 million Euros in investment from donor countries from the period of 2003-2012 (Jeffrey, 2011). The investment in the judicial structure was done not only to strengthen the sector but also acted as a marker for communities to *see* justice being served and perpetrators being held accountable for their actions and as a response to the negative perceptions of the ICTY's justice at a distance approach (Subotić, 2011; Clarke, 2014). Yet, even though war crimes trials have become more localised through the CBiH WCC, experiences of the survivor communities either directly participating in the process or those affected in other ways do not accord with survivors desires. This can be seen through survivors experiences, for example, a witnesses who testified against their perpetrator and made to feel they are a means to an end (Jeffrey, 2011), the witness who feels she must perform while giving testimony of her rape in order to legitimise her experience (Jeffrey and Jakala, 2014), or the survivors who want to create a memorial but are continuously blocked by local government. This highlights the gap between transitional justice mechanisms such as justice and accountability with survivors desires.

Officially, a transitional justice strategy for BiH was developed to complement the judiciary process through for example, truth-telling initiatives, memorials, and reparations while expert working groups were convened to develop the non-judicial strategy (Transitional Justice Strategy for Bosnia and Herzegovina 2012-2016). Unfortunately, the Strategy was never presented to Parliament (TRIAL 2015) and lays dormant. Instead BiH has experienced 'moments' of transitional justice and related programming driven by donor agendas. These 'moments' of transitional justice combined with the current political situation has led to a stalemate in the pathway to a 'stable peace' illuminating the important of the role of outreach as a government instrument to communicate and act as a pedagogy of peacebuilding in a transformative sense. We will unpack this through the mapping of the prominent forms of practice from the four public dialogues.

Public Dialogues on Wartime Sexual Violence

Throughout the spring and summer of 2012, a series of four public dialogues took place in major cities across BiH (Sarajevo, Mostar, Tuzla and Prijedor) aimed at communicating the available legal and social support for wartime sexual violence to any interested members of the public. Each location was significant in the fact they were spaces in which crimes of sexual violence (amongst other crimes) took place. These dialogues were organised by the Swiss Association Against Impunity (TRIAL BiH), the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Medica Zenica with support from the UN Women Project office in BiH and framed as either communicating institutional success or raising awareness of rights and the available international and domestic judicial mechanisms.

Wartime sexual violence in BiH is a contested and often highly politicised issue. It is estimated that between 20,000 and 50,000 women experienced wartime rape between 1992-1995 (Simić, 2016). The number of male survivors of wartime sexual violence and abuse remain unknown even though there have been documented cases, and concrete data

does not exist due to the sensitive and stigmatised nature of such experiences. Social and political acknowledgement or engagement with this group has been limited to accessing justice through war crimes courts and through other available forms of assistance from the government, entities, and municipalities (both monetary and non-monetary) which are often severely limited to those who have the ability to access the relevant laws and benefits (see Jones, Jeffrey and Jakala, 2013). Thus, twenty years after the conflict, need still existed to raise awareness of rights and the judicial mechanism available to this group.

The institutions involved in the sessions achieved these dual objectives by illuminating the major challenges and gaps to accessing justice and redress faced by survivors of wartime sexual violence and focused on the rights and responsibilities of the state through raising awareness of available mechanisms for survivors. Each event began with a local premiere of the ICTY's first major documentary film entitled *Sexual Violence and the Triumph of Justice* which highlighted the ICTY's 'successes' and served as a form of publicity for the institution. The film was preceded by panels of experts organised around the issues of war crimes and accountability, international legal frameworks, state obligations, judicial mechanisms, and survivor rights. The audiences consisted of invited representatives of victim associations and other interested members of the public, following the presentation of the video they were given the opportunity to pose questions to the panels.

The dialogues themselves and their micro-geographies need to be understood as contested spaces, where questions of architecture and spatial configuration were no less significant to the understanding of deliberation and positionality than that of court spaces themselves (see Mulcahy, 2010). The venues consisted of spaces capable of screening a film and consequently the audience were sat in opposition to the panel of experts on the stage and often in tiered seating. Considering this scale, all vocal participation needed to be facilitated through a microphone. The formality of the venues and the oppositional seating patterns often created initial unease amongst the participants. For example, in

Tuzla, "there was complete silence so after a few awkward seconds she asked a question…her willingness seemed to create a kind of ease in the audience who now felt it was okay to ask questions or to pose comments" (field notes, April 19, 2012). Or in Prijedor where a survivor finally gained the courage to stand up, "there was a bit of hesitancy from the crowd to ask questions or make comments…a survivor of wartime sexual violence stood up and stated that she was from Kozorac and that as a survivor…she has a difficult life, she has no one to talk to, to listen to her problems and she wants help" (field notes, May 31, 2012).

The events also illuminated a tension between the role of public outreach and how it is communicated to participants *versus* the participants' needs and expectations of public outreach. This has been illustrated, for example, in the ICTY's attempts to 'educate' participants on the successes of the institution through the premier of their documentary film. The film achieved two things—firstly; it was emotive and nurtured an atmosphere of reflection (and possible trigger for some) amongst the participants and secondly, it set out to connect and localise outreach within the communities where (some of) the crimes took place in an overall effort to counter a legacy of negative local perceptions towards the institution (Selimović, 2010). Many of these attempts to communicate and inform participants of various different laws, programming, and mechanisms were communicated in legal language which excluded many of the participants (field notes, April 4, 2012). While each of these events attempted to localise the outreach process at the ICTY and CBiH WCC level, it became evident through these events that there was a lack of local ownership within these processes which fed into this tension.

The public dialogues, while a snapshot in the wider processional timeframe of transitional justice and outreach, became a place in which to enact despair, dissent, and resistance in accord with survivors' perceptions. Yet it is through the enactment or rather engagement with these processes that apathy and silence become predictable and visible. Throughout the public dialogue process and outreach process, a silent and apathetic withdrawal from these processes, especially in the form of engagement with the justice

process (Jeffrey and Jakala, 2015) or other governmental mechanisms of assistance, for example with survivors of wartime sexual violence, becomes evident (see Jones, Jeffery and Jakala, 2013). We see this in the lack of engagement and almost concern with, for example, the momentary participation in a war crimes verdict which was commonly a passing moment of deep frustration and anger with the proceedings and linked to the misunderstandings and miscommunication of the process of outreach and education between the CBiH and the various affected communities in BiH. Or the invisibility or silencing of a wartime sexual violence survivor from the justice process or in the seeking of assistance from the state due to lack of education and a socio-political environment which did not always encourage engagement. In this sense, we attempt to move beyond these practices of silence and apathetic withdrawal and instead focus on the ways in which pedagogy has been practiced. This in turn urges us to think relationally about outreach as a form of pedagogy and practice between imparting and receiving of knowledge and information—this is where the forms of practices emerge.

Practice of dissent

I went into the cinema, which was filled with TV cameras, journalists and representatives of NGOs and victims associations. I took a seat in one of the red velvet cinema chairs which made me remember the last time I had been in this cinema to watch Mama Mia a few years back. The session began and was opened by someone from the ICTY outreach programme. The lights dimmed and the film started. Every now and then murmurs could be heard of people in the audience who were triggered by something they saw. The lights went back on and the panel presentations began of which there were multiple and of course, all running over their allotted time, which meant those at the end had little time to speak. The last presenter who had some very important issues to discuss barely had 5 minutes. By this point we had been sitting for almost 2 hours and someone asked for a break but the moderator said "Oh no we can't do that!". You could see the fatigue in peoples face; it was just getting to be too much, too heavy, too draining. At this point we still the question and answer session to go. By the time we parted it had been a 4 hour ordeal (field notes at public dialogue 4 April 2012).

The first practice identified is dissent which can, in this context, be seen to deviate from the traditional norms of peacebuilding and transitional justice. This form of dissent challenges the top-down, imposed-imposer processes of public outreach. Dissent in these public dialogues can be viewed for the purpose of this research as a manifestation of people's rejection of the outreach process and the pedagogy behind it, where participants often viewed outreach as a governmental instrument or simply a bureaucratic exercise with little practical utility. Practices of dissent within the space of the public dialogues seemed to take two specific forms: 1) to challenge the ability of judicial and international agencies to pursue the judicial process they promised, and, 2) to question the image of 'the public' that circulated within policies of public outreach.

Expanding on this first position, it was a common refrain for participants to lament the wide gap between the promised exercise of transitional justice programming and the slow and crisis-ridden nature of their actual implementation. As one representative from an association of camp detainees remarked at the Prijedor dialogue:

> I would like to thank the organizer for this invitation and it is my honour and pleasure to be present at this event. I have heard so much theory and I am impressed with all this theory but I am disappointed at the same time that not even 1% of this theory is being implemented. What I would like, want and love is to find a way to translate this theory into practice because there is an enormous gap between theory and practice (public dialogue, June 13, 2012).

More broadly, this challenge to the slow implementation of transitional justice was echoed by others. Indeed it seemed to reflect a growing, though embittered, solidarity of participants at the stagnation of trials and judicial processes as the CBiH struggled under the sheer volume of cases on its books (Jeffrey and Jakala, 2015);

> I feel sorry to say that victims are fed up with all sorts of projects, all kinds of conclusions and reports and nothing has been completed by now. I am afraid that we will say that through these projects it is never late, even though it is. Twenty

one years have passed since the war started. Victims are dying every day and they

will not live long enough to see justice (public dialogue, September 20, 2012).

By demanding the application of theory into practice, further space is created to question

and critique domestic and wider international justice mechanisms, programming, and

institutions. This is seen in the questioning of local governmental denial of events which

took place in Prijedor, for example the NGO Stop Genocide Denial has called publicly on

Prijedor's Mayor, Marko Pavlić, to cease denying the crimes that took place in his city for

example, the arrest, detention and in some cases death of non-Serbs by the local police in

Prijedor and the surrounding areas (Stop Genocide Denial, 2012). Furthermore, during

the field research a number of Prijedor-based respondents lamented the lack of access for

survivors to the Omarska camp site (field notes, May 23, 2012). The question of whether

or not genocide was committed in Prijedor was a live area of debate during the outreach

events. For example, one well-known survivor of Omarska challenged panellist on the

idea of genocide in Prijedor:

> He asked whether or not genocide was committed in Prijedor and asked for an
>
> elaboration on the status of Bosnian Muslims in Republika Srpska. This of course
>
> was a very loaded and political question. A question which the prosecutor on the
>
> panel felt visibly uncomfortable discussing. He skirted around the question and did
>
> not admit genocide was committed. The participant, unhappy with the answer,
>
> challenged the panel and exclaimed how he feels that Bosnian Muslims are without
>
> equal citizenship in Republika Srpska. Many on the panel found the issue emotive
>
> and the moderator made her closing remarks with a trembling voice, holding back
>
> tears saying that everyone had the right to remember and mourn their victims (field
>
> notes, May 23, 2012).

At the same time, participants challenged the exclusionary language of the institutional

frameworks and how information was communicated to survivors and the wider

communities in BiH. This can be seen, for example, when one participant stated,

I would like to touch upon the second topic which is in general a problem

in our country, not only of the Court but it is a great problem of our

educational system and that is we, the workers in public sector and public

spheres try to communicate in a way that the least possible number of

people understand us (public dialogue, September 20, 2012).

The use of technical and legal language in institutional communication with survivors'

communities' emphasied the communication and education gap between institutions and

communities they served. But this perceived gap between law and the wider public was

not restricted to the use of technical language, it also included the medium through which

information was communicated. For example one participant illustrated this and stated,

"You cannot say to victims and I am talking about my mom and my grandmother who are

not using the Internet. I cannot tell to my grandmother to go on Internet and download

the adjudication if she is interested in it" (public dialogue, September 20, 2012).

These examples demonstrate how dissent was structured around the imagined gap

between the perception of public outreach and its implementation: both in terms of the

institutional capacity of legal instruments and the expertise and comprehension of a

technologically-savvy public. Of course, the public dialogues provided relatively

unmediated sites through which individuals could give voice to their dissent, but this was

not the sole extent to individual criticisms of public outreach. In the following section we

trace how the events also gave space for individuals to voice their despair at the

achievements of transitional justice processes in BiH.

Practices of Despair

I arrived at a very modern looking theatre sporting red and black stain glass
decorations. There was a man sitting in the lobby smoking a cigarette and I asked him where
the event was taking place and he led me down the hall to the cinema. I entered and it was
pitch black with about 15 minutes remaining of the film. I attempted to sit in the very last row
of seats which were the only thing I could see/feel and ended up smacking my leg and ripping
some tape that had been put up to prevent anyone from sitting in that row. Finally, the lights

came on and as soon as I sat down, the moderator stood up and suggested a five-minute
break. The majority of the people piled out of the cinema and stood in the lobby
smoking. After five minutes, people gradually started coming into the theatre. Many were
dressed nicely in suits and looked like they were representatives of civil society.
As the panelists returned, they took to the stage, which had been set up for them. It was
arranged with four small round tables and eight red leather barrel-like chairs. The
lighting was provided by stage lighting, which turned out to be problematic as it quickly
heated the already hot theatre. This meant the panelists were constantly drinking water
and wiping sweat from their faces (field notes at public dialogue 19 April 2012).

Out of dissent comes despair—a practice commonly encapsulating concepts of
hopelessness, desperation, or confusion. This was illustrated for example in Mostar
where one participant described their desperation to a local prosecutor for accountability
and exclaimed, "What is left to do is that I shall take a gun and shoot him or I shall with
others pay somebody to shoot him" (public dialogue, May 18, 2012). Or in Tuzla when a
woman stood up and described her experience of testifying at the CBiH as being
"bounced around like a ping pong ball" (public dialogue, April 19, 2012). In other
instances, the dialogues became a place in which to enact often intense emotions
associated with event topics or it became a space for those excluded from the process to
have their voices heard and to bear witness. Bearing witness for many had adverse
effects, for example the woman in turquoise in Tuzla,

> … who had previously questioned and challenged some of the panellists paced
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> back and forth taking long draws on her cigarette and visibly shaken and
>
> irritated. Her hands were shaking from the confrontation and she appeared
>
> agitated with the whole experience (field notes, April 19, 2012).

Her experience and the journey that led her to question and challenge the expert panellist was
not known to us. What it did provide was a glimpse of the emotional manifestations and
implications of transitional justice.

Despair is also played out through panellists further bearing witness to disconnection
between survivor experiences and judicial mechanisms and processes. This was illustrated in

Mostar where one participant stood up and began talking about their collective experiences of testifying at trials she stated,

> We got together during wartime and we used to share our life experiences. This is very sincerely speaking, we were hiding behind other activities, pretending to be strong women, good activists and suddenly that cover crashed, few of them were daring and we know face to face who has gone through what. What Mr. M said is the fact. Suddenly somebody says: "You know you have to go again and repeat again to somebody else what you have experienced. " She has no money and she has to travel from Mostar to Sarajevo [to testify] and she cannot cover the travelling expenses. UT died because she did not have [Sigh...speaker is crying] she did not have money for medical examination let alone to pay for trip to Sarajevo (public dialogue, May 18, 2012).

Likewise, another participant stated,

> Instead of helping them, they are in fact exercising a type of violence. That is why, we from the associations will ask that people employed in positions helping witnesses should be people who are educated and who are victims themselves because only victims understand how it is difficult to live with those problems. Thank you very much (public dialogue, May 18, 2012).

There are also emotional consequences for organisers and panellists when they to, bear witness and/or exposed to the glimpses of the emotional and social implications of transitional justice. For example in a conversation with a panellist she described how she

> …was approached by so many people and couldn't handle it. She was so angry that there is no help for these survivors in Republika Srpska and she cannot help everyone. Both she and her colleague were upset, angry and drained by the day and the encounters at the event. Conversation turned to how long and how much needs to be done for these people and a feeling of

intense emotion and helplessness seem to blanket the journey home (field

notes, May 23, 2012).

The emotions connected to these practices of despair are very important to consider. The

acts of despair and of emotion play a very important role in peacebuilding and transitional

justice processes yet are often overlooked as it focuses on a process that is *with* people

not *for* people. In particular we would argue that despair should not be dismissed as a

retreat from politics, but rather – and following Dauphinee (2015:14) – as "politically

valid understanding" that underscores the primary alienation from the process of

transitional justice. Through this despair we glimpse the anomie and potential

retraumatisation that can be enacted through the imposition of dialogue in formats,

settings and temporalities that conflict with the desires of survivors.

But this is not to see despair as solely a signal of retreat from the public

deliberation of the events of the past. The dialogues became places in which those

involved in the events were able to release their despair countering what Kerr and Lincoln

(2008) suggest can lead to frustration and disengagement from the process. Yet in

another instance, one panellist encouraged participants to send messages to institutions to

raise awareness of their issues and needs so that their feedback could help bring about

change "So that these people can feel that somebody is working for them" (public

dialogue, September 20, 2012). Or in another instance one panellist (a trained

psychiatrist) sat down with one of the participants who was distraught and listened to her

experiences and provided her with some basic coping mechanisms and information (field

notes, May 23, 2012). In this way we see a transformation of these events from practices

of despair to practices of resistance. This transition illuminates the pedagogical and

empowering nature of such events and where we move from pedagogy as a government

instrument to public outreach as an evolving form of pedagogy.

Practices of resistance

There was one long table in the front and another long table in the back, which were both

covered in white linen, as were all the chairs. It was quite a modern looking room and had been remodeled in very neutral tones with slate tiles. There was no projector screen so the wall was used instead. I went to the very back as most of the seats were already full and sat at the long table. The place quickly filled up and there were quite a few people there, possibly more than sixty. There was also a lot of media present and two documentary filmmakers, I think from the Netherlands who were making a documentary on Prijedor and the Mladić trial twenty or so years after the war (field notes at public dialogue 23 May 2012).

Resistance within the space of these events manifested in confrontations with dominant power structures and narratives. Sharp *et al.* (2000: 3) define resistance as "power which attempts to set up situations, groupings and actions which resist the impositions of dominating power" (see also Jones, 2016). Dominant power in this instance refers to the processes and institutional frameworks which were represented and enacted at the dialogues and the wider system of the transitional justice process which ordinary Bosnians are forced to navigate. It would be easy to slot these mobilisations into the wider critique of the role of international agencies in the performance of the Bosnian state (see, for example, Jeffrey, 2013). But the actions of participants enacted a more hopeful politics, where the dialogues – and wider practices of public outreach – were invested with the possibility of changing the treatment of survivors and allow them access to judicial processes. In this way, the dialogues were projected as the potential origin point for alternative forms of transitional justice and where the pedagogy of peacebuilding was imagined as a more participatory process of collective learning about the varied subject positions exhibited in the seminar rooms. It was this spirit of the ability to learn for the future that was voiced by the moderator of the April event:

I particularly invite the associations of victims, missing persons and former concentration camp detainees to tell us which parts […] need changes, amendments or to be erased or to add something totally new which does not exist […] Besides them, I invite all the others present here including the panellists who gave speeches. If you think that there is something which

needs to be added this would be your opportunity to say so. The floor is open (public dialogue, April 4, 2012).

But, of course, the supposed openness of the dialogues sat in tension with the finite time for participants to voice their concerns coupled with an expectation that individuals would keep their contributions brief and succinct. As we have seen in the discussion above, this was often one of the few spaces that survivors had to publicly question the judicial process and to simultaneously air alternative imaginations of justice. One memorable moment in the April Dialogue came when a representative from a victims' association had the microphone removed from her grasp while she was trying to make her point. She threw her hands in the air and continued trying to speak even as the moderator moved on to another participant (field notes, April 19, 2012).

Resistance extended beyond bodily enactments within the dialogues, to look to the possibility of enacting change through the events themselves. Connecting to the frustration with the overly bureaucratised and textual outcomes from previous events, one prominent member of a women's association pleaded with participants to use the event as the basis of substantial change in the treatment of survivors beyond "dead letters on paper":

Please give us something concrete from this gathering, conclusions which can bring about changes and not always organizing meetings and writing projects, please do not take me wrong. Every conference and communication, exchange of the field is welcome in order to spread information, make some steps in order to improve the situation and focus on the war crimes according to strategy which is not only dead letters on paper (public dialogue, September 20, 2012).

This sense of political change was invested in a challenging temporality that in many ways subverted the traditional focus of transitional justice programmes on the nature of past regimes and crimes. But this was both a spatial and temporal

manoeuvre, a desire to articulate a distinctive 'we' around which future claims to justice could be organised. In many ways this sense of emphasising a shared future reflected the forms of commemoration that have enframed the post-Apartheid citizenship building in South Africa (see, for example, Clarkson, 2013). A victim's representative underscored the desire to connect a renewed focus on futurity with a distinctive pedagogy of peace:

> I would like to kindly ask those who participate in this kind of process not to forget the past but to focus more towards the future. We are too burdened with the past and our future is blurry and we do not see it. We do not see it because we do not know it at all. We cannot let the past cloud our perception of the future. Mesa Selimović did not say in vain that if we look at the past too long our present and future becomes too blurry and it creates a certain pain (public dialogue, April, 4, 2012).

Contrasting with the styles of urban political enactments captured in the work of Vasudevan (2015), resistance did not take the form of the mobilisation of alternatives in the present, a form of prefigurative politics enacted within the seminar and court rooms through which the outreach process was enacted. Rather, resistance was framed as a means of learning new styles of justice connected to different conceptions of being together. This was, then, a form of pedagogy: circulating and learning new forms of practice within the framework of the public outreach process, where the future was invested in a more hopeful politics around which new enactments of peace may be imagined.

Conclusion

The process of peacebuilding in BiH has, over the past two decades, suffered from a lack of a "vision of ownership" (Donais, 2009: 6), where victims, local NGOs and domestic political parties have long lamented the paternalistic role played by intervening international agencies. This accusation of paternalism is also cast at the efforts to establish judicial instruments of transitional justice, first through the establishment of the ICTY and later in the localisation of war crimes cases in the CBiH. Public outreach has been envisioned as a mechanism to both challenge the public discourse of external imposition while simultaneously offering spaces and occasions through which survivors, witnesses and members of the wider community could engage in the practice of achieving justice. We agree with Vinck and Pham, (2010: 442) in their assessment of the practices of the International Criminal Court in the Central African Republic that outreach is a two-way communication and not just dissemination of information. In this spirit we would emphasise the need for qualitative studies of the differing activities, subject positions and sites through which public outreach is performed.

This paper has examined one aspect of public outreach: the establishment of public dialogues on the treatment of survivors or wartime sexual violence. We argue that these practices should be understood as pedagogic encounters, where individuals from a range of institutional and judicial settings come together to learn about both the process of justice but also – more straightforwardly – to learn from each other. The paper examined the varied forms of practice that this pedagogical analysis brings to the fore: of dissent, of despair and of resistance. This framework is neither readily transferable to other transitional justice settings (there are specific geographic and temporal aspects that shape attitudinal factors) nor should these practices be seen as mutually exclusive. Instead, studying pedagogies of peacebuilding illuminates how these opposing positions coexist, how they are rationalised by conflicted individuals, and how this leads to embodied responses against authority figures.

The central consequence of a focus on public outreach as pedagogy is to level the steep power hierarchy between legal expert and survivor within practices of transitional

justice. Rather than seeing pedagogy as simply a governmental tool we have been keen to illustrate how individuals and groups internalise the structures and practices of outreach, often seeking to utilise these for their own judicial or psychological ends. Studying the exchanges at the dialogues draws attention to the agency and interventions of those often silenced by the practice of peacebuilding, those who have been subject to violence but are not invited into deliberations of judgement (Dauphinee, 2015). Of course, a focus on pedagogy cannot mitigate the struggles to bear witness or confront the central un-narratability of trauma and loss (Levi, 1988). But from the accounts of the dialogues we can see how articulations of dissent and despair sit alongside more hopeful political imaginations of the future. The dialogues illustrated the possibility stemming from the creation of micro-public spheres within the regimented and often exclusionary practices of transitional justice. Just like other publics, these are not sites of consensus or straightforward solidarity, they are often places of conflict and hurt, but they are also unquestionably arenas of learning.

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