

Transitional Justice Methods Manual

An Exchange on Researching
and Assessing Transitional Justice

swisspeace and
Oxford Transitional
Justice Research

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Transitional Justice Methods Manual
An Exchange on Researching and Assessing
Transitional Justice

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List of Acronyms

BIRN	Balkan Investigative Reporting Network
CDA	Critical Discourse Analysis
ESRC	Economic and Social Research Council
HRDAG	Human Rights Data Analysis Group
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
IJR	Institute for Justice and Reconciliation
INGO	International Non-Governmental Organisation
MSE	Multiple Systems Estimation
NGO	Non-Governmental Organisation
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme

1 Introduction

In the past two decades, numerous approaches to transitional justice have been advocated and implemented. Truth commissions, criminal trials, reparations programmes and commemoration initiatives are now routinely established in response to serious human rights violations. This burgeoning practice has been accompanied by a wide range of research projects, informing the design, implementation and assessment of these justice initiatives. In many of these cases, human rights practice has driven the development of scholarship and certain advocacy agendas have profoundly shaped research.

These convergences have created dynamic cross-overs among civil society actors, legal practitioners and academics, fostering a diverse and energetic transitional justice field. However, they have also caused often unstated tensions between pursuing research as a mechanism of human rights advocacy and pursuing it for academic ends. For example, empirical evidence may have been gathered to expressly support predetermined positions or scholars may begin their work by championing a particular transitional justice mechanism, such as the pursuit of criminal trials for serious human rights violations. To move beyond research that begins with predetermined policy prescriptions – but nevertheless to emphasise the importance of research that directly informs policy – this manual focuses on methods and methodologies. A discussion of the methods used in academic, advocacy and legal work allows us to recognize the divides between research and practice and provides one route for an exchange across them.

The manual is addressed to both transitional justice practitioners and scholars. While academic and advocacy research may have important and necessary differences, including research contexts, goals and audiences, there is a common need for the development and use of robust methods and epistemological reflection. The aim is to offer civil society groups, researchers, students, legal practitioners and policy think-tanks, a guide to help in their critical examination of past research projects and preparation for future ones. The manual lays out a range of possible research methods currently used in the field of transitional justice, accompanied by examples of current projects and a series of guiding methodological questions to consider. The manual maps the process of conducting research, starting with the entry point into a project, leading into the choices around methods and methodologies, data collection and analysis and concluding with the dissemination of research findings and some necessary ethical considerations.

It is important to note that the list of methods included here is not exhaustive but rather is designed to provide a foundation for methodological reflections, equipping users to consider both how they conduct their own work and how they read the work of others. The examples used to illustrate the particular methods and methodologies are drawn from a series of workshops and seminars organised at the Dickson Poon School of Law, King's College, London and the Centre for Criminology at the University of Oxford between January and June 2013. These seminars, supported by the Economic and Social Research Council (ESRC), brought together political scientists, lawyers, psychologists, statisticians, human rights activists and anthropologists, among others, to discuss their current research

methodologies. A draft of this manual was then discussed in two workshops, held in Kigali, Rwanda in July 2013 and in Prishtina, Kosovo in September 2013. The work on transitional justice methods and methodologies presented here reflects this knowledge exchange, offering an opportunity for on-going collaboration and mutual learning among disciplines and across research and practice.

2.1. Guiding questions

Initiating transitional justice research is a practical and intellectual challenge. In this section three guiding questions have been selected to provide an entry point for reflecting on the research process itself:

- What was your initial motivation for undertaking the research?
- How do you define the key terms in your work?
- What is your role as a researcher and what skills do you bring to the project?

To examine these questions, the manual draws on the work of scholars and practitioners with different perspectives on the role of traditional and innovative methods used in transitional justice research. The research process is influenced by the specific methods that a researcher employs and the different methodologies and epistemologies that underpin them.

At the outset it must be noted that methods, methodologies and epistemologies are used here as related but distinct ideas. The method is the way in which a research project is pursued – what a researcher actually does to answer the specified project question. Methods used in the design, implementation and assessment of transitional justice processes include, among others, qualitative interviews, participatory observation, focus-group discussions, discourse analysis and quantitative methods such as large-N surveys. In contrast, the methodology concerns the concepts and theories that underlie a particular means of data collection and analysis. For example, if a researcher is analysing qualitative interviews and is informed by an interpretive methodology, the data analysis will focus on how the research participants are making sense of social action. Finally, epistemologies refer to the philosophical underpinnings of the particular type of knowledge informing the research process and understandings of social reality more broadly. For

example, a positivist approach sees knowledge as verifiable and absolute. From this starting point, transitional justice research is geared towards determining measurable outcomes. At the outset, it is important to be aware that the methods and the underlying methodologies and epistemologies influence all stages of the research process and the distinctions between these three terms will be highlighted throughout this manual.

QUESTION 1: WHAT WAS YOUR INITIAL MOTIVATION FOR UNDERTAKING THE RESEARCH OR PRACTICE?

Research projects often emerge in response to particular debates in the academic literature, in the

Different starting points in academic and advocacy research

For the Human Rights Data Analysis Group (HRDAG), a non-profit organization with expertise in mathematical statistics, computer science, demography, and social science, the choice of research method is directly connected to the advocacy goals of its partner organizations. As discussed below, one of the methods HRDAG uses is statistical analysis to triangulate different data sets. For Megan Price, a statistician and HRDAG's Director of Research, her motivation for using this quantitative approach, when examining deaths in conflict, is to promote an agenda for evidence-based human rights advocacy and to contribute to a more accurate historical record; see pg. 21 of this manual. In contrast, for Mina Rauschenbach, a social scientist with expertise in forensic and social psychology, her research was prompted by a concern with the lack of attention paid to perpetrators in the writings on transitional justice. She proposed that a qualitative discourse analysis of perpetrators' views on justice was important in evaluating the deterrent effect of international criminal trials; see pg. 14.

policy world or as result of the practical experience of implementing particular transitional justice initiatives. At the outset, it is useful for both practitioners and scholars to reflect on why they are undertaking a particular project. Before starting the work, researchers should identify and explore the specific debate to which they wish to contribute or the practical problem they hope to help resolve. This process of reflecting on the motivations underpinning the research will be organic and can change over the course of research as the exchange between the field data, other sources of information and policy debates continues throughout the research analysis and writing.

**QUESTION 2:
HOW DO YOU DEFINE THE KEY TERMS IN YOUR WORK?**

A second point to consider when starting research is the importance of being clear about the terms employed. Research is shaped by the concepts and theories that underlie any particular means of data collection, analysis and interpretation. Discussing what these concepts are and who gets to define them is an important first step in developing and being aware of our research methodology and its underlying epistemologies.

Our theoretical presumptions guide our initial understanding of particular terms. For example, if we are interested in researching whether a transitional justice process has led to reconciliation, the ways in which we define 'reconciliation' at the start of the project influence the method we choose and how we interpret the data. Concepts such as amnesty, forgiveness and compensation are not universal but rather are understood in different ways depending on the research context and the theoretical approach the researcher has taken. An awareness of our starting point allows the researcher to reflect on, and be open to changing, the meaning of these terms as the research process progresses.

Language limitations and key terms

An awareness of our definitions at the start of the project equips the researcher with an awareness of the challenges of working with definitions across languages, cultures and methodological approaches. In the discussions below, Antjie Krog, Mina Rauschenbach and Bert Ingelaere all raise the challenges of translation, and the importance of being aware of the power dynamics inherent in the use of particular languages; see below, pgs. 14, 18 and 24.

**QUESTION 3:
WHAT IS YOUR ROLE AS A RESEARCHER AND WHAT SKILLS DO YOU BRING TO THE PROJECT?**

Whether researching on one's own or as part of a team, it is useful at the start of a project to assess and acknowledge personal and collective strengths and capacities. Academic writing, legal practice or advocacy on transitional justice often involves an exchange between individuals who are from the post-conflict country and those who are coming from outside of it. Research skills may be drawn from social, relational or historical knowledge and language skills that can be derived from being 'of the place' and from engaging with the existing writings on the place. Specific knowledge of the changing geography and environment, economics, politics and gender relationships will help situate and enhance the research. It is important to be aware that as an insider or outsider, one's position, background, prejudices and status are continuously measured in the course of research. At the start of a project, a personal or collective 'skills inventory' can help initiate the research.

Practical considerations also influence how a research project begins. Some initial considerations are, why is the research being undertaken and who has requested it? Following this, important planning

questions include: how is the research being funded, how much time will be allocated to the project and who will decide the research priorities and manage the implementation?

The guiding questions outlined above encourage researchers to adopt a considered position at the start of the project. The questions offer one route to reflect on the motivations and underlying theories and perspectives that inform the project, while encouraging researchers to be aware of the particular skills they bring to the table. This reflexive environment offers a foundation to then engage with the specific choice of research method.

An international lawyer reflects on his specific skill set

For Hiram Abtahi, a lawyer at the International Criminal Court (ICC), his knowledge on the current practice of the ICC led to a concern about gaps in legal knowledge that may arise in the future practice of the Court. This practice-oriented insight prompted him to undertake research into the types of harm recognised in public international law. As discussed below, the aim of this work was then to offer a better-informed legal foundation for future reparations claims before the ICC; see below, pg. 25.

3 Approaches to Researching Transitional Justice

3.1 A Discussion of Methods and Methodologies

This next section discusses a range of methods currently used when researching transitional justice processes. It offers a brief introduction to the method, accompanied by a current project example and a list of further readings. Each sub-section then offers a critical examination of the implementation of this method, acknowledging its potential strengths and challenges while raising some of the underlying methodological questions around this type of approach.

3.1.1 Ethnographic and participatory research

Anthropologists have increasingly influenced the research undertaken on transitional justice processes and as a result the method of pursuing ethnographies has gained traction with both civil society actors and academic researchers. Ethnography is the in-depth study of communities and cultural practices through long-term fieldwork. The ethnographer aims at

A humanitarian practitioner applies participatory research in Nepal

In his work on the families of the disappeared in Nepal, Simon Robins employs critical ethnography to gain a victim perspective on transitional justice. He argues that transitional justice in Nepal has primarily been imposed from the top by national and international elites. Through an ethnography focused on victim perspectives, Robins seeks to understand how local populations experience gross violations, with the aim of better understanding their needs and priorities in designing and implementing transitional justice processes. To obtain such a victim perspective, Robins conducts 'participatory action research': victims, victims' organisations and the researcher collaboratively determine the research design and the methods of the study, conduct research and decide on what should be done with the research output. In doing so, Robins' goal is not only to produce knowledge that can help to address victims' needs but also to empower victims to participate in transitional justice processes.

uncovering the meaning of local concepts and practices from an insider's perspective, and often from multiple points of view. By living with and like the people studied, the ethnographer produces 'thick descriptions' of how social actions are produced, perceived and interpreted (Geertz 1993). These descriptions are important for transitional justice research as they can nuance our understanding of local concepts and practices of justice and reconciliation. They also provide rich data and insights for developing different theories about transitional justice mechanisms, which can lead to a subtle analysis that may challenge exclusively desk-based research findings.

Critical Questions

Simon Robins' study raises ethical and practical questions about ethnographic research with victim communities. Some of these questions include, who determines the individuals and groups that are considered victims in a post-conflict context? In instances of widespread abuse, there are some individuals who initiate the violence, some who join in, others who watch or resist it, and often many who suffer harm as a result. Do the terms, 'victim' and 'perpetrator' allow us to understand the different levels of involvement in a particular crime or in the harm over a longer temporal period? Does the researcher need to directly challenge perspectives offered by a participant, whether a victim or perpetrator, with which the researcher is morally uncomfortable or must he or she actively refrain from doing this? In addition, on the one hand, is there an obligation to avoid raising the expectation that the research will lead to action and remedies to the social harms that victims have experienced or, on the other, is there an obligation to contribute to some social repair? Thinking beyond Robins' specific research, how can we balance the nuance and diversity of ethnographic accounts with the practical requirement to convey 'simple ideas' to policy makers? How useful are specific ethnographic insights for studying other transitional justice contexts?

Additional reading

1. Robins, S (2011), 'Towards victim-centred transitional justice: Understanding the needs of families of the disappeared in post-conflict Nepal', *International Journal of Transitional Justice* 5(1), 75-98.
2. Agar, M (1996), *The Professional Stranger: An informal introduction to ethnography* (San Diego, California, London: Academic Press).
3. Geertz, C (1993) *The Interpretation of Cultures: Selected Essays* (London, Fontana Press).
4. Hammersley, M. and Atkinson, P (2007), *Ethnography: Principles In Practice* (London: Routledge).
5. Speed, S (2006), 'At the Crossroads of Human Rights and Anthropology: Toward a critically engaged activist research', *American Anthropologist* 108(1), 66-76.
6. Kindon, S, Pain, R and Kesby M (2007), *Participatory Action Research Approaches and Methods: Connecting people, participation and place* (New York: Routledge).

3.1.2 Critical discourse analysis

Discourse is 'a particular way of talking about and understanding the world' (Jorgensen and Phillips 2002:1). Discourses are social practices: by using language we structure and give meaning to the social world, including our identities and relationships. Critical Discourse Analysis (CDA) aims to uncover the role of discursive practices in producing, reproducing or challenging power hierarchies. Projects that use CDA as a method examine text and speech to distill the complex connections among language, power and ideology that underlie discursive practices. These methods are often embedded in a poststructuralist methodology, which critically scrutinizes power hierarchies and dynamics. The method of CDA involves exploring the ideological functions of linguistic forms, identifying common themes across individual discourses, establishing the relationship between different texts through the concept of *intertextuality*, and, finally, situating this

textual analysis in the broader social and political context. Discourse analysis is a useful method for transitional justice research as it helps to explore how key concepts such as 'accountability' or 'reconciliation' are discursively constructed and shifted by actors for various political purposes. This type of analysis can illuminate divergences and commonalities between use of language and texts by those in power and those subject to the exercise of that power.

A social scientist examines discourses in international criminal trials

Mina Rauschenbach and her colleagues use CDA to analyse interviews with individuals accused by the International Criminal Tribunal for the former Yugoslavia (ICTY) of committing serious human rights violations. The research explores these individuals' perceptions of their involvement and responsibility regarding these crimes and examines the implications of the accounts for the legitimacy of international criminal trials. In this context, CDA helps to reveal the discursive strategies these individuals use to present themselves as victims, compelled to act by the dynamics of conflict and group pressures, while at the same time attempting to reinforce the norms and identity of their social group. Overall, Rauschenbach's research raises questions about the rationale of international criminal trials: should they focus exclusively on individual agency when the normalisation of violence during conflict and group pressure also plays an important role in motivating mass atrocities?

Critical Questions

Mina Rauschenbach's work raises important questions about the role of CDA in the practice and research of transitional justice: how can the type of knowledge we produce by analyzing perpetrators' discourses influence the way international criminal trials are practiced? How does the dependence on a translator when conducting interviews influence discourse analysis? Is it ethically acceptable to allow perpetrators to tell their stories or should the researcher also challenge their stories and, if

so, how? Furthermore, how can the researcher reconcile an ethical commitment not to harm or raise expectations of the research subject with their interest in knowing as much as possible about his or her perceptions and actions?

Further reading

1. Fairclough, N, Mulderrig, J and Wodak, R (2011) 'Critical Discourse Analysis', in Dijk, T. A. V. (ed.) *Discourse Studies: A Multidisciplinary Introduction* (London: Sage).
2. Jorgensen, M. W. & Phillips, L (2002) *Discourse Analysis As Theory And Method* (London: Sage).
3. Renner, J (2012) 'A Discourse Theoretic Approach to Transitional Justice Ideals: Conceptualising 'reconciliation' as an empty universal in times of political transition' in Palmer, N, Clark, P. & Granville, D. (eds.) *Critical Perspectives In Transitional Justice* (Cambridge: Intersentia).
4. Phillips, N and Hardy, C (2002) *Discourse Analysis: Analysing Processes of Social Constructions* (London: Sage).
5. Schrifflin, D, Tannen, D and Hamilton H. E (2001) *The Handbook of Discourse Analysis* (Oxford: Blackwell Publishing).

3.1.3 Textual analysis

Researchers working in the arts and humanities analyze texts in order to identify and examine experiences that are not easily expressed through more direct forms of testimony. Alongside literary works, textual analysis also considers life writing (diaries, memoirs, letters), journalism, the visual arts (including photography, painting, sculpture, architecture), performance (theatre, dance, radio) and film (both documentary and feature). Critics are interested in aesthetic choices made by the authors of these texts and the ways in which they offer access to private, intimate, deeply personal responses to transitional justice processes. Approaches include: examination of the overarching structure of the work and how this reveals or contests implicit cultural

assumptions (for example the presence or otherwise of female voices and the ways in which they are mediated); close analysis of short passages or specific images to explore what is revealed by the creator's choices; reading the text in context to establish how the ways in which it is produced, marketed and circulated affect its cultural currency; and comparative work that considers commonalities and points of departure across texts from different cultural settings. Textual analysis relating to transitional justice processes is influenced by related cultural fields such as holocaust studies, memory studies, trauma theory and postcolonialism.

A comparative literature scholar examines post-genocide artwork

In her work on cultural responses to genocide and its aftermath in Rwanda, Zoe Norridge uses textual analysis, alongside qualitative interviews, to explore the ways in which processes of justice and reconciliation are being mediated through and expressed by the arts. Much of this artwork is centred around particular places. For example, a church overlooking Lake Kivu just outside the town of Kibuye, the site of a well-known massacre, has inspired work by a range of visitors. Clea Koff, forensic anthropologist for the ICTR, excavated a mass grave at the site and later wrote a memoir about her experiences entitled *The Bone Woman*. Nick Hughes, who filmed some of the only existing footage of killings actually taking place during the genocide, set his feature film *100 Days here – the first to be made about genocide in Rwanda*. In examining these two texts alongside each other, Norridge studies the ways in which visiting professionals have created spaces to express the stories of those who died here. Such work is complicated by interviews with local people who remember both the excavation and the filming process and comment upon the production and content of these narratives.

Critical Questions

In juxtaposing textual analysis with qualitative interviews, Norridge raises questions about to what extent aestheticised narratives can be read as exemplary. Do films such as Anne Aghion's about gacaca reflect the range of different communities' experiences of this transitional justice process? Material that finds its way into internationally circulating narratives about genocide is often exceptional – characterised by drama, visual appeal and strong characters. Do these texts offer a window onto wider realities? Or is their remit restricted to what they can tell us about the processes involved in generating local and international narratives about the aftermath of mass violence? Finally, to what extent does the cultural literacy of the reader always affect the scope of such interpretations, particularly in contexts like Rwanda where many academics don't speak fluent Kinyarwanda or understand the nuances of cultural allusions?

Further reading

1. Clarkson, C (2014), *Drawing the Line: Toward an Aesthetics of Transitional Justice* (New York: Fordham University Press).
2. Norridge, Z (2013), *Perceiving Pain in African Literature* (London: Palgrave Macmillan).
3. Swanson Goldberg, E. and Schultheis Moore, A. (eds.) (2012), *Theoretical Perspectives on Human Rights and Literature* (New York: Routledge).

3.1.4 Translation of indigenous texts

In all of the methods discussed so far, both linguistic and cultural translation are a key part of the process. Translation plays a central role in transitional justice methods. Since researchers often undertake projects in a culture and language that is not their own, translation is an inevitable and challenging part of their work. At a practical level, selecting the right translator(s) is a crucial first step, and demands careful reflection. A translator's subject position – in terms of age, ethnicity,

class, gender, or religious identity, to name but a few – can profoundly affect how research material is gathered. When interviewing survivors of atrocity, for example, participants may be unwilling to share their experiences or testimonies if the translator comes from what they might view as an antagonist group. Furthermore, we must be careful about how concepts are translated into local languages, as mistranslation can have unintended – and sometimes negative – consequences. As Harri Englund has shown in his work in Malawi (Englund 2006), ‘careless’ or ‘inappropriate’ translation of human rights discourse can lead to disempowerment of marginalised groups rather than to empowerment of them. The very concept of transitional

A poet, literary writer and academic explores the translation and use of indigenous text

In discussing the Truth and Reconciliation Commission (TRC) in South Africa, Antjie Krog examines the philosophical and ontological underpinnings of forgiveness and reconciliation. Puzzled by the willingness of black South Africans to forgive the atrocities of apartheid and the lack of revenge killings in the post-apartheid era, she turned to the translation of indigenous texts for guidance. Based on these translations, she argues that forgiveness was made possible not by Christian theology, human rights discourse or political ideology, but rather by a notion of ‘interconnectedness-towards-wholeness’ or *ubuntu*, which Krog considers as the key tenet or ‘essence’ of African philosophy. It is through this framework – the sense that everyone, victim and perpetrator alike, is related and that forgiveness restores the humanity of all parties – that we can understand why the initial response to the TRC was positive. Krog goes on to argue that it was when the forgiveness offered by victims was not reciprocated through actions from the perpetrators that resentment grew.

justice itself may be difficult to translate. We must be aware that language is politicised and certain states or parties may try to control the terms one is allowed to use. The labelling of conflict as ‘genocide’ or ‘ethnic cleansing’, for example, can be politically motivated and is likely to have important political and social consequences.

Translation can also involve a much more elaborate and collaborative approach. Through the translation of indigenous texts, researchers can attempt to access key local concepts that form and illuminate the philosophical foundation or worldview of a particular culture. This approach to translation can be understood as a method in its own right and can contribute to a more nuanced and culturally sensitive understanding of transitional justice.

Critical Questions

The translation work undertaken by Antjie Krog raises a number of questions: does a concept such as *ubuntu* leave space for experiences of danger and/or estrangement? Does the extent of the violence and abuse affect understandings of *ubuntu*? Does acknowledging *ubuntu* fundamentally alter our understanding and responses to injustice? More broadly, can we consider interconnectedness a distinctly African notion and what could *ubuntu* mean in other post-conflict contexts? Finally, how is language enmeshed within power structures: in the texts are certain individuals and groups being allowed to speak and others silenced?

Further reading

1. Krog, A, Mpolweni, N and Ratele, K (2009) There was this Goat: Investigating the Truth Commission Testimony of Notrose Nobomvu Konile (Scottsville, University of KwaZulu-Natal Press)
2. Krog, A (2009) Begging to Be Black (Cape Town: Random House)
3. Appiah, A (1992) In my Father’s House: Africa in the Philosophy of Culture (London: Methuen)

4. Gyekye, K (1987) *An Essay on African Philosophical Thought: The Akan Conceptual Scheme* (Cambridge: Cambridge University Press)
5. Englund, H (2006) *Prisoners of Freedom: Human Rights and the African Poor* (Berkeley: University of California Press)

3.1.5 Quantitative methods

Quantitative methods aim to highlight patterns, trends and points of correlation in randomized or probabilistic data sets and are increasingly used in the research of transitional justice processes. Much like the qualitative methods discussed above, a quantitative approach requires the collection, analysis and interpretation of data; however, in this case, the data is analyzed using statistical techniques. Typically, quantitative approaches aim to test the validity of research findings and to draw conclusions at a macro or population-wide level. Once data has been collected, it can be analyzed in a number of ways, primarily through statistical tools. In this respect, the data sources are not restricted to randomized survey samples. What is of central importance is that the data source is appropriate for the types of analysis that are possible using statistical techniques. Failing to adjust for non-randomly selected and/or incomplete data can result in incorrect quantitative conclusions. Statistical examination of the data can illuminate trends and can be used to explore whether there are statistically significant relationships between particular sets of variables. The data provides the basis for regression analysis, potentially drawing attention to correlations between different policies and outcomes.

Surveys provide one means of data collection often drawn on in quantitative analyses. For example, evaluating public opinion through large surveys helps policy-makers and researchers to evaluate the effectiveness or appropriateness of a proposed transitional justice policy. Moreover, survey data allows for cross-time and cross-space analysis as the same questions can be

A human rights practitioner uses statistical methods to estimate conflict-related deaths

At the HRDAG, Megan Price argues that quantitative methods can be used to build a more accurate and comprehensive historical record of atrocity. In post-conflict contexts, various constraints render it extremely difficult to ensure that quantitative samples are 'random'; instead, there is wide use of 'convenience samples'. Convenience samples are those where respondents are found in a non-random manner – for instance, they may be selected through personal networks, existing institutions, or respondents may self-select. To respond to this constraint, in her analysis of conflict related deaths in Syria, Price and her colleagues use the statistical technique of Multiple Systems Estimation (MSE). This approach uses multiple convenience samples in order to effectively 'triangulate' different data sets and provide more statistically robust estimates of conflict-related deaths, including an estimate of those deaths not recorded by any of the available data sets. The process enables the researcher to use quantitative methods to draw out more reliable data, providing a more consistent and complete picture of what has occurred during periods of conflict.

asked in different settings and temporal periods. In this way, quantitative surveys are able to provide a dynamic account of the impact of policies and patterns of governance, as well as a comparative basis for the suitability of transitional justice policies in some areas as opposed to others. This approach is usefully seen in the Reconciliation Barometers, developed by the Institute for Justice and Reconciliation (IJR) and adopted in both South Africa and Rwanda, which used surveys to measure public sentiment on issues of social cohesion and national identity. Another example is the work of the United Nations Development Programme (UNDP) in Kosovo which produced a report on popular perceptions on the potential role for different transitional justice mechanisms such as truth-telling forums, international trials and/or memorialisation projects.

Critical Questions

Megan Price argues that human rights advocacy in the field of transitional justice aims to voice the truth after atrocity and conflict. This raises questions regarding the constraints on the 'truth' that can be represented through quantitative methods and statistical data. How do we take account of the inevitable inaccuracies in any means of estimation or projection? The data sets will always be incomplete and claims to establishing an accurate estimate of the numbers of individuals killed must acknowledge the constraints on those claims, particularly when there are undetected, unmeasured inaccuracies in the raw data sources. In addition, how does a researcher ethically address the political role and use of statistics, particularly those that relate to numbers of individuals who have been killed, in a post-conflict context? More generally, when sampling through questionnaires, can short answers structured by pre-determined questions contain the fullness of a respondent's perspectives? In collecting samples and coding data, are particular meanings lost? How can we avoid processes of data collection that may disempower respondents by making them feel like a statistic? Are quantitative methods applicable in contexts where respondents may have different understandings of key concepts?

Further reading

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2. Seybolt, T., Aronson, J. D and Fischhoff, B (2013), *Counting Civilian Casualties: An Introduction to Recording and Estimating Nonmilitary Deaths in Conflict* (Oxford: Oxford University Press)
3. Price, M., Klinger, J., Qtiash, A. and Ball, P (2013) [Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic](#) (Commissioned

- by the Office of the UN High Commissioner for Human Rights)
4. UNDP Kosovo (2012) [Perceptions on Transitional Justice Report](#)
 5. South African Reconciliation [Barometer](#)
 6. Rwandan Reconciliation [Barometer](#) 2010

3.1.6 Mixed-methods approach

There are important overlaps in some of the methods described above and in addition they are not mutually exclusive. For example, a mixed-methods approach combines both quantitative and qualitative data. Combining a variety of methods may allow the researcher to either contest or corroborate key findings, adding nuance and context to a larger data set in order to address conceptual and empirical questions surrounding transitional justice. Mixed-methods offer a number of key benefits: first, the variation in data collection affords a higher level of validity; and second, this approach mitigates limited data availability through use of multiple sources.

Undertaking systematic and thorough research typically involves adopting 'top down' and 'bottom up' approaches, as well as the incorporation of structural, behavioural and attitudinal factors underpinning transitional justice mechanisms. For example, quantitative methods are able to survey preferences and priorities through use of survey data, while qualitative methods, such as ethnographies and CDA, provide a means to a more in-depth account of key power hierarchies and social dynamics. In this way, a mixed-methods approach is a useful way to incorporate different methodological frameworks while examining the views of a wide range of actors, including the affected population. Quantitative and qualitative methods may

An anthropologist applies mixed-methods in researching local justice mechanism in Rwanda

In his work on the localised gacaca courts and their impact on post-genocide Rwandan society, Bert Ingelaere stresses the importance of using both qualitative and quantitative methods. By combining ethnography and life histories with survey questionnaires and the quantitative coding of data, he aims to produce an 'empirically comprehensive record' that takes into account both micro- and macro-level processes. Through his mixed method approach, Ingelaere is able to analyse the practice and impact of gacaca and individual experiences of political transition.

be combined in various ways: they may be sequenced so that either quantitative or qualitative methods are used first and then built on by the other; two data sets can be merged with the coding of qualitative data; or alternatively one form of data could be embedded within a larger design or procedure. The issue of how and why different types of knowledge are generated through a diverse means of collection is central to using mixed-methods in a robust and defensible manner.

Critical Questions

Bert Ingelaere's use of mixed-methods raises a number of questions regarding generalisation, translation and interpretation. How can one capture the uniqueness of a particular research context and at the same time make claims about the wider society? When mixed methods are carried out in a number of different field sites, are the same approaches used in each field site, or are different approaches used in some sites and not others? More generally, what happens when prioritization of one method is necessary, for example when the quantitative and qualitative findings on a single issue are in tension with one another? Finally, as discussed above, since language constitutes culture, if one is not fluent in a local language, how is a researcher able to access and understand the culture?

Further reading

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3.1.7 Examining legal practices

Criminal trials and civil reparations claims are two of the dominant transitional justice mechanisms currently deployed in response to serious human rights violations. As a result there is a large body of scholarship reviewing the treaties, statutes and cases that underpin these legal responses. Within this literature there are two broad methodological approaches: The first is doctrinal and requires a review of the existing law with the aim of determining its relevance to a particular issue and whether it is being consistently applied. This method of analysis may be underscored by positivist epistemologies in which legal norms are identifiable because they are derived from particular sources of authority. The second is more normatively driven and involves an analysis of the principles underpinning the law, examining whether these principles can be morally justified and if they are realised in the application of the law. Within these two broad approaches, recent legal analysis has taken a critical turn, introducing theoretical ideas developed in Marxism, feminism or liberalism, to name a few, alongside more inter-disciplinary research into the relationship between law and sociology, economics and/or political science. Yet despite these

A legal practitioner investigates reparation claims in public international law

In his work on the types of harm that could form the basis of a reparation claim before the International Criminal Court (ICC), Hiram Abtahi pursues a case analysis of public international law on the issue. Article 75 of the ICC Statute provides that the Court shall establish principles relating to reparations to, or in respect of, victims including restitution, compensation and rehabilitation. Abtahi's research seeks to identify what these principles are as they are not detailed in the Statute of the Court. As the ICC is the first international criminal legal institution to include civil reparation claims in its jurisdiction, Abtahi argues that there is a need to look to the legal practice of other types of courts in order to draw out these principles. An analysis of bilateral inter-state practice alongside those of courts such as the International Court of Justice and its predecessor, the Permanent Court of International Justice, allows the legal researcher to see how injury has been approached beyond the context of individual criminal responsibility. This can then provide a useful legal basis to inform future reparation claims brought to the ICC.

developments, the dominant research concern centres on determining what the law is and what it should be.

Critical Questions

As legal research on transitional justice often draws from a range of legal sources, as does the practice of the ICC, do we risk losing some of the procedural checks and balances offered in a single unified system? A legal analysis of the current case law may help to inform the practice of the ICC; however, in examining the harm exclusively in terms of its recognition by courts, are lawyers creating a taxonomy of atrocity that is not linked to the actual experience of the violation? Further to this, how can legal researchers be aware of the knowledge claims that the law makes and still contribute directly to case law analysis?

Further reading

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3.2 Critical Examination of Implementation

Up to now, the questions raised in this manual have related to specific research projects and the strengths and challenges of particular methods. This next section identifies some of the common points of difficulty that arise during the research process, with the aim of bringing together underlying issues around sources and interpretation that emerged in the previous section.

3.2.1 Choice of sources

Regardless of our chosen method, gathering and selecting information for analysis is a central part of transitional justice research. Each data set or source has limitations and researchers must be careful to ensure that their research process is governed by transparency and ongoing critical evaluation. It is often as important to state the limitations of the research as it is to emphasise the strength of the findings. Acknowledging these limitations can be particularly difficult when the research is undertaken as part of an evidence-based advocacy campaign where the aim is to persuade or shift the position of policy-makers. Stating both the strengths and limitations of particular information sources may offer a useful first step. For example, verbal accounts gathered through qualitative interviewing may be heavily influenced by the place and language in which the interview is conducted. Describing the immediate social context of the interviews and discussing ways that the environment and interviewer may have influenced the spoken word, nuances our understanding of the data sources and offers

opportunities for important insights. Similarly, making clear how quantitative data is collected and coded while highlighting some of the constraints on the sources of information and on numerical accounts of social experiences encourages a constructive use of quantitative methods. The research question, the methods deployed and the underlying theoretical approach all affect the choices that are made regarding the use of particular data sources. Making these choices visible and justifying them renders the eventual argument more persuasive.

3.2.2 Interpreting data and generalising results

After data has been collected, interpretation is the next critical step. While a review of sources draws attention to the strengths and limitations of particular methods, a discussion of the interpretation of this data and the generalisation of the results focuses attention on the methodology and underlying epistemologies of the work. Researchers can employ various methodologies, from grounded theory and hermeneutics to positivist readings of their sources. It is through the interpretation of the data that highly specific information can be more generally relevant to on-going academic and policy debates or the immediate practice of transitional justice. The process of generalising research findings is often closely linked to how the data is interpreted. For example, theoretical writings on concepts such as 'authority' and 'legitimacy' can play a key role in classifying and making sense of empirical data and reflexively detailed knowledge of a particular case can shed new light on these broader theoretical ideas, making the case specific work more generally relevant. In this respect, interpretation is not merely the selection of a framework and the plugging in of data to arrive at prescribed and easy-to-digest conclusions. It involves grappling with the material and examining it from various angles with an awareness that different methodologies lead to different types of data analysis and interpretation.

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4 Impact of Research and Ethical Considerations

4.1 Guiding questions

As the final step in the research process, it is necessary to reflect on the impact of undertaking this type of work and the process of disseminating the research findings. As with the opening section of this manual, these reflections are structured around guiding questions. In this instance, the questions encourage researchers to think through some of the ethical issues that arise during and after the research process:

- What are the possible implications of research dissemination and publication?
- What are the ethical considerations that need to be taken into account when conducting and publishing transitional justice research?

QUESTION 1: WHAT ARE THE POSSIBLE IMPLICATIONS OF PUBLISHING AND DISSEMINATING YOUR RESEARCH FINDINGS?

The avenues for disseminating the research findings and the consequences of publishing the work are two important and interconnected issues that raise ethical concerns. Taking us back to the opening set of guiding questions, the goals of the research and the initial motivation for undertaking the work will inform the means of dissemination. Written material is one of the most common forms of publishing findings and can be presented in various standard formats, such as reports, discussion papers, academic articles, conference papers or newspaper articles. However, there may be an ethical obligation to move beyond formal publications that are often inaccessible to broad populations in post-conflict contexts. Modern information technology and the Internet are particularly effective in providing opportunities to disseminate research to large audiences, engaging with them on key issues. Social media tools such as Twitter and Facebook, alongside online debates and blogs, can facilitate interactive discussion forums and be used as tools for the

dissemination of research findings and for receiving feedback from various audiences. Documentaries, arts, theatre, films and radio broadcasts can also serve as powerful tools in communicating research findings and stimulating discussion, both, internationally and in the society under study.

Some examples of creative forms of non-written dissemination in the Balkans, central Africa and south east Asia warrant mention. In Cambodia, the film showing of “Time for Justice”, presented by the Asian International Justice Initiative and developed by The East-West Centre and the University of California at Berkeley War Crimes Study Centre, received considerable interest from the public. In Rwanda, the news coverage by the Swiss NGO, Fondation Hirondelle, on the International Criminal Tribunal for Rwanda (ICTR) and the gacaca courts offered valuable information to the general public about the activities of the post-genocide

Academics collaborate with journalists on producing a radio show on reconciliation and forgiveness

Led by Phil Clark at the School for Oriental and African Studies (SOAS), a recent radio project brought together journalists from South Africa, Uganda and Rwanda, in collaboration with social scientists, to develop a 25-minute radio documentary exploring the factors that make possible or stymie forgiveness and reconciliation in communities that have suffered extreme violence. It examined two complex accounts of violence, one in south-west Rwanda and another in northern Uganda, both of which were deeply political but occurred within the family unit. In both accounts, which were interwoven in the radio programme, the participants expressed the courage and risk-taking of people willing to confront their anger and to find constructive ways to deal with the past. To facilitate a dialogue between affected communities in the two countries, the show was produced in Kinyarwanda, Luo and English and broadcast on local community radio as well as in international forums.

courts. In Rwanda, this work has been creatively supported by the activities of the NGO *la Benevolencija*, which has written and produced an extremely popular soap opera based on the *gacaca* proceedings, entitled *Musekeweya*. Similarly, the Balkan Investigative Reporting Network (BIRN) regularly broadcasts information on on-going transitional justice mechanisms in the region and is an important source of information with regard to the broader transitional justice debates. These alternative means of engaging with transitional justice issues have predominantly remained in the domain of journalist and civil society groups. Combining these tools with academic research may offer a useful route to strengthen partnerships among these groups.

Finally, the choices around how and when the research findings are published and communicated should also take account of the potential consequences of making the research public. Post-conflict or transitional countries are highly politicized environments shaped by economic constraints, state fragility and social realities in which perceived victims and perpetrators may live in close proximity to each other. Researchers should be aware of, and to the extent that it is possible, also anticipate the consequences of publishing their research. In this respect, there are important domestic and international dynamics to consider.

Domestically, when one of the research goals is to shift a government policy or change the law, as is often the case with advocacy work, researchers should think about how social change occurs in the country and what specific political sensitivities are at play. In addition, researchers must be aware of the risk that their work or some parts of it (e.g. statistics or interview excerpts) can be co-opted by various groups and individuals for their own ends. For example, when examining the role and opinions of people who were involved in human rights abuses, researchers should consider whether these accounts, when published, could be used to

further instigate hostilities by violent actors. Transitional justice mechanisms can have implications for critical political processes that are ongoing at the time of the research and researchers should reflect on timing when making their results public. Even though the researcher has little control over what happens once research is published, he or she must be aware that due to the nature of the questions addressed and the environments in which this type of work takes place, transitional justice research is by its nature political and this requires a careful and critical approach.

International power dynamics may also feed into how particular research projects are received and interpreted. Tensions can arise between in-country research groups and those connected with foreign or international institutions. When local research initiatives contradict or question outsider research, this can play into the underlying power hierarchies of global and localised power in transitional justice processes. Equal exchanges between and across groups allow researchers to identify points of commonality and to acknowledge and speak to important points of difference. Taking careful and on-going account of the ethical impacts of transitional justice research supports these types of exchanges.

QUESTION 2:
WHAT ARE THE ETHICAL CONSIDERATIONS THAT NEED TO BE TAKEN INTO ACCOUNT?

The ethics of transitional justice research generally receives inadequate attention, despite the sensitivity of its subject matter. At a basic level, researchers should, wherever possible, adhere to the principles of confidentiality, privacy and informed consent. However, in addition, transitional justice research requires specific account to be taken of the vulnerability of research participants and the role and obligations of the researcher.

The first set of ethical concerns relates to the vulnerability of individuals and marginalised groups in post-conflict countries. While most researchers can leave the place under study whenever they choose, it is likely that research participants will remain behind. For some research participants the choice to leave may simply not be open to them due to social or economic constraints. While the interview can occur in a supportive space, the interviewee may experience re-traumatisation or uncertainty well after the researcher has left, particularly if they have recent experiences of surviving extreme violence. In this regard when working with vulnerable individuals, researchers should try to connect with social or community networks that can support the interviewees in the most appropriate way over the longer term. This may be necessary for researchers coming from both outside or inside of the transitional country.

In addition to the impact of the research on the specific individual, it may also be necessary to look at the effect on the wider community. When working with marginalized groups there is a risk that by focusing on one group's perspectives, the researcher silences others in society. In post conflict settings, groups might compete for official acknowledgement as 'the' victims and in doing so actively sideline other groups. Researchers might compound this problem by only recognising key stakeholders or gatekeepers, while failing to access and hear other important positions. An awareness of these silences and challenges in representation can help balance the research approach.

A second set of ethical concerns centres on what the researcher does with the information that is gathered. In some circumstances, conducting research on transitional justice enables victims and other groups to find a platform where their stories can be heard. However, generating knowledge based on accounts of atrocity necessarily objectifies an individual's experience of violence and their subsequent needs.

The uniqueness of the subjective event of suffering often gets lost in the very process of translating it into knowledge and standardised forms of representation. In addition, there is a danger that, in recording and interpreting sources, the representation of the groups or individuals under study is altered or distorted (Nordstrom and Robben, 1995). The impact of this distortion and the process of interpreting severe harm, can be somewhat mitigated during the process of conducting research if participants are able to express their opinions on how their views are portrayed, particularly if the researcher engages with the project participants throughout the research process.

For researchers from outside of the specific country or particular community, this process of engaged research is supported by taking the final research publications back to the participants who engaged in the study, to share findings with them and to acknowledge their role in developing the research. Researchers should be open to having their work contested in these exchanges. It is valuable to consider the extent to which the affected population may be willing to accept research findings. As one of the participants in the Kosovo workshop asked, "What kind of truth do we want to hear?" In South Africa and Rwanda, local organisations have challenged the development of a 'research industry' around the TRC and the gacaca courts specifically. Researchers have regularly gathered information but failed to communicate their results back to the local participants. At worst, this transfer of knowledge between the researcher and study participant benefits only one side of the exchange, furthering a researcher's career, leading to degrees, job opportunities and publications with little or no benefit to those who hold the knowledge on which the researchers claims are based. At best, this research process can be a rich relational exchange between people that lays the foundation for longer-term engagement.

5 Conclusion

Further reading

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6. Young, J.E (1988) *Writing and Rewriting the Holocaust. Narrative and the Consequences of Interpretation* (Indianapolis: Indiana University Press).
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This transitional justice methods manual has raised some key questions for academics and practitioners to consider in the context of their own work. Evident throughout these discussions is the goal of facilitating an equal exchange on the current methods and methodologies underpinning examinations of serious human rights violations and our responses to them. More ambitiously, the hope is to bridge the methodological divides within the practice and research of transitional justice while also making scholarly research more accessible to actors implementing responses to atrocity. This is perhaps still to come but if these reflections raise a greater awareness among legal practitioners, investigators, students, civil society researchers and academics about the need to talk about how and why we do research, then perhaps it has taken a step in the right direction.

6 Acknowledgement of Knowledge Exchange Contributors

The research examples used in this manual are drawn from the work of leading researchers and practitioners who were invited to engage in a knowledge exchange on the methods used to research, design and implement transitional justice processes. We are enormously grateful to the following contributors for sharing their insights and experiences:

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Acknowledgement of Knowledge Exchange Contributors

A set of academic papers by these authors will be published to complement this methods manual. Details of this publication can be requested from [Dr. Nicola Palmer](#).

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religion and popular culture in contemporary Rwanda. Andrea was one of the first volunteers of the Iriba Centre for Multimedia Heritage, a Kigali-based organisation that gathers together audiovisual resources on Rwanda from the colonial period to the present. She holds degrees from Cambridge University, the University of Edinburgh, and McGill University.

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Phyllis Ferguson served on the CAVR Truth and Reconciliation Commission and as a gender researcher and

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About swisspeace

swisspeace is an action-oriented peace research institute with headquarters in Bern, Switzerland. It aims to prevent the outbreak of violent conflicts and to enable sustainable conflict transformation.

swisspeace sees itself as a center of excellence and an information platform in the areas of conflict analysis and peacebuilding. We conduct research on the causes of war and violent conflict, develop tools for early recognition of tensions, and formulate conflict mitigation and peacebuilding strategies. swisspeace contributes to information exchange and networking on current issues of peace and security policy through its analyses and reports as well as meetings and conferences.

swisspeace was founded in 1988 as the "Swiss Peace Foundation" with the goal of promoting independent peace research in Switzerland. Today swisspeace engages about 40 staff members. Its most important clients include the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss National Science Foundation. Its activities are further assisted by contributions from its Support Association. The supreme swisspeace body is the Foundation Council, which is comprised of representatives from politics, science, and the government.

swisspeace is an associated Institute of the University of Basel and member of the Swiss Academy of Humanities and Social Sciences (SAHS).