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Leveraging the Power of the People

Isabelle Clérié

This paper is a detailed account of the three-year process undertaken between Haitian civil society and the United Nation's Office of the Human Rights Commissioner to determine if and how Haiti can address past crimes through transitional justice mechanisms and tools. The process found that Haiti's dysfunctional government and judicial sector made past crimes an unrealistic undertaking, however, community organizations within civil society are an overlooked and highly valuable conduit for reshaping narratives about the present by shedding light and insight on the truths of the past.

Keywords: transitional justice, truth-seeking, asset-based approaches, civil society, impunity

Introduction

In 2018, the Haitian government submitted a report, Rapport de l'État haïtien au CIDCP, to the United Nations Human Rights Council (UNHRC) in response to the Council's 2014 report that presented a series of recommendations to the Haitian government (CIDCP 2018). The Council's initial report urged Haiti's government to resume the Duvalier legal case, to which the Haitian government very briefly listed a few steps taken in this case specifically and then stressed the need to "revitalize" the *Cour de Cassation*, Haiti's highest court. The Council went on to recommend that the Haitian government review and implement the recommendations of the Commission Nationale de Vérité et Justice, the National Truth and Justice Commission, of 1995 which included its obligation to try any person accused of serious human rights violation. The Haitian government responded to this last point by appealing to national reconciliation, instead of justice for the victims of the Raboteau massacre:

With regard to the recommendations of the Truth and Justice Commission, since they are linked to the Raboteau trial and that subsequently, victims and executioners coexist in harmony in a relatively lasting social peace, the Government has deemed it necessary not to stir the ashes of the past by resuming the trial (CIDCP 2018, para. 135).

This is demonstrative of the absolute lack of political will to pursue any form of justice or truth seeking on the part of the Haitian government. So, in light of this and the pervasive culture of impunity, within the Haitian state, what can realistically be done to face the past? In recent years, more attention is being given to the events leading up to our current state. What happened to allow our government to be so dysfunctional not only in criminal justice, which is part of a larger pattern in governance generally? In recent years, international agencies have allocated significant resources towards strengthening the rule of law. Inter-governmental organizations like the United Nations (UN) or international nongovernmental organizations (NGOs), such as Lawyers Without Borders Canada, have partnered with public sector entities like the *L'Office du Protecteur du Citoyen* (OPC – Office of the Ombudsman) to bolster the Haitian state's capacity in criminal justice through training in international law, strategic litigation, advocacy, and more. The success of such programming is debatable, but it has increased discussion within Haitian civil society about citizen rights and participation. Most of such interventions to date have sought to effect institutional

reform of ministries and municipal leader capacity. But what about the people inside of these very systems? In one very memorable workshop, a young woman argued that “It is not enough to have a good president or a good judge but to have a system that allows us to develop good people.”

When Jean-Claude Duvalier returned unhindered to Haiti in 2011, it spurred ire amidst victims and their families and confusion across generations that were under the impression that “things were better” with the Duvalier dictatorship. Since then, groups like the Collectif Contre l’Impunité and the Fondation Devoir de Mémoire Haïti (FDDMH) have led most of the awareness on the violence of the dictatorship. This eventually led to groups like the UN Office of the High Commission for Human Rights (OHCHR) to incorporate past crimes or transitional justice into their programming. The intention was to determine if there was a need to develop more programming around past crimes and impunity, and if so, what form this programming would take.

Transitional justice refers to the way that countries emerging from violent periods confront systematic human rights violations and abuses through judicial and non-judicial mechanisms. Judicial mechanisms pursue trials of perpetrators and formal redress for violations while non-judicial mechanisms stress the importance of recognition and collective healing. Since 2011 in Haiti, there has been an increase in discussions and programming around impunity that look at past crimes of the state. This chapter will present the challenges and opportunities for transitional justice in Haiti by focusing on two periods, namely that of the Duvalier dictatorship (1957-1986) and the military regime under Raoul Cedras (1991-1994) and will offer an overview of the considerations that can be applied for fostering collective memory and social appeasement to dismantle the abusive political systems that Haiti has been subject to since the early 20th century. Faced with an unstable and complicit system, what tools can be applied in Haiti to combat impunity? Is there value in fostering collective awareness rather than only pursuing formal justice? Who is responsible for bringing to light the truths of these violent periods?

Transitional Justice

The UN identifies four pillars of transitional justice: the pursuit of justice, the pursuit of truth, reparations, and the guarantee of non-repetition.¹ While all four are symbiotic in nature, the application of transitional justice mechanisms rarely allows for all of them to be fulfilled (Crocker, 2010). Most often, transitional justice initiatives will emphasize truth seeking to acknowledge and reveal the crimes committed, understand the enabling environments for the abusive systems, and divulge the impact of the crimes on victims and on the nation (economy, infrastructure, legal, etc.) (Hayner, 2003). The groups most involved in this work are human rights organizations whose mission is to support and, in cases of threats or ongoing violence, to represent victims and witnesses of human rights violations. Institutions such as the International Federation of Human Rights (FIDH) and the Office of the High Commissioner for Human Rights (OHCHR) at the UN are such institutions that, despite their clear mission, can’t do much without the will of a state and the engagement of a civil society. These institutions have various expertise and can provide technical support on the tools and mechanisms of transitional justice, legal strategies to be pursued nationally and internationally, as well as raise awareness about violations and their consequences.

Formal transitional justice procedures, regardless of their aim, will inevitably require victim and witness testimonies for analysis. Merwe and Lykes argue that transitional justice attempts to balance social engineering mechanisms while navigating one-on-one engagements with

traumatized victims (2018, pp. 381–85). They are emphasizing that the practice of transitional justice requires a systematic collection of information from traumatized people in order to devise a strategy to “reform” a country marred by violence and its cohorts. They alert us to the need for special considerations when engaging with traumatized persons, and for this we should acknowledge the value of local knowledge and resources in these interactions. This is precisely the role that civil society can play in such initiatives.

Local organizations are more likely to know victims in their communities and have one or two degrees of separation from many of these individuals. Facilitating access to these victims for transitional justice advocates and professionals is an essential need for a more equitable and effective outcome. What’s more, civil society has a more enduring memory than ad hoc mechanisms and is better suited to not only contribute to information gathering but to house information that can be transferred within communities across generations. Such initiatives, which can take many forms including historical education (Cole, 2007), are important aspects to safeguard the guarantee of non-repetition. It is not enough to write new policies and laws. Citizens must not only know their history but also know the parameters of their capacity and their rights so that they can actively participate in dismantling abusive systems: “transitional justice efforts aimed simply at repairing the past without seeking to prevent future violence appear as an interminable exercise of rescuing victims while the cycles of conflict simply repeat themselves.” (van der Merwe and Lykes, 2018, p. 381). So, if communities are not actively engaged in the processes of transitional justice, it will be as the Haitian proverb says, “*lave men, siye atè*” (wash your hands only to wipe them on the floor).

In order for transitional justice mechanisms to be implemented, there needs to be a political will to see it through. Ideally, the fundamental goal of transitional justice work is the pursuit of justice, and for this the first order of business is a truth commission, which can take many forms, as defined by its mandate, but its purpose is to collect evidence of crimes committed. The outcome of a commission, a final report, provides a foundation for judicial and non-judicial pursuits like reparations and reforms. In the case of Haiti, where the weaknesses of the judicial system are very pronounced, the path to justice is not evident. The independence of the judiciary is poorly secured and often subject to the intervention of the Executive, and judicial institutions, such as the police and the courts, do not have the capacity to investigate crimes of the past, especially since information such as physical evidence and archives are virtually non-existent. This reality demonstrates the gaps that can be filled, at least in part, by local organizations and associations that have significant access to victims and witnesses and who can more easily gather testimonies, a key step in the pursuit of justice.

Transitional Justice in Haiti

In the last sixty years, Haiti’s defined periods for transitional justice considerations have focused on the 29-year successive Duvalier dictatorship between 1957 and 1986, and the 3-year military regime between 1991 and 1994. Between 1986 and 1991, the country had 5 transitions of power, two of which were by military coup led by Henry Namphy, who was allegedly responsible for a series of massacres and assassinations; most notorious is the July 23rd, 1987 massacre of the 139 *peyizans* of Jean Rabel in the Northwest department.² From 1994 to today, the country has had 5 presidents and 24 prime ministers. With every transition of prime ministers come new ministers in the 21 ministries of the country and each *chef*, or boss, comes with *moun pa*, their people. From a purely operational standpoint, the high turnover and pervasive nepotism inside of state

institutions drastically deteriorate the functionality of these offices and encourages corruption. More importantly, however, people with ties and associations with previous corrupt and abusive “administrations” are always in or within arm’s reach of the government.

In the wake of the dictatorship, several victims’ groups mobilized to pursue justice proceedings. Between 1986 and until Jean Claude Duvalier’s death in Haiti in 2014, several attempts were made to see this case through.

*The Duvalier Case*³

- April 28, 1986 - The first investigation into the regime's financial crimes is completed but not publicly released. The investigation involves Jean-Claude Duvalier, Michelle Bennet Duvalier, and several other people for embezzlement (Freeman & St Fleur, 2000).
- June 9, 1999 - A further instruction listing the allegations of the original 1986 instruction was sent to a new investigating judge, Pierre Josiard Agnant, who filed a complaint against several individuals, including Jean Claude Duvalier and Frantz Merceron, for corruption and against Michele Bennet as an accomplice of corruption.
- April 29, 2008 - Submission of information was taken, targeting Jean-Claude Duvalier and 17 “consorts.” The indictment introduces legal proceedings against those named for crimes against humanity, financial crimes, and acts of corruption, forfeiture, embezzlement of officials, embezzlement, theft and criminal conspiracy.
- January 19, 2011 - Three days after Jean-Claude’s return to Haiti, 29 victims filed complaints with the government commissioner against Jean-Claude and his associates. The prosecution drafts an indictment hoping that the investigating judge will finally investigate the crimes.
- November 3, 2011 - The investigating judge goes back on the previous decision to prosecute Jean Claude Duvalier et al., saying that, firstly, there was a procedural flaw, and second, that according to the code of criminal instruction the statute of limitations was for ten years from the day the crimes were committed.
- January 27, 2012 - Jean-Claude Duvalier is sent back to the court for the misappropriation of public funds. For the indictments on violent crimes, the investigating judge maintains that there was not enough evidence and that Haitian law does not recognize crimes against humanity. This blatant misapplication of law and disregard of international law is characteristic of Haitian courts. In rare but significant instances where a judge would even want to prosecute state officials for human rights violations, the Executive office maintains a chokehold on the Judiciary that halts such proceedings swiftly. Nevertheless, it is important to note that under the Martelly administration Jean-Claude was welcomed back. When asked about a trial, then President Martelly was quoted saying “[i]t is part of the past. We need to learn our lessons and move forward.” (Booth, 2012).

Haiti’s Truth and Justice Commission

When Aristide was re-installed to power in 1994, he ordered a truth commission to reveal the crimes of the military regime under Raoul Cedras.⁴ The commission was given about 10 months to conduct their investigation and though they were empowered to access national archives by presidential mandate, they were unable to consult official records, largely because the United States had seized the military’s archives comprised of some 60,000 pages. The commissioners proceeded by collecting victim and witness testimonies that culminated in a final report detailing

about 19,000 instances of violations to approximately 9,000 people. In the report, the commission explains that they relied heavily on morgue records mostly for quantitative data as hundreds of people had gone through the morgue but were never identified and buried in mass graves. Additionally, they discussed the reticence of victims and the underreporting of specific violations, like rape, making it so that the number of violations reported was likely only one third of the real number.

In its mandate, the commission was to produce a final report that would be made public. In 1996, when the commission’s mandate ended, the government was transitioning from Aristide to Preval. Seventy-five copies of the final report were printed, and its findings were subsequently neglected. Today, it is yet unclear who has a physical copy of the original report with its original four annexes including a list of victims, the actual mandate, statistical data, and lastly, the fourth annex reported to list the names of perpetrators.

Given the state’s responsibility and role in not disseminating and applying the report’s findings, the report was considered disappeared. During my research in 2017, I found a copy of the report and the first three annexes in the digital library of the University of Kansas. Upon further investigation, I found a very short reference to a diaspora publication *Haiti Progrès* that was reported to have found and published the contents of the fourth annex.⁵ This publication has its physical archives in Port-au-Prince, which was largely destroyed in the 2010 earthquake.

Luckily, the issue in question survived, and I was able to track it down and discreetly photograph it with a phone camera. The report and the photos of the fourth annex are currently online on FDDMH’s website (*Devoir de Mémoire Haiti*, 1995). They were also loaded onto USB drives and shared during a 2018 workshop with 30 local human rights organizations from across the country, most of whom had never heard of the report and its contents.

On April 22, 1994, members the Forces Armées d’Haïti (FAD’H) and their paramilitary group the Front pour l’Avancement et le Progrès d’Haïti (FRAPH) attacked the town of Raboteau in the Artibonite to suppress a resistance movement that had taken root in the town. People were shot in the streets, houses were ransacked and burned, and many were injured. Once the regime was overthrown, the victims of the attack were able to make formal complaints, and in the year 2000, after five years of preliminary proceedings, a six-week trial was held. The court sentenced 18 people who were already in prison, including 12 life sentences and 37 people were sentenced in absentia, including high-ranking military and paramilitary forces.⁶ The trial was a historic event that was announced as a new start for a country with a notoriously inefficient legal system but it was an encouraging step towards realizing respect for human rights and the fight against impunity in Haiti (Grann, 2001). However, in 2005, decisions were overturned and quashed under pretexts and accusations of court incompetence, and all detainees were released (Amnesty International, 2005). Among those tried and sentenced was Jean Robert Guerrier, who can be found today serving as a colonel in the reinstated FADH.⁷

Crimes of the Past and Impunity Programs

In 2017, the OHCHR in partnership with FIDH and the European Union (EU) hosted the first conference on transitional justice in Haiti. The conference welcomed about 100 members of civil society from most of the departments in the country, and the list of panelists featured experts on truth commissions from Peru, Chile, Argentina, Guatemala and Tunisia. All of the presentations of the international experts stressed the importance of civil society’s leadership and participation in truth seeking (EU / OHCHR / MINUSTAH, 2017). To date, attempts to address past crimes in

Haiti have focused on judicial proceedings and prosecutions of perpetrators. Over the course of three years of attending various human rights events, including the two conferences/workshops hosted by OHCHR on transitional justice specifically, and multiple formal and informal discussions with civil society actors, victims, and intellectuals, five key challenges to addressing past crimes were revealed (EU / OHCHR / MINUSTAH, 2017).

1. Lack of confidence in the justice system
2. Lack of political will
3. Inefficient reporting mechanisms within the human rights sector
4. An unsustainable application of the power of civil society
5. A lack of resources and knowledge within the human rights sector

The first two challenges are known to all and are a broken record in Haiti's history. Justice is arbitrary and highly manipulated by either executive powers or by those willing to pay for it. Haitians, particularly those living in rural areas, have no concept of formal justice and are inherently wary of it. And finally, the lack of political will is blatant and most aptly demonstrated by the participation of known perpetrators and accomplices to human rights violations in the government or their marked influence from the private sector and even abroad. The last three challenges are a bit more nuanced and will be analyzed individually.

Inefficient reporting mechanisms within the human rights sector

In several discussions during events and meetings, the treatment of human rights data frequently came up. Generally, the top human rights organizations have national networks that collect data for reporting. Once drafted, the reports are published on their respective sites or pages, and they release a public statement on the incident in question that is diffused across social media and often read or mentioned on the radio. These organizations house an inestimable wealth of information on human rights violations that could provide strong evidentiary support for analyses, reforms and legal proceedings.

Nevertheless, there is a pervasive competitive tendency within the sector whereby each of these organizations produces separate reports and houses separate archives. The resources – human, time, and financial – needed to produce these reports are substantial, and the organizations themselves are already woefully under-resourced and overwhelmed. The unfortunate reality here is that a lot of human rights organizations are politicized, and this creates a very volatile and counterproductive environment where they compete not only for resources but also for visibility so that there are the “usual suspects” who are on all of the international bodies' call lists for experts and funding.

An unsustainable application of the power of civil society

Generally, as mentioned above, transitional justice initiatives start with truth seeking, and civil society is a key driver of these efforts. Argentina is considered one of the most successful examples of the application of non-judicial mechanisms and the important role that civil society can play. Indeed, immediately following the removal of the Bignone regime, a truth commission was launched but only awarded nine months to conduct their investigation. Given the short period of time and the pervasive fear among the population such a short time after the traumatic period, the commission only reported about 8,000 disappeared persons. But, afterwards, through the efforts of civil society organizations over several years, it was revealed that an estimated 30,000 people disappeared between 1976-1983.

In Haiti, the recent #PetroChallenge campaign, which demanded accountability for the embezzlement of over two billion dollars by government officials and their consorts, was an instance of the power of civil society to “make noise.” The hashtag went viral on social media networks, and there were graffiti messages posted all over Port-au-Prince, including black banners demanding “Where is the Petrocaribe money?” But this campaign soon lost its way as the instigators of the purported movement did not harness the momentum into a targeted strategy. Today there are self-proclaimed “PetroChallengers” but it's not clear if they are a platform or if they have any materials or objectives to pursue, and today there is a sense that people are “over it” as they do not believe anything will be done to the guilty parties who are seen driving their expensive cars or living the life in the US.

Haiti's civil society does not lack the passion nor the competencies to fight for human rights. What it lacks is the capacity to persist.

A lack of resources and knowledge within the human rights sector

The principles and mechanisms of transitional justice, including international procedures pertaining to past crimes, are little known in Haitian civil society, and the players interested in its application are few. As stated above, human rights organizations simply do not have the resources to invest in past crimes. The overwhelming challenges of the present day and the meager financial resources at their disposal do very little to allow anyone to carve out the time to look at the past. Nevertheless, organizations acknowledge the importance of truth seeking as a driver for social change and eventually for justice.

UNDP / OHCHR

In September 2017, OHCHR and the European Union sponsored a three-day conference titled “Lutte contre l'Impunité des Crimes du Passé et Justice Transitionnelle” (Fight against impunity of past crimes and transitional justice). The conference featured presentations from civil society representatives from Peru, Chile, Argentina, Guatemala and Tunisia on their respective efforts to memorialize and achieve justice in the wake of their respective dictatorships and violent periods. Participants were from a national network of human rights defenders, individuals and organizations, including victims and victims' groups. The conference was the first to be held in Haiti with an emphasis on transitional justice and past crimes. One of the panelists was the former independent expert to Haiti, Gustavo Gallon, who had cited addressing past crimes as one of the five key priorities for Haiti (UN Human Rights Council, 2015). In the final version of the report of this conference, published two years later, the recommendations were broken down into three sections for civil society, the state, and the international community.

For civil society, the recommendations were centered around the acquisition of information or truth. This includes working with victims and witnesses of violations, demanding access to henceforth inaccessible public documents and archives, conducting a stakeholder analysis to see who should and could be involved in this work, and lastly to map violations across the country. The final recommendation was in response to participants bemoaning the lack of follow up after conferences and workshops. So it was recommended that participants themselves ensure the follow up. For the Haitian government, the recommendations focused on the state's responsibility to address crimes committed through reparations and reforms. Specifically, it was recommended that “presumed perpetrators” be dismissed and/or isolated from public posts.

Lastly, for the international community, the original version of the report stated that civil society also pointed to the complicity and participation of the international community by supporting perpetrators both during and after their crimes (i.e. hosting them in their respective countries). This recommendation did not make it to the final version of the report, and the recommendations to the international community instead highlighted the need for these agencies to help build the capacity of local organizations and, more importantly, to diversify their local networks to reduce the monopolistic practices of the human rights sector. As part of their efforts to ensure the follow up to the conference, OHCHR and the EU sponsored a workshop one year later that was focused on the mechanisms of transitional justice and their potential application and relevance in the Haitian context. The workshop was done in partnership with the International Center for Transitional Justice (ICTJ) and was conducted in a very participative manner that allowed for free form questions and open discussions over the course of the three days. There was a presentation on Haiti's truth commission, at which point it became evident that only one person out of the thirty participants knew that the report existed. At the end of the workshop, each participant was given a USB drive with resources on transitional justice mechanisms from ICTJ in French, UN reports on Haiti, and finally, the entire report of the 1995 truth and justice commission, including all four of its annexes.

On the last day of the workshop, the participants were asked what they wanted to see happen with the information they now had. There was a unanimous assent that something had to be done with the commission report, and a committee was named, made up entirely of volunteers representing nine organizations from seven departments, to assume a follow up for the workshop and share the report across their networks. After three meetings, the committee decided there was a need to develop a long-term vision and became the Comité National pour la Justice Transitionnelle (CNJT). The CNJT's objective is to promote and coordinate efforts pertaining to past crimes. Since its inception, members of the CNJT have held three conferences, two on the truth commission alone, and one on impunity and past crimes. Members have actively participated in regular communication and reporting of meetings, as well as in the most recent initiative to design a national strategy for transitional justice.

Designing a transitional justice strategy

Over the course of three years of research, meetings and discussions with human rights organizations, activists, victims and their families, international agencies and other experts, a few observations have stood out as being most apropos for the Haitian context. First and foremost is that truth seeking is the foundation on which justice can be sought. A truth commission has been discussed as an opportunity, but truth commissions are mandated by the state, and we have established that there is very little political will to do such a thing. So, what makes sense for Haiti? Much like the example of Argentina, there is a very significant role for human rights and other civil society organizations to play in the pursuit of truth, namely the collection of testimonies, a stakeholder analysis, as well as concerted mapping of violations.

The purpose of truth is not simply to collect evidence for judicial proceedings, but to “render irrefutable the facts” (Hayner, 2003) and “reduce the number of lies being told by the state” (Chapman & Ball, 2001). Revealing the facts of violent periods can also reveal the modus operandi of an abusive system, thereby allowing for the denunciation of a system and all of its participants; as was the case with the Guatemalan truth commission, which revealed the racist and discriminatory practices of the war towards indigenous Mayans allowing for public discourse to effectively isolate known associates of that system.

Civil society also has a key role to play in revealing the enabling environments and conditions that continuously allow for abusive and extortive governments to rise and denounce not just the practices, but the perpetrators involved be they individuals, local state or private institutions even international institutions and foreign governments. In the 2018 workshop, during a discussion on the accessibility of judicial mechanisms on the first day, one participant said “notre système est vendu” (our system is sold) (EU / OHCHR / ICTJ, 2018). This powerful comment was posted on a board for all of the participants to see for the entire three days of the workshop and the discussion kept coming back to the idea that for a legal process to go through and reach a conclusion, someone has to be willing to pay for the outcome.

If one reads through the recommendations of human rights reports written about Haiti, there is a noticeable emphasis on the state's responsibility and on reforms. This is understandable given that adherence to human rights is first and foremost the responsibility of a state, but in Haiti, as we have seen, the state is not overly concerned with upholding the law. As such, the methodology applied was rooted in strength-based frameworks and communication that prioritized assessing the strengths of Haitian civil society, particularly human rights organizations, rather than focusing on weaknesses and needs. The overall approach was anthropological in nature and as such, it emphasized context-based considerations and participant observations to determine what could be done based on participants' own reflections.

Challenges

One of the key observations made throughout this process was that people systematically underestimated their own capacity so that discussions were usually a barrage of grievances and misgivings about the way that things really are in Haiti. Despite this collective anger and frustration that things are not as they should be, they did not often see their own potential to participate in the making and upholding of the way things should be. In the first two days of the 2017 conference, participants persistently argued that justice was the only recourse but that it was unfathomable given the weaknesses and the corruption of the system. Following the testimonies of the various experts who themselves represented civil society organizations, participants began to consider non-judicial mechanisms. The testimonies of the experts from Peru, Argentina and Guatemala, where truth commissions emphasized truth seeking and where civil society took up the charge to lead to systemic changes within their countries, provided excellent examples of the power of civil society. On the third and last day of the conference, during breakout sessions, every single group presented priorities for truth seeking.

Similarly, at the 2018 workshop, the initial discussions largely centered around a list of issues and challenges, but when presented with the effects of acknowledgement and truth on a society they began to think differently. Most notably when they determined that a priority for them was to find out what happened to the 1995 truth and justice commission at which point 11 people volunteered to form a committee to study the document and share it throughout their networks. The committee has since become the Comité National pour la Justice Transitionnelle and has taken ownership of the strategy.⁸ Moreover, two members of the CNJT in Saint Marc and Fort Liberté requested to host workshops in their own communities to present the truth commission. With the support of UNDP and FDDMH, they received funding, and each held their workshops in July 2019. The partners in Fort Liberté also hosted an event for the 71st anniversary of the Universal Declaration of Human Rights on December 10th to present the mechanisms of transitional justice as well as share the strategy with representatives of 13 communes of the Northeast department.

Finally, the context-based approach allowed for the most appropriate consideration of the entire process: human rights organizations are overwhelmed by the day-to-day realities they face and are woefully under resourced. Participants very often shared stories from their work where they had to help people facing horrible abuses and the situations they often found themselves in during this work. During a discussion on the incompetence of the legal system, a judge stood up to say that it was not a fair assessment because he and several of his colleagues were very competent but that because of the constant interference by senators and presidents he would end up with clerks who were barely literate. Another lawyer talked about going to the courts to complete specific procedures and having to show the clerks what forms they needed. Others talked about trying to help people who are in prisons with absolutely no file on record for their arrest or any subsequent ruling for them to be imprisoned. Still others gave accounts of receiving victims' testimonies in instances of rape and repressive violence. All of this demonstrated the psychological tole it takes on them as advocates and citizens, so that sometimes there were moments of reflection where there was a sense that people knew they were fighting just to go down fighting.

In face of such realities, how could we charge them with looking to the past? Even after determining that truth seeking should be a priority, when tasked with listing action items organizations could not get passed a project centric approach where proposals would have to be written and budgets allocated, for which they were not very optimistic and reverted to complaining about being under resourced.

Justice

To date, most attempts to address past crimes have centered on judicial proceedings, and yet the strategy proposes no activities related to judicial mechanisms. One of the most common feedbacks received on the strategy was the absence of justice and the need for it. Its absence from the document is not intended to be a dismissal of its significance, but merely demonstrates civil society's choice. While participants vehemently called for justice, after several discussions, there was a consensus that in light of Haiti's current situation and political climate, and in light of the general population's perceptions of justice and the risks associated with it, it was more conducive to emphasize truth seeking.

Truth seeking was always seen as more attainable and more likely to yield immediate results, such as with commemorations and workshops where people leave with more information than when they arrived. Truth seeking sparks conversations and sharing of even more information, informally and otherwise. Since FDDMH started its commemorations and its mobile exhibit, people have reached out of their own accords to give their testimonies, share documents and photos, and request more information. More powerful than this are the accounts of people who share with FDDMH that through the commemoration they feel like they can finally openly mourn their lost ones and feel empowered to no longer whisper the name of their perpetrators. The strategy then is a concerted effort to find and share the truth so that justice is more attainable.

The Strategy

Using the context and strength-based approaches revealed the incredible capacity for mobilization within civil society, particularly outside of the capital, and highlighted social bonds and systems that could be conducive to a transitional justice approach. One of the biggest concerns of participants was their limited access to funding for their existing activities so it was

difficult for them to justify adding to their workload. To address this, the strategy considered activities that could be integrated into existing activities and capitalize on mobilization efforts that were very low cost. The opportunities identified in the strategy are based on the comments and observations of participants which were formulated into action items around three broader themes: knowledge production and organization, advocacy, and awareness.

Through several discussions, participants were asked three guiding questions. What truth does Haiti need? What form of truth? And lastly, to what end? To the first question, participants listed the need to know the facts of the types of violations committed, the victims and the perpetrators, but they also emphasized the need to understand how these things happened. What were the enabling conditions that allowed for these abusive systems to be put into place? How did they maintain their power? What was their *modus operandi*? And finally, what are the legacies of these systems?

To address all of these questions, the strategy proposes a concerted data collection and inventory process in the form of archiving and mapping of violations. These two things can lead to any number of applied research initiatives such as understanding the economic impact of the dictatorship on the peasantry to design a reparations program. Similarly, a mapping process could serve as the basis for more targeted interventions throughout the country with respect to the historic struggles of communities, both geographical and demographic such as women and children. In understanding their role in such a process, organizations were shown that their social networks and their capacity to mobilize were invaluable resources through which victims and witnesses could be identified and approached in a minimally invasive and discrete manner, and through which information could be shared and absorbed more effectively as it would be diffused through locally trusted channels.

Lastly, despite the strength-based approach, there is a call for building knowledge bases with a series of targeted training programs. For instance, organizations wanted to have more technical workshops on truth seeking in their respective communities. Additionally, they wanted to know and understand international mechanisms and how to engage with them. This leads us to the advocacy component that largely centers around access to existing and restricted information such as the military's archives, and the use and application of this information such as reviewing and applying the recommendations of the 1995 truth and justice commission.

One key component of this section is pushing for more commemorations throughout the country. As stated above, participants had a hard time letting go of the project centric approach with proposals and budgets. One activity that many human rights organizations do is to make people aware of their rights. They often do this in schools and with other community associations; so they determined that they could pair these interventions with a mention of past crimes, preferably as it pertains to their community or department, or they could present a broad overview of the lasting negative impacts of various periods. Additionally, they could mobilize any and all spaces in their communities that have Haitian flags lowered at half-mast for specific occasions such as anniversaries of massacres or on April 26th, the national day of memory for victims of the dictatorship.⁹ Such suggestions incited enthusiasm and concrete steps that could be realized in a relatively short amount of time for little to no money.

Finally, awareness is presented as a way to "make noise" and give more people access to the information they need to make noise, meaning broadcasting information as much as possible. Social networks are effective but do not reach the majority of the population, so radio shows were suggested as a more effective medium for sharing information. For example, FDDMH has a radio

show called “Vinn Koute” (Come Listen) on Radio Kiskeya that airs once a week and is circulated through 5 community radio stations; the episodes are also uploaded on their website. Diaspora members are frequent listeners of stations like Kiskeya and are also an important audience for the implementation of this strategy.

Players and partners

The CNJT was positioned as a key driver to the implementation of the strategy. The idea is that the committee would act as the coordinator for transitional justice in the country and assume the operational and administrative burden to spare organizations this added load. Local organizations were split into two networks: the community network that includes peasant associations (i.e. cooperatives) and OCBs, and the large network that includes the largest rights organizations in the country that have national scopes. The OPC was identified as a key player as such work falls within their mandate and is purportedly part of their programmatic objective. And finally, the international community was identified as a source for funding, technical assistance (trainings), and other advocacy initiatives.

Conclusion

The national strategy for transitional justice was finalized and launched on December 6th, 2019. The final document presents opportunities and a suggested outcomes table to help guide organizations in defining their priorities. The strategy is not a project proposal with a budget and timeline. The document is a framework from which initiatives and projects can be elaborated. More importantly, it demonstrates the willingness and strengths of Haiti’s civil society to participate in a democratic process whereby citizens are able to know their history and participate actively in the shaping of their nation. The idea that Haiti needs everything is daunting and frequently acts as a deterrent for any investment or engagement. The exercise of developing this national strategy allowed for civil society organizations to realize that they, as individuals, have privileged access to their communities and as activists they can leverage this access to propagate truth and resources for truth, such as websites with historical documents and archives.

Since we started this work, organizations throughout the country have requested and sought technical trainings on transitional justice and its many avenues for change; several lawyers have received special training in transitional justice; and relevant language and terminology; for example, the terms memory and truth seeking are appearing more and more in public conversations. As stated above, the strategy is meant to act as a framework, a launch point from which citizens, activists, civil society, researchers, any and all, can reshape the narratives about our present by better understanding our unique past.

ENDNOTES

1. UN Office of the High Commissioner for Human Rights – Rule of Law-Transitional Justice.
2. Rapport *Massacre Jean Rabel, Tet Kole Ti Peyizan* (2007).
3. FIDH/RNDDH (Mars 2018).
4. *Si'm Pa Rele: Commission Nationale de Vérité et de Justice*.
5. Volume 15, No. 48 (18-24 février 1998).

6. *Ordonnance du Tribunal de Première Instance de Gonaïves, instruction criminelle rendu par le Juge d'Instruction Jean Senat Fleury* (27 aout, 1999).
7. Communiqué de press: Ministère de la defense (13 Mardi, 2018).
8. Note de Presse du Comité National pour la Justice Transitionnelle (11 Decembre, 2019).
9. Arrêté Présidentiel déclarant le 26 avril la “journée nationale du souvenir à la mémoire des victimes de Fort-Dimanche”, *Le Moniteur* (28 avril, 2015).

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