

WORKSHOP #3: TRANSITIONAL JUSTICE: THE INTERNATIONAL CRIMINAL COURT AND TRUTH AND RECONCILIATION COMMISSIONS

Jennifer Llewellyn: "The South African Truth and Reconciliation Commission: A Restorative Approach to Dealing with Conflicts of the Past"

Jennifer Llewellyn gave an overview of the structure of the South African Truth and Reconciliation Commission. She then contrasted the goals of retributive justice (as usually found in a criminal justice context) and restorative justice, which attempts to deal with the relationship between the perpetrators and the victims. Llewellyn believes that in cases of systematic or widespread human rights violations, restorative justice and truth and reconciliation commissions may be more effective than war crimes tribunals or mass trials.

David Dyzenhaus: "Judicial Independence and the Rule of Law"

David Dyzenhaus discussed the role of the South African Truth and Reconciliation Commission and its examination of the role of the legal profession in upholding apartheid. Dyzenhaus suggested that more judges should have come before the Commission to reveal the role of the law and the legal profession in promoting and prolonging apartheid. South African judges should not have cited judicial independence as a reason for refusing to appear in front of the Commission. Their appearance would have increased the accountability of the law and the legal profession, and would have informed South Africans about the crucial role they played in the apartheid regime.

Tawia Ansah: "Law, Literature and the Pursuit of Justice in the Postgenocide Context"

Tawia Ansah examined the role of the law and its relation to local stories. The stories told by women in Rwanda about the violence they suffered has led to a better understanding and a broadening of the definition of genocide. More importantly, however, is the local understanding of the genocide that flows from the stories. He also contrasted the local memorials in Rwanda (skulls left in piles in churches) with the state memorial (an unemotional concrete slab) to demonstrate how the law creates a static image of the genocide that may not lead to justice.

Ariane Brunet: "A Holistic Approach to Addressing Gender Crimes at the Rwandan Tribunal"

Ariane Brunet spoke of the history of gender-related war crimes in the 1990s and described the activities of the U.N. in addressing or failing to address these crimes. She noted the poor record of war crimes trials in addressing gender-related crimes. The International Centre for Human Rights and Democratic Development sponsored the creation of the NGO Coalition for Women's Rights in Conflict Situations, which employs a monitor and an investigator on gender-related crimes in Rwanda. This creates important interaction between NGOs in the West and NGOs in