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Spotlight on Belgium

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Tine: Welcome to Justice Visions. My name is Tine Destrooper and I'm the project lead of Justice Visions research program at Ghent university's Human Rights Centre and the regular host of this podcast. Today with me as a co-host is Brigitte Herremans. And we're going to look at a case that's not a classical, I would say transitional justice case. Again, a case where you could indeed ask what is transitional about it at all, which is the Belgian case: Belgium and its parliamentary commission dealing with Belgium's colonial past in Congo, Rwanda and Burundi.

Brigitte: Yes. we had a couple of episodes where we talked about atypical cases, no? We zoomed in on the application of transitional justice and victim participation in cases of ongoing conflict: Syria, and of course, in our last episode, on the Democratic Republic of Congo. And then we also looked into cases of consolidated democracies and how experiences from the domain of transitional justice can help to address terror attacks, which we've covered in an episode on the Charlie Hebdo trial.

Tine: You're right. We have been talking about these atypical cases a lot, and I think that's because it reflects a movement in the broader domain of transitional justice, which we've been observing, I would say almost for a decade now, which is an expansion of the range of situations in which transitional justice is thought to be applicable. And I've been finding it fascinating to talk about that in the show is because it just challenges and changes the whole concept of justice and transitional justice, where we go from an exceptional justice to ordinary justice to deal with exceptional situations like atrocity, like physical violence, et cetera.

Brigitte: And it's also fascinating that there are some fixed notions, like some of the standard transitional justice toolkit elements are really preserved, even in these atypical or non-transitioning cases. Like in the Syrian case, we see how justice actors and also victim groups rally behind notions of criminal accountability and more recently really focused on truth-telling.

Tine: And I think that's exactly what's happening is that these core elements of transitional justice they're so appealing on the one hand, and so versatile on the other, that transitional justice has increasingly come to be considered relevant also in non-transitions, on both ends of the spectrum. So both the ongoing conflicts, the fragile states, the failed states *and* the settler and old democracies.

Brigitte But today, what is relevant for our episode is that we need to talk more about transitional justice and its applicability in the global North. It's not just a paradigm that we want to export, but it really applies domestically in Europe, for example.

Tine: Yes, that's true. And therefore, that's also why we're asking what transitional justice can do in cases of historical violence, for example with regards to a legacy of

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colonial violence, but also how that relates to the topic of racial justice and injustice today. And that's why we're talking about Belgium, where last summer, almost a year ago now Belgium was the first country to establish a parliamentary commission dealing with its overseas colonial legacies. Before we've seen truth commissions, if you will, in settler democracies like Canada, New Zealand, Australia, but this one is the first one really dealing with overseas colonial legacy.

Brigitte Yes. And we're really happy to talk about the Belgian case and how it's developing, how it's received, and also how other formal colonial powers could learn from the Belgian case. And we do that with our guests, Dr. Liliane Umubyeyi, who is our central guest for this episode. And Liliane is the research coordinator at Avocats Sans Frontières, Lawyers without Borders, in Belgium. And she has been working for a long time on processes of conflict resolution and democratic governance, both at the UNDP and also international NGOs. And amazingly, she doesn't hold one, but two PhDs in social sciences and in law, and she's a specialist on transitional justice in amongst others Congo and the Central African Republic. Welcome Liliane.

Liliane: Thank you for inviting me.

Tine: Thanks Liliane for joining us. And if we can, I'd like to just dive right into this topic, the question that has been keeping many of us busy for a while now, is where did this commission all of a sudden come from? Where did this political decision to establish this parliamentary commission in a way unexpectedly come from, given that there has been such long-term mobilization of civil society, which has so far always been met with - let's put it euphemistically - limited political attention, limited political willingness, and now all of a sudden last year we had this commission, how should we understand that?

Liliane: I think this commission, the way it was set up seems to be very spontaneous, but in fact, it wasn't. In fact there have been the George Floyd death that sparked global movements against racial injustice all over the world. And in Belgium there have been demonstrations in different cities against police brutality against racism and, right after the biggest demonstration, that happened June the seventh, the federal department decided to set up, what was called at the beginning as a truth and reconciliation commission but was requalified after. Before that, I think in 2015, the Green party has also tabled a bill in the parliament, asking for a commission that would recognize or examine Belgium's colonial past. The debates on Belgium's colonial past have been there for many years and have been very vivid in diaspora organizations and have been put at the forefront by organizations like Mémoire Coloniale, Bamko, Hand-in-Hand against Racism, the debate has been there.

Brigitte: We'll definitely talk about the civil society dimension, because it's so important, but maybe just as a background for our listeners, can you give us a little bit more explanation of how the commission works? How does it operate and what is so specific about this commission in Belgium?

Liliane: The first element to keep in mind is that first of all, it was announced as a truth and reconciliation commission, but right after when the parliament decided to set it up officially, they changed the denomination. So it wasn't a truth and reconciliation commission, as we know in the different transitional justice contexts, but it was a special commission in charge of examining the colonial past. So when we look at the mandate, it looks like a transitional justice mandate, but it's not called as a truth and reconciliation

commission. And the second element to keep in mind is that it's a political commission. So it's composed of 17 members of parliament and it has different objectives or missions. So we have this set of objectives that regard truth seeking, reconciliation and reparations. To be clear with our audience the work of the commission are accompanied by a group of 10 expert. And these experts are in charge of writing a kind of a report, which is a roadmap of the methodology and how we're going to approach this task. But the problem is that this group of experts was supposed to give its report. I think the first date that was announced was September. And after September, it was said December and after December, nothing … The commission didn't say anything about the report, about when and how. So, we are the situation where if we want to have information on the report, we have to rely on a personal contacts, which is counterproductive.

Tine: Thank you, Liliane. And I definitely want to come back to the report you're referring to, and it's true that the agenda and the mandate is so, I'll call it ambitious. There's, I think about 12 objectives that are all so big and so vast in and of themselves, but what I really also wanted to ask you is, indeed, initially the commission was framed as a truth commission, and now it's not formally called that anymore, but within the objectives and the framework that's used, you really do still very much see that logic of transitional justice, reparations, memorialization, justice, truth, et cetera. And I wanted to ask you, if you have a sense of where that comes from, is that something that's in line with the expectations and the views of diaspora organizations of civil society? Does it come from the experts? Does it come from the political level? Do you have a sense of who introduced that logic of transitional justice?

Liliane: It's an interesting question. And a hard one, I would say. Actually what I know is that the diaspora and the civil society organization have not been included in the process. Even though they have been asking for their participation. So it doesn't come from the civil society or the diaspora. They were not familiar with this framework of transitional justice. So I don't think it comes from them. I think when you listen to the political actors or the members of parliament, they don't seem to be very familiar with the concept either. In terms of the international standards, what have been the practices in other countries? What do we mean by seeking the truth? What are the requirements when we talk about reparations, when we talk about reconciliation. There seems to be, a lack of understanding of all the kind of requirements. So, I'm not sure that it comes from, the political actors. So, beyond that, I don't know.

Brigitte: Maybe about your role also as ASF, for you it's very important as an organization also to apply transitional justice to countries in the North. We were wondering also to what extent the language applies to the Belgian case, or to established democracies more generally. Is it the most appropriate framework?

Liliane: We want to be very careful because, as you said, we are an international NGO, which works normally in the global South and we don't want to impose. It's really important for us. We think that the civil society organization diaspora they have been at the forefront of this struggles for many years, we have to be careful of not transforming a political struggle into a technical issue, because it runs the risk of taking the ownership of these struggles. So the Belgian state is using that framework. It has some limits. So it's our responsibility to highlight the limits of this process. We know that this tool is useful. It offers an opportunity. We don't say like, it's still the only tool that we have to use, or the only framework that we have to use to address the colonial injustices, but it offers an opportunity that for example, criminal trials wouldn't offer in terms of understanding

the different lines of responsibility in historical injustices of going beyond individual responsibility in terms of bringing or finding proofs.

Brigitte: You've elaborated on the role of *Avocats Sans Frontières*. And it brings us neatly to the role of civil society organizations, because one of the critiques of course, which has to do also with the involvement of civil society, of victims' organizations, is that they have not been involved at all, or very limited. It's a top-down initiative, and there's hardly been any consultation. So can you give us a bit more background about this?

Liliane: So yeah, as I said at the beginning, the way the commission was set up, it was quite a surprise. So there hasn't been any consultation with the civil society on what kind of mechanism could be relevant according to the different claims. So the lack of consultation the process, the persons that were chosen to represent the different diaspora and, continuous now, because no one has information on what is going on. So this lack of transparency has been very problematic from the beginning.

Tine: You're talking about this lack of transparency, about the exclusion of diaspora and civil society, about contestation as well, but I also recall an earlier conversation we had where you also briefly mentioned some of these, I would say more informal initiatives run by civil society in the same domain. Could you tell us a bit more about what those initiatives look like, how they are set up and especially also what their ambition is?

Liliane: I'm going to try to talk about it but … organizations they putting in place, what they call *les assises décoloniales*. The idea is to invite experts from different domains, whether it's in education, whether it's in health sector or in police sector, to understand the continuity and the impact of colonial structures in history in the present. And this group of experts would work with civil society, and publish reports that will be sent to government and to authorities. It's a kind of truth-seeking, or an alternative to the commission, because it started from civil societies. It wants to be inclusive of the different diaspora. It wants to choose the experts that are going to work on the different topics. I think it will be a more long-term process because they want to take more time to understand how this colonial legacy still affect population and to formulate proposals for policy reforms.

Brigitte: These bottom-up initiatives by civil society also in the domain of truth seeking, is there any willingness or openness in the commission and also in the expert report to address this? The report of course it has been submitted, but not yet made public, do we know about possible interest in these initiatives?

Liliane: It would be a lie if I told you that I know, but the only information that I have is that some experts have explicitly asked to the commission to involve these civil societies and to take into consideration their proposals and their initiatives. But I don't know how far this recommendation from experts has been taken seriously. And I think this also shows, or reveals, this lack of transparency because no official information has been published on this process.

Tine: I maybe want to just pick up on that point very briefly Liliane, because we've also been curious to know what exactly is in the report. It's so difficult as you say, to find information about the proceedings. It's not just within the working of the parliament, but also in the public debate. This issue has been relatively absent. What do you make of that?

Liliane: I don't know. I think it's a question we ask ourselves from the beginning. As you say, it's the first country to set up such a commission. And when we talk about this initiative at the international level, within other countries, people are so amazed and people are like, oh my God. But at the same time, I think people, people here at least in civil society, my impression that they are disillusioned, because there was the Lumumba commission, and when you read a bit about the process of the Lumumba commission, you can see some similarities in terms of this lack of transparency, something that is politicized, but is a bit hidden. We don't get a lot of information. So, it's not easy to understand the process and to be able to influence the process. That's the first experience that can create disillusion among civil society actors. The second element is there was this will to renovate the Tervuren museum, which involved many civil society organizations, diaspora and Afro-descendant organization. And there was a lot of disappointment on how they were treated, a lot of criticism against this process and how they pretend to decolonize something, but, not only they don't do it, but the way they treat people who work on it is a revealing of the continuum in this colonial logics.

And then I think, yeah, there is a kind of fatigue and when you also see how this process of establishing this commission was set up, you could have the impression that, okay, it's another way of getting rid of a problem by pretending that it has been addressed.

Brigitte: I wanted to pick up on that and ask you what would be needed for the commission to achieve some of the objectives that civil society organizations have set.

Liliane: The first one is just the transparency, I think it's real surprising because it's something that has been put on the table from the beginning that it has to be transparent, if you want to have trust, if you want people to be involved, if you want to take seriously the problem, you have to give information on what you're doing and how you do it. This question of transparency is also at the heart of the legitimacy of the… if you want this process to be legitimate, you have to be transparent in the way you do it and how you do it. So I think it's, yeah, that will be my first recommendation.

Tine: Thank you, Liliane. And I think this, this question and your answer too it also nicely brings us to the last question of this episode, and I'm not sure which one to ask. So, I'm going to ask two, and you just choose which one you want to answer. One would be, do you see anything actually that's happening within this Belgian commission where you think: oh, this could actually serve as an inspiration and as an example for other, maybe European, countries that want to embark upon a similar process? The other question, and again, feel free to choose: what you see happening in countries around us and the debates in countries around us that could actually inspire how the Belgian commission moves forward and shapes up? So, one is about what's in the Belgian experience that can serve as an inspiration for others? And the other one is just the mirror image in a way. So I don't know if you have any thoughts on that.

Liliane: I think what we would like to see happening in other countries that could be an inspiration, I mean, that Belgium can inspire as that is to have this courage, this ambition to set up a commission or a mechanism. Because when you look at the mandate is very ambitious. So if that could inspire other countries to face their colonial legacy, in that regard, Belgium could set up a prestigious precedent. If I can put it that way. And I think what is ambitious in the Belgian experience: it's very broad. You talk about reparations you talk about reconciliation, you talk about truth seeking. Theoretically, it's ambitious and it's something that could be replicated in other countries. But at this point it's empty. So we have to see something concrete.

Tine: Thank you, Liliane. I think what you did there is a nice wrap-up, but also opening a lot of perspectives for next episodes. So thank you for that, there is a need a lot to talk about in these established democracies and the initiatives that they are taking and for our listeners, I mean, hopefully by the time we get this episode online, the report is going to be out in which case we'll link to it in the show notes, which you can find on Justicevisions.org. For now, Liliane, I want to thank you so much for sharing your insights with us. And we look forward to continuing the conversation hopefully soon.

Liliane: Thank you for inviting me and thank you for this interesting discussion.

Brigitte: Thank you again, Liliane, Tine. Bye.