

STUDIES IN POLITICAL TRANSITION 12

Klaus Bachmann /
Irena Ristić /
Gerhard Kemp (eds.)

International Criminal Tribunals as Actors of Domestic Change

The Impact on Media Coverage

Volume 2



PETER LANG

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International Criminal Tribunals as Actors of Domestic Change

Do International Criminal Tribunals trigger social change, provide reconciliation, stabilize fragile post-conflict societies? Many authors claim they do, but they base their assumptions mainly on theoretical considerations and opinion polls. The editors and authors of this book take a different position: based on extensive field research in nine European and African countries, they examine whether tribunal decisions resulted in changes in media frames about the conflicts which gave rise to the creation of these tribunals. International Tribunals hardly ever shape or change the grand narratives about wars and other conflicts, but they often manage to trigger small changes in media frames which, in some cases, even lead to public reflexion about guilt and responsibility and more awareness for (the respective enemy's) victims. On an empirical basis, this book shows the potential of International Criminal Justice, the possibilities, but also the limits of International Criminal Tribunals. Volume 2 presents the evidence from Kenya, Rwanda, Sudan and South Sudan.

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International Criminal Tribunals as Actors of Domestic Change

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Edited by Klaus Bachmann

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In memoriam Mohammed Ali Mohammed Ahmet

Foreword

This is the second volume of the publication “International Criminal Tribunals as Actors of Domestic Change. The impact on media coverage”, which is one of the results of a five-year research project carried out by Klaus Bachmann, Irena Ristić, and Gerhard Kemp and which was financed by the Polish National Science Centre (Narodowe Centrum Nauki).¹ We, the editors, have decided to split the publication into two volumes, without a replication of the theoretical and methodological introduction nor of the acknowledgments, which the interested reader will find at the beginning of volume 1. In the first volume, we also explain the background of the project and the methods, through which we tried to find out whether and eventually how International Criminal Tribunals (ICTs) affect media coverage about the conflicts which gave rise to the tribunals’ creation.

We decided to divide this publication according to the jurisdiction of the tribunals, whose impact is examined here. The first volume deals with the International Criminal Tribunal for the former Yugoslavia (ICTY) and hence with the ICTY’s impact on media frames in Serbia, Croatia, Kosovo, Bosnia and Herzegovina, and Montenegro, whereas the current volume examines the impact of the two International Criminal Tribunals active in Africa – the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Court (ICC), whose impact we analyzed with regard to the countries, which were affected by its jurisdiction against the will of the respective government: Sudan and Kenya. Included in the analysis of

1 This publication was financially supported by the Polish National Research Center (Narodowe Centrum Nauki) through the grant nr. 2012/06/A/HS5/00249 and a grant awarded by the Polish Ministry of Science and Higher Education based on decision *nr 215443/E-560/S/2013-1*. Klaus Bachmann and Gerhard Kemp also extend their gratitude to the Robert Bosch Foundation, where they were able to work on the final version of both volumes during their fellowship at the Robert Bosch Academy in Berlin in 2017 and to STIAS, the Stellenbosch Institute for Advanced Study, Wallenberg Research Center at Stellenbosch University, Stellenbosch 7600, South Africa, where they were able to discuss the results of the project with Dire Tladi from the University of Pretoria and other STIAS fellows.

the Sudanese media is South Sudan, because the new established country was still part of Sudan when the ICC's judicial intervention started and because South Sudanese media formed part of the Sudanese public sphere even after South Sudan had become independent. Although envisaged, we were not able to investigate Libya, because the time frame of our research overlapped with the international military intervention and the civil war.

Klaus Bachmann, Irena Ristić, Gerhard Kemp

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Abbreviations

ASK	Agricultural Society of Kenya
AU	African Union
CIPEV	Commission of Inquiry into Post-Election Violence (Kenya)
CORD	Coalition for Reform and Democracy (Kenya)
ICC	International Criminal Court
ICID	International Commission of Inquiry (Darfur)
ICT	International Criminal Tribunal
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	Internally Displaced Persons
IRDP	Institute of Research and Dialogue for Peace (Rwanda)
JEM	Justice and Equality Movement (Sudan)
KANU	Kenyan African National Union
KNDR	Kenyan National Dialogue and Reconciliation Initiative
KTN	Kenyan Television Network
LDP	Liberal Democratic Party (Kenya)
MHC	Media High Council (Rwanda)
MP	Member of Parliament
MRND	National Republican Movement for Democracy and Development (Rwanda)
NAK	National Alliance of Kenya
NCP	National Congress Party (Sudan)
NDP	National Development Party (Kenya)
New KANU	see KANU
NGO	Non-governmental Organization
ORINFOR	Office of Information (Rwanda)
PCP	Popular Congress Party (Sudan)
PEV	Post-Election Violence (Kenya)
PNU	Party of National Unity (Kenya)
RDR	Movement for the Return of Refugees and Democracy to Rwanda (Cameroon)
RPF	Rwandan Patriotic Front
RTLML	<i>Radio-Television Libre de Mille Collines</i> (Rwanda)
SLA/M	Sudan Liberation Army/Movement
SLM	Sudan Liberation Movement
SLA	Sudan Liberation Army
UNSC	United Nation Security Council
URP	United Republican Party (Kenya)

Klaus Bachmann

Framing post-election violence in Kenya

The violence which erupted in the aftermath of the 2007 presidential election in Kenya was the first incidence of this kind. Earlier elections had triggered violence, too, but that time, the scope of violence exceeded all previous conflicts after Kenya's independence from British rule. However, it would also be premature to see the post-election violence (PEV) in 2007 as only an extension or, worse, as the natural consequence of earlier conflicts. The violence was rooted in party politics as much as in ethnic divisions among the population.

Kenyan elections have only partly been shaped by ethnic cleavages and identity politics, and the party system does not directly reflect the ethnic affiliations of the population, although ethnic affiliations and identity politics dominated the post-colonial political system.

During the final phase of British rule in Kenya, the Kikuyu ethnic group, the largest one in the country, had borne the thrust of the liberation struggle and had become generally associated as the political force, which dominated the Mau-Mau uprising against the colonial center. After independence, the smaller ethnic groups, such as the population of the coastal area, the Luo, the Luhya, and the Kalenjin, gathered in one political organization, the Kenyan African Democratic Union (KADU), in order to withstand the domination of the Kikuyu-led Kenyan African National Union (KANU). Whereas KANU preferred a centralized post-colonial state, in which the party would be able to dominate the others, KADU promoted decentralization and regionalism in order to accommodate the region-based needs of its smaller ethnic constituencies.¹

This conflict overlapped with several other ones, which concerned the role of the state in the economy and the way to re-distribute real estate of white farmers. The ensuing competition between the ethnic groups over access to land and assets of the white colonial elite deepened the

1 Materu, S. F. (2015): *The Post-Election Violence in Kenya. Domestic and International Legal Responses*, The Hague: Asser and Springer, 17–21.

cleavages. But the latter did not affect all tribes in the same way. It led to the bifurcation of the party system and the emergence of two big camps – the Kikuyu-led and Kikuyu-dominated KANU on the one hand and KADU on the other hand, which included almost all other tribes behind a common platform, which was driven by the fear of Kikuyu domination. This fear was not unbiased, because KANU very effectively managed to dominate the political system after independence not only by obtaining the necessary electoral support, but also by co-opting other ethnic groups into KANU, marginalizing KADU to the extent that the latter dissolved itself in 1964. KANU had absorbed a large part of the leadership of the other ethnic groups, but without satisfying the underlying economic and cultural demands, which had led to the emergence of post-colonial ethnic cleavages. The result was almost foreseeable: various factions organized within KANU, destabilizing the party and triggering repressions against dissidents and the small and feeble opposition party the Kenya People's Union (KPU).² In the late 1960s, Kenya became a monoparty state and de facto dictatorship under President Daniel Arap Moi, a Kalenjin, who had managed to succeed Jomo Kenyatta as the leader of KANU. Mistrusted by both – the Kikuyu elite and the leadership of the ethnic groups opposed to KANU rule – Moi's rule became more and more authoritarian. Its methods included the incarceration of political opponents (including KANU leader Raile Odinga), police violence against protesters, driving political opponents into exile, and the instigation of inter-ethnic violence.

A region specifically vulnerable and exposed to violence was the Rift Valley, where people of various ethnic backgrounds lived together. The likelihood of ethnic categorization, stereotyping, and conflicts over access to land to lead to violence was much greater there than in other regions, where one ethnic group dominated on a vast territory and with less daily contacts among the group members. A similar situation occurred in Nairobi suburbs, where members of various ethnic groups, who had originally migrated from the countryside, lived together in extreme poverty and without clear and established boundaries to other groups.

2 Materu (2015), 23.

At the beginning of the 1990s, after the collapse of the monoparty systems in the communist world, Kenya returned to multiparty rule. But the constitutional amendments also contained provisions for the introduction of a presidential system. Under the conditions of a strongly bifurcated party system, this was likely to deepen the underlying tendency to a two-party system, shaped by ethnic affiliations. Parties may or may not be mono- or multi-ethnic or they may shy away from any ethnic politics at all and gather members of ethnic groups on a civic platform, but presidential candidates can hardly avoid to be ethnically categorized, especially under conditions of strong ethnic polarization and an election campaign conducted under the premises of majoritarian voting and direct election by the populace. Opposite to many other countries with presidential systems and ethnic polarization, Kenya had provisions whose purpose was to smooth ethnic tensions and force political parties and presidential candidates to seek inter-ethnic compromise. One of them was the requirement of a presidential candidate to garner the support of at least 25 percent of the valid votes cast in at least five out of the eight Kenyan provinces. By 2002, when Moi's second term had ended and he was barred from another term by the constitution, this led to fears in KANU, Moi's successor might fail to cross the 25-percent threshold and the election lead to Odinga's oppositional National Development Party (NDP). What in similar cases could trigger a coup in Kenya triggered the emergence of an alliance between KANU and NDP and a kind of informal power-sharing agreement, first in the parliament and then in the executive. As a result, both parties merged, taking the name of "New KANU", Odinga and other opposition politicians entered the government, and Uhuru Kenyatta, the son of Kenya's first president Jomo Kenyatta, was promoted as their joint presidential candidate. But when New KANU endorsed Kenyatta officially as a candidate, the Odinga faction left and created the Rainbow Alliance, fearing Kenyatta would become a puppet in Moi's hands, who would rule from behind the scene.³ KANU's fear about the 25-percentage threshold proved substantiated. In the 2002 election, KANU lost and was

3 Odinga had been a political prisoner under Moi's rule, and Moi had convinced the New KANU leadership to adopt amendments to the party statute, which enabled him to block government decisions. Materu (2015), 29–31.

ousted from power. It was the first case in independent Kenya when power switched from one political alliance to the other.

Kenya's constitutional framework had forced political movements to organize and run as parties, rather than as political outfits representing specific ethnic interests. This relieved the party system from the burden of ethnic strife, but it put all the pressure of making politics along ethnic lines on the party alliances themselves. After the 2002 election, the Rainbow Coalition fell apart, just like how earlier KANU had fallen into pieces. The ethnic organizations, which had gathered in the Rainbow Coalition, kept their statutes, structures, and ideological identities, and the two main components of the Rainbow Alliance, the Liberal Democratic Party (LDP) and the National Alliance of Kenya (NAK), ceased to treat one another as partners after having won the election. This first became visible during the government formation, but later also during the process of drafting a new constitution, the main common element of LDP's and NAK's election platform. Both parties' concepts for a new constitution differed widely, to the extent that they elaborated two competing draft constitutions, one of which provided for a parliamentary system and the other for a presidential one. In the weeks preceding the constitutional referendum, both umbrellas, KANU and the Rainbow Alliance, were tormented by internal frictions and tensions and disintegrated, leading to the creation of new alliances – the “Orange” Alliance under Odinga and the Kibaki alliance, which used a banana as its symbol. Later on, Odinga's alliance took on the name of The Orange Democratic Movement, whereas Kibaki's followers created the Party of National Unity (PNU). Both then competed against each other during the 2007 elections.⁴

Election campaigns had already been accompanied by violence, in which not only politicians and political parties, but also criminals and business-people had played a role, intimidating, beating, and even killing political opponents. There is evidence that some of the gangs, which were involved in applying political violence, were in itself more business oriented than ideology driven and entered into quid pro quo relationships with the political force, which was ready to beat the offer of its political competitors.

4 Mueller, S. D. (2008): “The political economy of Kenya's crisis” *Journal of East African Studies*, 2/2, 185–210.

This mixture of political violence, commercial banditry, organized crime, and football clubs, which provided Kenya's youngsters with an easy opportunity to obtain money even under the conditions of widespread youth unemployment, proved explosive during the 2007 elections. In the Rift valley, political and ethnic tensions were exacerbated by quarrels over access to land and allegedly illegal land appropriations, mainly by Kikuyu to the detriment of other ethnic groups.

Such was the background of the election violence that erupted in 2007, but the immediate trigger was the rigging of the election result to the advantage of the incumbent president, Kibaki.⁵ But the rigged result was hardly convincing anyone, as Kibaki's opponents had won the parliamentary election (which his followers had failed to forge) and five election commissioners denounced the fraud. As a result, the election commission was unable to establish who had actually won the election. In order to foreclose protests and conceal the evident election fraud, the Kibaki government resorted to media censorship and a general ban on any public manifestation. The attempts by the police forces, to suppress protests against the election fraud and the swearing in of Kibaki, transformed into widespread and systematic attacks on civilians. With huge crowds of strongly politicized and excited young people in the poor suburbs who had nothing to lose, police violence triggered attacks on police stations and police units in the street, and, as a result, widespread looting and attacks on political opponents. Kenya and specifically the Nairobi slums and the Rift Valley descended into violence, with the police using excessive violence, including life ammunition against civilians. This was partly due to orders from superiors, but also due to the fact that police units were untrained for dealing with mass violence. In some places, police used lethal force when the situation did not require it, in other areas (ravaged by gangs loyal to the government), police officers ordered their subordinates to step back and wait and see.⁶ Specifically hard hit was Kisumu, a town at Lake Victoria and a stronghold of opposition candidate Raila Odinga and

5 Human Rights Watch (2008): *Ballots to Bullets. Organized Political Violence and Kenya's Crisis of Governance*, March, 20/1, available at: <https://www.hrw.org/sites/default/files/reports/kenya0308web.pdf>

6 HRW (2008), 25.

the Nairobi slums. At the end, more than one thousand people were killed and about six hundred thousand escaped their homes and farms to more peaceful parts of the country.

Under huge pressure from the international community, including the African Union, both leaders agreed to form an interim coalition government and establish “The Kenya National Dialogue and Reconciliation Initiative” (KNDR), in whose framework three commissions were established, among them one which would deal with the investigation of the violence. After four months, this “Commission of Inquiry into Post-Election Violence” (CIPEV) recommended the establishment of a special hybrid tribunal. Kenya had already ratified the ICC’s Rome Statute in March 2005.⁷ The CIPEV, therefore, urged the government to establish such a tribunal because otherwise, it would face an investigation by the ICC. In order to increase this pressure, the CIPEV had drafted a small report containing the crimes committed in 2007 and a list of those whom it deemed responsible. This list would be handed over to the hybrid tribunal, once established, or to the ICC in case the tribunal would not be established or its mission subverted.⁸ However, the hybrid tribunal was never established, and in March 2010, the ICC pre-trial chamber approved the motion of the ICC prosecutor to investigate the situation in Kenya. In December of the same year, the names of six individuals were published who were under investigation.⁹ In January of the following year, criminal charges against Uruhu Kenyatta, William Ruto, and Joshua Arap Sang were confirmed, absolving three other suspects. There the most powerful figure of the Kikuyu ethnic

7 Kemp, G. (2004): “The Implementation of the Rome Statute in Africa”, in: Werle, G., Fernandez, L. & Vormbaum, M. (eds), *Africa and the International Criminal Court*, The Hague, Asser Press/Springer 2014, pp. 61–77. For a general overview, see du Plessis, M. (2008): *African Guide to International Criminal Justice*, Pretoria, Institute for Security Studies.

8 *Report of the Commission of Inquiry into the Post-Election Violence in Kenya*, Government of Kenya Printers, October 2008, chapter 5, par. 5. The report can now be accessed on various websites. It is also available on: <https://reliefweb.int/report/kenya/kenya-commission-inquiry-post-election-violence-cipev-final-report>

9 Ngari, A. R. (2016): “Foreign Judicial Intervention and the Media – The Case of the ICC and Kenya”, in: Bachmann, K. & Heidrich, D. (eds), *The Legacy of Crimes and Crisis. Transitional Justice, Domestic Change and the Role of the International Community*, Frankfurt am Main, 145–160.

group and its party outlet, the PNU, was under charges, as well as William Ruto, his opponent and the leader of the Kalenjin group and its political representation, the ODM. Together with Sang, the famous Kenyan broadcaster Joshua Arap Sang, Ruto was charged with inciting violence through his TV programs. Both were accused of a plan to use the rigging of the elections in order to expel all Kikuyu from the Rift Valley and create a unified ODM voter stronghold there. Kenyatta was accused of having instigated violence against all non-Kikuyu groups in order to keep the incumbent government in power.

This created a unique situation, in which the ICC was stepping in, accusing the leaders of both sides of a conflict. Until December 2014, when the charges against Kenyatta were dropped, the ICC judicial intervention was as symmetrical as one could only expect. Opposite to the situation at the ICTY, where from the beginning, a strong statistical bias to the disadvantage of Bosnian Serbs and Bosnian Croats and to the advantage of Bosniak and Kosovo Albanians suspects was visible (and opposite to the even more one-sided situation at the ICTR), it would have been difficult to accuse the ICC of bias against or in favor of one side of the PEV conflict.¹⁰ This only changed after the December decision to drop the charges against Kenyatta but to uphold them against the other two accused. Between December 2014 and April 2016, when their charges were dropped too, there was a situation comparable to the ICTY trying many Bosnian Serbs, but few suspects from other conflict parties in the former Yugoslavia.

The Kenyan media system and the case selection criteria

In order to establish possible shifts in frames or elements thereof, 23 January 2011 is chosen as the first crucial date. Frames from the same media will be examined in order to find out whether they changed after this decision and whether this change (if any took place) can be attributed to the influence of the ICC or was due to other factors. The second crucial date is 5 December 2014, which left only suspects from one conflict side

¹⁰ For the discussion about bias at the ICTY and the ICTR, see Bachmann, K. & Fatić, A. (2015): *The UN International Criminal Tribunals. Transition Without Justice?* London, New York: Routledge, 80–91.

on the bench of accused. On 6 April 2016, the proceedings against Ruto and Sang were also terminated, symbolizing the total failure of the ICC to deal with the Kenya situation.

The characteristics of the media system

The Kenyan media system is dominated by radio stations, whereas television channels attract only a small part of the population, as data retrieved from the Afrobarometer survey show. The important role which radio channels play in public communication is not the result of internet expansion, but rather due to poor infrastructure outside the coastal areas and low education levels outside the big cities. Between 2003 and 2011, the percentage of respondents who told pollsters to listen to one or several radio stations “every day” declined from 77 percent to 68. At the same time, the percentage of those who allegedly “never” listened to radio broadcasts doubled from 5 to 10 percent. At the same time, TV attendance went up from 22 to 33 percent (whereas the percentage of those who said they had never watched TV went down from 45 percent to 40 percent). Newspapers’ audience had decreased from 16 to 10 percent during the same interval, but more dramatic was the fall of those uninterested in the print media (“never read newspapers”) – their part rose from 36 to 52 percent. Internet use was marginal compared to all other media, which reflects also the poor access to the world wide web outside big cities. In 2011, six percent had alleged to use the internet every day, whereas 77 percent had indicated they had “never” used it. The widespread use of mobile phones, tablets, and smartphone applications for news and electronic content from other media may have improved after 2011.¹¹

From this point of view, it would have been more helpful to analyze radio and TV content and try to detect frame shifts there. This, however, was not possible, because the most relevant stations declined access to our researchers.¹² The analysis is therefore limited to some of the biggest

11 Mitullah, W. V. (2012): “Freedom of Expression in Kenya. Exploring public use of old and new media”. *Afrobarometer Briefing Paper*, 106, available at: https://www.files.ethz.ch/isn/155827/afrobrieffno106_24nov2012.pdf

12 This part of the project was first carried out by Allan Rutambo Ngari. The results of his inquiries were published in Bachmann & Heidrich (2016), *The Legacy*, 145–160 and later continued by Klaus Bachmann. The media analysis

and most widespread newspapers and journals in Kenya. The oldest one is The Standard, an outlet of The Standard Group, which was founded in 1902, first by an Indian businessman, who then sold the paper to a British entrepreneur. In 1995, it was taken over by Kenyan business. Until today it has changed its title several times. Closely linked to the newspaper is KTN Television, which also belongs to The Standard Group.

The Standard's biggest competitor and at the same time the most popular newspaper is The Daily Nation, which was founded in 1959. It sells about 200,000 copies throughout the country and has increased its share on the newspaper market continuously since 2011. It belongs to the National Media Group.¹³ Both newspapers are relatively neutral in terms of their ideological orientation, party or ethnic affiliation. Throughout the analysis, no inflammatory or derogatory language and no open bias for or against a political party, alliance, or ethnic group was detected. According to independent media researchers, The Daily Nation had a weak pro-government bias during the 2013 election campaign. No such bias was reported for The Standard.¹⁴

The frames of The Standard and The Daily Nation before the confirmation of charges

In the aftermath of the PEV, several Kenyan institutions conducted investigations into the crimes which had been committed during the

was entirely carried out by the latter. Some KTN film coverage is included in this analysis, as far as it was available online.

13 Ngege, T. N. (2014): "A Comparative Study of Print and Online Media Content in Kenya: A Case of 'Daily Nation' Newspaper", University of Nairobi MA paper, available at: <http://erepository.uonbi.ac.ke/bitstream/handle/11295/76293/TINEGA%20GEOFFREY%20NGOGE%20FINAL%20PROJECT.pdf?sequence=4>

14 Macharia Munene (*a lecturer at US international University in Nairobi and a columnist of the Business Daily*), *Why studies give Kenyan media thumbs up for fair and balanced coverage*, The Daily Nation 24.11.2014, available at: <http://www.nation.co.ke/news/Why-studies-give-Kenyan-media-thumbs-up-/1056-2533918-jt08x2/index.html>; the article summarized two studies on media content and media perception by IPSOS and South African media research institution Mediatenor (which could not be accessed online).

PEV, exposing individuals and organizations, including clandestine street gangs which were used by the main protagonists to intimidate and kill opponents and carry out ethnic cleansing in areas which had been inhabited by rival ethnic groups and supporters of the competing political blocks. The violence had caused a lot of economic damages, which The Standard highlighted in its reports. All these reports about the PEV fallout had one trait in common, no matter whether they were published immediately after the PEV had ended or years later. They all described the PEV as a kind of sudden disaster which had come over the local businessmen and the local communities. It was neither youngsters of a specific group (like the infamous *Mungiki*) nor followers of a party or candidate nor members of an ethnic group who had destroyed a private farm and several hotels. It was “the violence” which had done all that.¹⁵ This tendency to anonymize the events, to detach them from concrete perpetrators and organizations, was overwhelming in The Standard’s news coverage about the PEV. It even transpired in texts that had almost nothing to do with the PEV, like a business report about Homa Bay, a larger town in Nyanza, where one could find the following sentence: “During the post election violence businessmen and women from other communities fled the town and this affected development here”.¹⁶ They had not been chased away, they had just fled from the anonymous violence which had no instigators

15 Mangoa Mosota: Guns fall silent but business pay the price, The Standard 2.3.2009, available at <https://www.standardmedia.co.ke/business/article/1144007881/guns-fall-silent-but-businesses-pay-the-price>; the same frame is included in another report, published more than a year later: “More than 200,000 learners and about 2,000 teachers were displaced from their homes by the violence, which claimed more than 1,000 lives.” Karanja Njoroge: Post-election reconstruction costs dearly, The Standard 30.12.2010, available at: Read more at: <https://www.standardmedia.co.ke/business/article/2000025671/report-post-election-reconstruction-costs-dearly> and in another article written by Mangoa Mosota, Kisumu’s biting housing shortage, The Standard 8.4.2010, available at: <https://www.standardmedia.co.ke/business/article/2000007199/kisumu-s-biting-housing-shortage> (The electronic archive of The Standard has the disturbing tendency to date all updates as from 1970, however, the date of the initial publication (before later updating) is usually correct)

16 Read more at: <https://www.standardmedia.co.ke/business/article/2000028665/homa-bay-s-poverty-amidst-plenty>

or executors. The drive to depersonalize the PEV and avoid any kind of blaming (but also any kind of explanation why it had happened) permeates even texts written by outsiders, like the letter of an anonymous policeman, who defended the police against accusations by human rights groups and independent investigations, of which almost all had claimed the behavior of the police force during the riots had contributed to the latter's escalation. The policeman denounced such claims as "scapegoating" and the PEV as a tort, which Kenyans had inflicted on themselves: "In the build up to the 2007 General Election, you, Kenyans, regressed into ethnic blocks, preached politics of ethnicity and hatred. You regularly found it easy to criticize the police for not championing your narrow ethnic interests, few could readily abide by police direction on law and order. Human rights activists were heavily cited by the courts to set suspects free. Nobody ever tried to demand RESPONSIBILITY [sic] by political activists. For several months, your bigoted savagery knew no bounds".¹⁷

Before the 23 January 2011 confirmation of charges, there was a long period during which Kenyans implicated in the PEV did not know whether they would have to appear before the ICC, and if yes, whether they would have to show up as accused or witnesses. Various people, whose names had been mentioned in earlier investigations conducted by Kenyan institutions, were approached by the media, and some even addressed the public declaring their readiness "to go to The Hague", like Jackson Kibor, a wealthy farmer from Eldoret who even had been arrested on allegations of sponsoring the PEV.¹⁸ The respective article, written by an anonymous author, had a telling title: "Kibor ready for the dock in chaos case". The PEV riots of 2007, which had been strongly shaped by inter-ethnic violence, now appeared as "chaos", something that, by definition, is not shaped by any rules or patterns and is incomprehensible. But the label provides a good example for the way the PEV was shaped

17 (Anonymous police officer): Scapegoating police does not explain post-election violence, *The Standard* 5.1.2009, available at: <https://www.standardmedia.co.ke/article/1144003283/scapegoating-police-does-not-explain-post-election-violence>

18 „Kibor ready for the dock in chaos case”, *The Daily Nation* 4.11.2010, available at: <http://www.nation.co.ke/news/politics/Kibor-ready-for-the-dock-in-chaos-case-/1064-1047304-a66j59/index.html>

in *The Daily Nation* at that time. In November 2010, Ruto went to the ICC for a meeting with prosecutor Moreno Ocampo. He told the Kenyan press he would demand Kibaki and Odinga to be investigated by the ICC, too. The move was meant to complicate the investigation, show Ruto as a tough politician, and neutralize Odinga, who had become Ruto's opponent in the intra-Kenyan political competition, but it was to no avail. The *Daily Nation* reported about it as a "new twist to the search for justice for the estimated 1,300 people who lost their lives in the orgy of violence that followed the controversial 2007 General Election". Now, the "chaos" had become an "orgy of violence". Throughout its coverage of the ICC and PEV affairs, the newspaper did its best to avoid blaming any concrete person or organization, party, or ethnic group for the PEV, using instead notions which led the PEV appear as a kind of natural disaster whose roots and mechanisms could not be grasped by human minds.

In a follow-up report to the one about Ruto in *The Hague*, the paper indirectly quoted on Ruto's lawyers, writing, Ruto and his team had agreed with Ocampo "on the rules and procedure that will enable Mr Ruto to tell what he knows about the violence which occurred immediately after the December 2007 General Election".

The paper had also sent out reporters to ask locals what they thought about Ruto's travel to *The Hague*. This put these reporters into a minefield of ethnic tensions, which made it difficult to avoid ethnic labels and the blaming of specific ethnic groups, parties, and politicians. They managed to circumvent almost all of these traps with great elegance, but at the same time making the report almost sterile and devoid of emotions. The locals in Ruto's constituency saw him as a hero, supported his travel to the ICC (also because they wrongly assumed the ICC would investigate the cases of election fraud that had taken place and given rise to the riots in 2007). From this, the reader could guess from which ethnic group the interlocutors came, but they would not read it explicitly in the article.¹⁹ The fact that Ruto was blamed for instigating violence in 2007 transpired only through the text because it had been the reason for his travel to *The*

19 Peter Ng'etich and Wycliff Kipsang: Mixed reaction to Ruto move in Rift Valley, *The Daily Nation* 6.11.2010, available at: <http://www.nation.co.ke/news/politics/1064-1048432-fsl5x7/index.html>

Hague and because one interlocutor refuted the accusation by arguing there had also been other sites of violence (for which Ruto could not be blamed), too. The neutrality with which *The Daily Nation* framed the PEV deprived the coverage of almost any frame which could be meaningfully analyzed. There was only one exception to this rule, an article written by Murithi Mutiga on 6 November 2010, in which he summarized the findings of the Kenya National Commission on Human Rights (KNCHR) and the Commission of Inquiry into Post-Election Violence (CIPEV)'s findings about Ruto, which were labeled “damning” for him. There, he was blamed for precise actions in 2007. But in the introductory part of the article, the author had again framed the PEV in the same way as had been the case in the remaining coverage: “Mr Ruto’s Uasin Gishu region witnessed the worst violence in the fighting that gripped several parts of the country following the announcement of the contested results by the Electoral Commission of Kenya”.²⁰

The frames of *The Standard* and *The Daily Nation* after the confirmation of charges

The Ruto shuttle diplomacy to The Hague proved unsuccessful, just like the other attempts to lobby the ICC to declare the Kenyan cases inadmissible. On 23 January 2011, the ICC pre-trial chamber held a joint hearing about both Kenyan cases, which had been divided into case ICC-01/09-01/11 involving William Samoei Ruto, Joshua Arap Sang, and Henry Kiprono Kosgey and case ICC-01/09-02/11 involving Uhuru Muigai Kenyatta, Francis Kirimi Muthaura, and Mohammed Hussein Ali. The judges rejected the charges against Ali and Kosgey, whereas the charges against Muthaura were withdrawn by the prosecution in March 2011.

The Kenyan government then embarked on an intensive campaign whose aim it was to garner the support of the AU and important AU member states for lobbying the UN Security Council to defer the Kenyan cases

20 Murithi Mutiga: Now Ruto wants Kenya’s principals charged by ICC, *The Daily Nation* 6.11.2010, available at <http://www.nation.co.ke/news/politics/Now-Ruto-wants-Kenyas-principals-charged-by-ICC-/1064-1048394-sqy5urz/index.html>

from the ICC.²¹ The campaign was unsuccessful. Two years later, after a terrorist attack on a mall in Nairobi, Kenya managed to get the UNSC to at least vote on a deferral, but then failed to meet the 9:15 threshold. Only seven out of the fifteen UNSC members voted in favor of a deferral.²²

During the period following the confirmation of charges, The Daily Nation's frames did not change. The paper still treated the PEV as a kind of natural disaster, avoiding the blaming of groups and individuals and the construction of causalities, thus creating almost frame-less articles. But two slight shifts of frame elements within this "natural disaster frame" could be observed, which led to the creation of two overlapping frames, each of which identified different culprits or root cases for the violence in 2007.

During the weeks after the January 2011 decision, The Daily Nation mentioned several times a day the notion of "electoral violence", often even in short articles dealing with issues unlinked to the events in 2007. Almost all these articles had one feature in common: they did not contain any frame which would describe, interpret, or judge the events from 2007. In these articles, the PEV appears as a kind of cataclysm which came over Kenya for reasons which are not explained and triggered by unknown factors. These sentences were usually constructed in the passive, like an exemplary one from the 23.12. (but before the ICC decision had reached the Kenyan newsrooms): "The region was the epicenter of the 2007 post-election violence where more than 1,200 people were killed and another 350,000 displaced". There, the PEV looked like a natural catastrophe and the alleged inevitability was emphasized by the use of the word "epicenter" – usually referred to in the context of earthquakes. The article did mention a cause of the violence, though: "perennial ethnic clashes", but it did not blame any side, neither collectively nor individually. The

21 A deferral is possible under art. 16 of the Rome Statute, if the UNSC decides with the necessary majority and under art. 7 of the UN Charter. In order to defer a case from the ICC (and stop investigations and trial proceedings for one year), a majority of 9 out of 15 UNSC members needs to support it with no permanent member using his veto power.

22 United Nations Security Council: bid to defer International Criminal Court cases of Kenyan leaders fails, UN 15.11.2013, available at: <http://www.un.org/apps/news/story.asp?NewsID=46499#.WiFrWLaZP-Y>

reader might find a suggestion about the conflict parties of the PEV when the author of the article went on writing, “The Kikuyu and Kalenjin communities have been the main protagonists in presidential elections since 1992”. But he stopped short from attributing any collective responsibility or guilt to any group. The two groups were competing and suddenly violence erupted.²³

Semantic balancing between avoiding to blame anyone and still trying to write a meaningful article sometimes became unwillingly preposterous, for example, in an article from 2 December about the situation in Central Kenya: “Many Central Kenya residents whose relatives had been killed during the 2007/8 violence in the Rift Valley were hostile to Mr Ruto in whose constituency the Kiambaa church massacre occurred”. As can easily be seen, residents were not hostile to the politician because he had been the leader of a party taking part in the violence and had been instigating his followers to beat and rob other citizens, but because the violence had occurred in his constituency.²⁴

This reluctance to name and blame as well as to identify any cause of the PEV ran through the whole coverage of *The Daily Nation* before and after the January 2011 decision, and it deprived the coverage of any frames about the PEV, although it showed up in many articles and sometimes even was the author’s main topic.²⁵

Whenever a cause of the PEV was mentioned, it was impersonal and the respective sentence did not attribute any guilt: “In the 2007 elections for example, political protagonists engaged in an intense struggle to capture the Electoral Commission of Kenya. This led to the disputed presidential results and the violence in which 1,133 were killed and

23 The Daily Nation, 2.12.2012 <http://www.nation.co.ke/news/politics/TNA-URP-deal-seen-as-solution-to-ethnic-clashes/1064-1634570-bclmv0z/index.html>

24 The Daily Nation 2.12.2012 <http://www.nation.co.ke/news/politics/How-ICC-and-Raila-created-coalition-of-the-accused/1064-1634576-pn3qsmz/index.html>

25 The reader might want to compare this finding to the way the 1994 genocide in Rwanda was dealt with by the media. However, they must bear in mind that opposite to Rwanda, there was no comparable system of media control in force in Kenya 2012, and state organs did not impose on the media how to write about PEV.

600,000 displaced”.²⁶ Even when the leading politicians, whose political organizations had staged the violence, were mentioned, they were not blamed for the events from the past, but for the way how they dealt with the legacy: “Some 1,133 men, women and children murdered in cold blood. Six hundred thousand violently forced out of the only places they had known as home. On a monument of human blood, President Kibaki and Prime Minister Raila Odinga are serving out terms secured courtesy [sic] of a shotgun marriage rather than the people’s mandate”, a prominent Daily Nation commentator wrote.²⁷ At that stage and already before the ICC’s confirmation of charges it had become clear that Ruto and Kenyatta would run on a joint election platform, because they feared Raila Odinga, who had the best poll results for becoming the next president (and who was not under an ICC arrest warrant), would surrender them to the ICC in case of his victory.

Modern media, and especially tabloid media, tend to present dichotomous interpretations of events, which divide all actors in perpetrators and victims, in good and bad characters; propose simple causal explanations; and often give moral advice about what should be done in order to fix the failures their authors have found. The Daily Nation’s references concerning the PEV complied with these criteria only partly. They did not present any causality, and the treatment of the PEV as a kind of natural disaster relieved them of the need to identify guilt. Only empathy for victims was part of the Daily Nation frames, condemnation of the perpetrators was not. They were never named, neither as direct killers and looters, nor as superiors, and never as collectivities or members of ethnic groups. The PEV had descended upon Kenya and killed innocent people, but from The Daily Nation coverage in 2010 and 2011 the reader was unable to establish to which ethnic group the perpetrators and enemies had belonged. If there was a culprit, it was an abstract one, one that no

26 Moses Ikiara: Slaying the Dragon of Tribalism, The Daily Nation 15.11.2012 <http://www.nation.co.ke/news/politics/Slaying-the-dragon-of-tribalism/1064-1621010-28fo01z/index.html>

27 Macharia Ghaito: Its not about the candidates, it’s about survival of the nation. The Daily Nation 14.11.2012, available at: <http://www.nation.co.ke/news/politics/It-is-not-about-the-candidates/1064-1620238-1o2j8nz/index.html>

one would be able to put into a courtroom and sentence: “The election campaigns still being played out on the arena of ethnic mobilisation and competition indicates that both the leaders and the people have not learnt the lessons of the 2007–2008 descent into anarchy and chaos”.²⁸ Ethnic polarization was the culprit which had instigated some Kenyans to kill other Kenyans. And the moral advice included in this argument was that “[I]n many ways the 2013 elections will not be about the myriad presidential candidates or the ever-mutating political parties and alliances. It will be about whether Kenya has learnt its lessons and is ready to evolve into a stable and peaceful democracy; or whether it is cursed to regress into savage and primitive bloodletting that this time around will not be fixed by Kofi Annan and all the King’s Men and all the King’s Horses”.²⁹

Another Daily Nation author even compared the PEV to the 9/11 attacks in the United States. But the culprits for 9/11 were quickly identified as outsiders and blamed, whereas the conclusions from PEV were less obvious. Evan Mwangi slightly amended the predominant “natural disaster frame” about PEV when she wrote: “It is what World War II is to European literature, although our skirmishes were carried out not with atomic bombs but with crude weapons fueled by simmering ethnic hate that was sowed and watered by the local political elite. But unlike the 9/11 terrorist attacks on America, which were carried out by outsiders, we had only ourselves to blame for the post-election violence. We chose to butcher one another over the comforts of the selfish jokers we call our national leaders. Nothing has changed. All indications are that we still worship these tin gods”.³⁰

The local political elite had resorted to ethnic polarization, and this had instigated some Kenyans to kill other Kenyans. And those Kenyans (neither Mwangi nor others made clear whether this only comprised the perpetrators or all Kenyans, including the surviving victims) had to draw the necessary lessons. The general “natural disaster frame” from 2010 had

28 Ibid.

29 Ibid.

30 Evan Mwangi: From Coetzee to Farah, the missed chances to heal a bleeding nation. The nation 10.11.2012 <http://www.nation.co.ke/news/1056-1616416-1386ksjz/index.html>

bifurcated into two different frames whose elements partly overlapped. The PEV still appeared as a thunder-like catastrophe which had suddenly hit Kenya, but now, at least in some articles, there was a reason – “ethnic polarization” and there were culprits – “local elites”.

As research on tribunals other than the ICC has shown, trials against high-ranking perpetrators can trigger or at least further a socio-psychological mechanism called “externalization of shame”. This mechanism pushes people, who would otherwise take sides with the suspects (and even, as it often happened in the former Yugoslavia, declare them heroes), to dissociate themselves from these suspects, putting all the blame for the past wrongdoings on them. In a sense, these suspects then serve as scapegoats, which ease the burden of guilt of the respective community. The emergence of the “elite betrayal”-frame can be seen as a sign that the confirmation of charges might have triggered a similar socio-psychological reaction among some of The Daily Nation journalists.

The Daily Nation’s commentators were divided over the Ruto-Kenyatta deal. Some endorsed it as a chance to overcome the ethnic divisions (which had divided Kenya in 2007), others saw it as the opening of just a different cleavage (between the ethnic camps of the two and the constituency of Odinga, against whom the deal had been brokered). For those who were eager to put the blame for the PEV on the “local elites”, the deal must have constituted a stumbling stone. Exactly those members of the elites which they had identified as the main culprits (in accordance with the ICC) now were joining forces in a way that made another outburst of violence less likely. There was a way to push this stumbling stone aside. It was the argument according to which both had done, so not in order to prevent violence, but to shelter each other from the ICC.

No such change was detected in the coverage of The Standard, whose authors remained faithful to the pre-2011 “natural disasters frame”. In articles which touched upon the PEV, they would still maintain the picture of the PEV which the country had undergone or which had stricken the country and its inhabitants like a thunderstorm. This frame was not altered. Individualization of guilt took place at The Standard, too, but in a different form. It was not the framing which changed, but the priming of news. The Standard’s electronic archive did not reveal much coverage concerning the PEV after the confirmation of charges, but the paper’s authors were quite

busy to follow the ICC proceedings and their consequences for Kenyan politics. And there, they dedicated many articles to the way the different suspects tried to organize (and argue) their defense.³¹ These articles did not deal with the PEV per se (it rather formed the backbone, and there, the PEV was still framed as a “natural disaster”), but the titles and the content of these articles now provided the reader with many details about who was indicted for what and how the different investigations implicated members of the political elite who were implicated in the PEV crimes. From this perspective, it was much more difficult for the reader to perceive the PEV as a disaster or a series of crimes committed by Kenyans on other Kenyans, and instead the PEV became a massacre orchestrated by members of the political elite, in which ordinary citizens (from all ethnic groups) had suffered. This was quite close to the “elite betrayal frame” of *The Daily Nation*, but yet it came from the way topics for articles were selected and how these articles were titled, it was not a result of frame change.

The Impact of the 5 December 2014 decision to drop charges against Kenyatta on frames in *The Standard* and *The Daily Nation*

Throughout the years 2013 and 2014, the events in The Hague and the repercussions they created in Kenya forced journalists to dig out more and more details about the PEV, and this made it increasingly difficult to stick to the “natural disaster frame” from before the confirmation of charges.

When the ICC trial started, witnesses were called who testified about specific incidents, mentioning specific suspects. Due to the ICC’s subject matter jurisdiction, the charges against the accused were embedded in a

31 Wahome Thuku: ICC told police executed mungiki to shield chaos masterminds, *The Standard*, 24.9.2011, available at: <https://www.standardmedia.co.ke/business/article/2000043379/icc-told-police-executed-mungiki-to-shield-chaos-masterminds>; Wahome Thuku (same date, same edition), Muthaura out to prove he did not scheme election violence, available at: <https://www.standardmedia.co.ke/business/article/2000043382/muthaura-out-to-prove-he-did-not-scheme-election-violence> Stephen Makabila: Events that led to The Hague process, *The Standard*, 22.1.2012, available at: <https://www.standardmedia.co.ke/article/2000050508/events-that-led-to-the-hague-process>

framework, which emphasized ethnicity almost in the same way as at the ICTY. The accused were charged with counts of crimes against humanity, but the most frequent allegation was that they had incited hatred and instigated violence against members of other ethnic groups. Ethnicity, which had been marginalized in the coverage of *The Standard* as well as *The Daily Nation* after 2008, now came to the forefront due to the ICC proceedings. When a witness in the courtroom was asked about violence against a specific group, he would of course frame his or her answer also in ethnic terms and thus immediately incline the person implicated in such violence in Kenya to denounce the testimony by pointing to the fact that he, the perpetrator, had many friends among the ethnic group or had been elected by members of that group whom he allegedly had attacked in 2008. One such scene occurred when in September 2013 such a witness claimed a former Member of Parliament (MP) from Kiambaa had participated in the famous burning down of a church in which 35 Kikuyu had sought shelter during the violence. The church had then been set afire by the opponents of the PNU and President Kibaki. An anonymous witness, testifying at the ICC, implicated Stephen Leting Chemalan, a former MP from the region, claiming he had seen him throwing petrol from a can into the fire. Chemalan immediately called a press conference with his lawyer and rejected the allegations. His defense was not entirely compelling, as he argued to be innocent and to be protected by the *de ne bis et idem* principle, because he had already been acquitted for these charges by a Kenyan court, which had found the evidence insufficient.³² Reporting about such incidents made it almost impossible to refrain from using ethnic labels and to pretend, the PEV had just been violence of some Kenyans against some other Kenyans. Due to the very ICC proceedings, media coverage became more ethnicized and more perpetrator focused. The Standard Group's TV Channel KTN managed to walk the thin inter-ethnic and victim-centered line for a much longer time than *The Standard*

32 Silah Koskei: It wasn't me says man accused of burning kiambaa church by ICC witness, *The Standard* 18/19.9.2013, available at: <https://www.standardmedia.co.ke/article/2000093843/it-wasn-t-me-says-man-accused-of-burning-kiambaa-church-by-icc-witness>

print edition. Several films, which can be accessed through the electronic archive, not only put victims (rather than perpetrators) into the spotlight, but also avoid any ethnic affiliations – to the extent of obfuscating the message of the films. One can watch victims arguing “to move on” (rather than find and punish perpetrators) and victims “who still wait for justice”, but the filmmakers never reveal these victims’ ethnic affiliation so that it remains obscure, whether those who opt for “moving on” do so out of personal or philosophical convictions or just because they don’t want to see a prominent leader of their own ethnic group punished by the ICC.³³

All this did not alter the well-rooted “natural disaster frame” and the tendency to use impersonal, passive mode language to label the PEV but it changed the way *The Standard* chose its topics and titles. Articles more and more concentrated on specific incidents of violence, emphasized individual perpetrators and victims and ethnic groups and affiliations. If the pre-2011 reluctance to use ethnic labels had been motivated by the wish to alleviate ethnic tensions (which, with regard to the multi-ethnic audience of both media, is quite likely a strategy), the media responses to the ICC proceedings were more likely to ethnicize the PEV again.

This is particularly true with regard to *The Daily Nation*’s coverage before the December 2014 decision to drop charges against Kenyatta. The daily’s reporters in The Hague still used the phrases about the PEV as a “chaos” or as impersonal violence, but the content of their texts started to contradict the “natural disaster frame” more and more. As the case against Ruto and Sang went on and more and more prosecution witnesses were called in the trial, the report became full of details about the PEV, about personal actions of the accused, and about the ethnic face of the violence that had taken place. Sometimes, the old frame, deprived of any ethnic references, showed up with the ethnicized details in the same sentence, as was the case in a report written by John Njagi at the beginning of December 2014: “The witness said during the violence that left 1,133 people dead, that he witnessed Kalenjin warriors slash to death (with

33 These films are available at: <https://www.standardmedia.co.ke>.

machetes), a woman and her new born child at Langas, near the Eldoret ASK Showground on January 3, 2008”.³⁴

The more details the trial revealed, the more The Daily Nation deviated from the suggestion which had permeated its coverage during the time after the PEV and before the start of the ICC trials and according to which violence had just taken place as a kind of evitable catastrophe which had descended upon Kenya and pitted some Kenyans against others. The picture of the violence, which the trials painted, was very different. According to it, leading politicians had incited the Kalenjin youth to evict and kill Kikuyu from one area, whereas other politicians had urged Kikuyu to beat and murder the Kalenjin people (and members of other ethnic communities) in other areas. Politicians and businessmen affiliated with one political camp had payed gang members for the killing and looting and afterwards rewarded them with money for “showing unity” and exonerated them in special ritual sessions.³⁵ The PEV also became much more personalized, concrete deeds were attributed to concrete perpetrators and precise groups were blamed. All these Daily Nation reports had one in common – they did not hide the ethnic affiliations of the perpetrators any more. The ethnic language of the ICC charges had been channeled into the news coverage and re-ethnicized the framing of the PEV. All this, however,

34 John Njagi: Sang alerted youth to evade policemen. The Daily Nation 2.12.2014, available at: <http://www.nation.co.ke/news/politics/Sang-alerted-youth-to-evade-policemen/1064-2542788-fcoxprz/index.html>

35 See, for example, the articles by John Njagi: Trader and former MP funded youths, The Daily Nation 1.12.2014, available at: <http://www.nation.co.ke/news/Trader-and-former-MP-funded-youths/1056-2541626-vy3ddlz/index.html>; John Njagi and Walter Menya: Witness P-800 a headache for Ruto and Sang teams, The Daily Nation 29.11.2014, available at: <http://www.nation.co.ke/news/Witness-P-800-a-headache-for-Ruto-and-Sang-teams/1056-2539820-ha8crh/index.html>; John Njagi: Sang used coded words to incite hate, The Daily Nation 26.11.2014, available at: <http://www.nation.co.ke/news/politics/Sang-used-coded-words-to-incite-hate/1064-2536332-sd6fwfz/index.html>; John Njagi: William Ruto gave youths Sh1m after poll chaos, ICC told, The Daily Nation 19.11.2014 available at: <http://www.nation.co.ke/news/politics/William-Ruto-ICC-Case-Post-Election-Violence/1064-2528606-xne9q2/index.html>; Dennis Odunga: Youth were trained to fight, ICC judges told, The Daily Nation 18.11.2014, available at: <http://www.nation.co.ke/news/politics/ICC-Testimony-Witness-William-Ruto/1064-2527252-544719/index.html>

was the impact of the trial coverage, not of a crucial decision by a trial chamber.

On 4 December 2014, the ICC prosecutor decided to drop the charges against Kenyatta on 5 December 2014. By doing so, he left two accused from the same ethnic group, the Kalenjin, who also had been on the same side of the PEV barricades. From that moment on, the ICC proceedings could be regarded as biased against the Kalenjin and to the advantage of the Kikuyu.

The dropping of charges had been the result of witness tampering, the systematic intimidation and elimination of witnesses of the prosecution by followers of the accused.³⁶ This had taken place with regard to the remaining accused, too, but it left the prosecution with empty hands in the Kenyatta case before it led to the same in the Ruto/Sang case. In the Kenyatta case, the judges openly discussed these issues and decided not to acquit the accused of the crimes in the indictment, but instead to close the case due to lack of evidence and without prejudice to a future trial, if such a trial could be based on more and better evidence. That looked like a finding of innocence for the accused but actually was only a breakdown of the prosecution case. It was nevertheless interpreted as a total exoneration by Kenyatta's followers in Kenya³⁷ and also by some of his opponents and critics, who confused a withdrawal of charges with a not-guilty verdict. Immediately, leaders of the Kalenjin community and supporters of Ruto and Sang started to criticize the ongoing trial against the two Kalenjin leaders, which, as they argued, should now be terminated, too, for reasons of "stability". Catholic bishop Ambrose Kimotai was quoted by *The Daily Nation* saying "We have no problem with Mr Kenyatta's release, but it would be unfair to try one side. My following of the evidence tells me there were aggressors and those who retaliated. So where will the acquittal of one side leave us?"

36 Readers might find parallels in the ICTY cases against Haradinaj and against Orić. See also the statements of Fergal Gaynor (representative of the victims at the ICC) and prosecutor Fatou Bensouda in Martin Kinyanjui: ICC victims lawyer reacts to withdrawal *The Daily Nation* 5.12.2014, available at: <http://www.nation.co.ke/news/ICC-victims-lawyer-reacts-to-withdrawal/1056-2546112-etesukz/index.html>

37 Ngari (2016), 172–153.

“Ms Bensouda should tell us who conducted the retaliatory attacks. We know for sure that people from various tribes were killed. Does she want us to believe it was Mr Ruto who did all that?”³⁸

Back in 2007, Ruto and Sang had been opponents in the elections when the PEV had broken out. Subsequent to the ICC investigations, they had become allies, and in 2013, they were part of the same “Jubilee” election platform, which also had united the ethnic communities of Kalenjin and Kikuyu. The alliance provided the chance for both communities to cross the 25-percent threshold in presidential elections and to escape from the “tyranny of high numbers”, as the 25-percent dilemma is often labeled in Kenyan politics.³⁹

The 2013 elections had created the Jubilee Alliance as a merger of Ruto’s United Republican Party (URP) and Kenyatta’s TNA with Odinga’s Coalition for Reform and Democracy (CORD), linking his Orange Democratic Movement with smaller parties. Because both alliances had overarched ethnic divisions, this had been regarded as a political conflict between parties, not an ethnic strife. This changed after the decision to drop charges against Kenyatta, because the decision left representatives of only one ethnic community as accused at the ICTY.⁴⁰ Odinga, a Luo, although allied to Ruto back in 2007, had never been indicted by the ICC, and Ruto’s lawyers had done their best to implicate him during the prosecution witnesses’ cross-examination in court. They had failed, though. Kenyatta, who was regarded as the leader of the Kikuyu (the nominally largest ethnic group in Kenya), had his charges dropped. Now Ruto’s URP feared the government would no longer pursue Ruto’s and Sang’s defense in the same way it had supported Kenyatta. In a first reaction to the December decision, the URP leadership convened a crisis meeting and

38 Elvis Ondieki Patric Langat and Silas Apollo: Victims, clergy dismayed at turn of events in Hague, *The Daily Nation* 5.12.2014, available at: <http://www.nation.co.ke/news/Victims-clergy-dismayed-at-turn-of-events-in-Hague/1056-2546536-ge4ywkz/index.html>

39 Ngari (2016), 154–156.

40 The impression the ICC had turned against one ethnic group was deeply rooted in a widespread conviction stemming from the early times of ICC investigations in Kenya, according to which the ICC proceedings were not directed against individuals, but against ethnic groups. Ngari (2016), 156.

some commentators already saw the Jubilee alliance split and the country descend into a conflict again. Some started to promote a policy of “forgiving and forgetting” as a specific Kenyan contribution to the discourse of national reconciliation. The ICC should end the Ruto and Sang case immediately in the name of stability, peace, and national unity, they argued.⁴¹ The logic was upheld by the government, including President Kenyatta. Apparently aware of the potentially detrimental consequences which concessions toward the ICC could have for the coherence of his alliance at home, Kenyatta molded the Ruto trial into a threat to Kenya’s stability and a threat to the success of its reconciliation projects.⁴² However, he avoided ethnic labels and instead talked about the need for national unity. The Daily Nation did not return to ethnicization either. The reluctance to describe the simmering conflict within the Jubilee Alliance in ethnic terms went so far as to prevent the reporters from indicating the ethnic affiliation of elders from the Rift Valley who urged the ICC to abandon the trial against Ruto and Sang in the name of reconciliation and peace.⁴³ In May 2015, The Daily Nation reported on a return program for Kenyan refugees who had settled in Uganda after the outbreak of the PEV in 2008, but again without even mentioning the ethnic affiliation of the refugees.⁴⁴

In this respect, The Standard and The Daily Nation did not differ: despite the rising fears about a breakdown of the Jubilee Alliance and more ethnic violence in the future, they did not fall back on the use of ethnic labels which the ICC trials had fueled into public discourse in Kenya before the December 2014 decision to drop the charges against Kenyatta. Their

41 Ngunjiri Wambugu: ICC Pursuit of Ruto hurts peace efforts. The Star 26.1.2015, available at: https://www.the-star.co.ke/news/2015/01/26/icc-pursuit-of-ruto-hurts-peace-efforts_c1073002

42 Martin Kinyanjui: Ihuru ICC threat to President Uhuru Kenyatta says ICC is a threat to Kenya’s national security, The Nation Daily, 12.12.2014, available at: <http://www.nation.co.ke/news/Uhuru-ICC-threat-national-stability/1056-2554016-d4egg4z/index.html>

43 Wanjiru Macharia: Withdraw Case against William Ruto, elders tell ICC, The Daily Nation 9.12.2014, available at: <http://www.nation.co.ke/news/politics/William-Ruto-ICC-Case-Rift-Valley-Elders/1064-2550146-jfpvth/index.html>

44 Agrey Mutambo: Kenyan IDPs living in Uganda to return next week, The Daily Nation 1.5.2015, available at: <http://www.nation.co.ke/news/Kenyan-IDPs-living-in-Uganda-to-return-next-week/1056-2702926-8bruvq/index.html>

reports remained deprived of explanations of the PEV in ethnic terms, they did not blame groups for violence. What probably was meant as an attempt to appeal to audiences from all ethnic affiliations and avoid ethnic categorization and polarization came with a price. The avoidance of ethnic labels and ethno-centered explanations lowered the explanative impact of the articles. A melodramatic KTN film about a policeman, who had appealed to rioting youngsters to stop looting and beating during the PEV, provided the best example. The film started with a number of short descriptive sentences which lacked any information about perpetrators, victims, bystanders, their ethnic, and even party affiliation and about the causalities of the PEV: “Days of riots” a female narrator tells from the off, “lives were lost, property destroyed, the beacon of peace was burning”.⁴⁵ Even in reports about Internally Displaced Persons (IDPs) and homeless children abused in prostitution schemes, neither the ethnic nor the party affiliation of victims was usually indicated, and the reports remained moot about their perpetrators.⁴⁶ Sometimes, quotes hinted at the political sympathies of victims, for example, when praising Kenyatta for his ICC performance. But if victims had blamed specific groups for their fate (which victims usually tend to do), this was held back by the media from their audience. This way, in the framing of *The Standard* and *The Daily Nation*, victims had just fallen prey to violence, not to specific perpetrators, and the reason why they had been beaten, their property looted and burned, and their relatives been killed remained obscure – if they had been opponents of the perpetrators, if they had belonged to a group, which the perpetrators had been targeting, then this information was withheld from the reader. The ICC decision to drop charges against Kenyatta did not have any impact

45 The film is available at: <https://www.standardmedia.co.ke/ktn/m/video/2000084567>

46 (Reuters): Children displaced in Kenya’s post election violence sell sex UN officer says, *The Standard* 10.5.2014 available at: <https://www.standardmedia.co.ke/article/2000111450/children-displaced-in-kenya-s-post-election-violence-sell-sex-un-officer-says>; Olivia Odhiambo, Michael Olinga, Man recounts pain of 2007 post-poll chaos, *The Standard*, 11.10.2014 available at: <https://www.standardmedia.co.ke/lifestyle/article/2000137795/man-recounts-pain-of-2007-post-poll-chaos>

on these frames; they had long existed before and persisted long after the December decision.

The exception to the rule: frames and frame shifts in *The East African*

One might speculate what the reason for avoiding ethnic labels by the two newspapers before and after the ICC hearings might have been. One possible factor was the reliance of both media (and their owners) on audiences, which overarched ethnic lines and included readers from several, if not all, ethnic groups in the country. The second important factor could have been the recommendation of the Media Council of Kenya before the 2013 elections, which urged media to show responsibility and avoid coverage, which was likely to stimulate and heighten tensions.⁴⁷ However, the “natural disaster frame” had already existed long before the recommendation and long before the election campaign had started, and it persisted also long after the 2013 elections. Therefore, the Council recommendation is an unlikely trigger of such a policy. The existence of the “natural disaster frame” and the reasons for its slight changes in *The Daily Nation* coverage after January 2011 will remain a puzzle for media analysts and frame researchers.

Kenyan media laws and codes of conducts did not ban the use of ethnic labels at all⁴⁸; they only forbade calls to violence, hate speech, and using ethnic terms in a denigrating, emotional way.⁴⁹ The election campaign in

47 Macharia Munene: Why studies give Kenyan media thumbs up, *The Daily Nation*, 24.11.2014, available at: <http://www.nation.co.ke/news/Why-studies-give-Kenyan-media-thumbs-up-/1056-2533918-jt08x2/index.html>

48 Opposite to Rwanda, Kenya does not ban the use of ethnic affiliations. In Rwanda, referring to Hutu, Tutsi, and Twa instead of Rwandans can be treated as “genocide ideology”, which is penalized under the Criminal Code. In Kenya, no such legislation is in force.

49 Jessica Gustafsson (2016), *Media and the 2013 Kenyan election: From hate speech to peace preaching*, *Conflict & Communication online*, 15 (1), 1–13, available at: http://www.cco.regener-online.de/2016_1/pdf/gustafsson2016.pdf; see also the Code of Conduct for the Practice of Journalism in Kenya, issued by the Media Council of Kenya, available at: <http://www.mediacouncil.or.ke/en/mck/index.php/code-of-conduct-for-the-practice-of-journalism>

2013 is no good explanation either. Under conditions of strong political tensions, media might refrain from criticizing specific groups, politicians, and parties in order to avoid being regarded as biased by their audiences or followers of the politicians and groups which they criticize. This may be a part explanation for journalists' reluctance to attack leading politicians in 2013, but it is hardly a reason for their reluctance to avoid ethnic labels and produce meaningful frames about the PEV, because the general tendency to do so stretches much beyond the elections campaign. Research has shown that journalists attributed their neutral, abstract reporting deprived of ethnic categories mostly to the experience of 2008, when media had played an imminent role in arousing ethnic tensions.⁵⁰

There is yet another reason why the stability of The Daily Nation's and The Standard's non-ethnic, conflict-free frame elements about the PEV cannot be explained by neither the influence of the Media Council nor media legislation or the ambition to avoid being dragged into the political polarization of the 2013 election campaign. This reason is the coverage of The East African, a weekly owned by the same media corporation as The Daily Nation, which has its audience scattered across the East African Community. Long before the confirmation of charges in January 2011, The East African had explained the PEV and the upcoming naming and blaming of leading Kenyan politicians by Prosecutor Moreno Ocampo in terms of ethnicity and party affiliation. The coverage of the PEV and the ICC tribulations was much smaller in the weekly than it was in the two abovementioned dailies, and The East African also used to label the PEV "chaos". The divulcation of the six prominent Kenyans against whom Ocampo would seek a confirmation of charges pushed the issue into the headlines. After Ocampo had revealed the six names, John Githongo, head of a Kenyan NGO and frequent commentator of The East African, warned in an op-ed about the risks of recurrent violence as a result of the ICC

50 It is worth mentioning that the reluctance to report about ethnic violence, to use ethnic labels, and avoid criticizing government politicians (at the time of the ICC hearings most accused were at the same time government officials) only characterized a part of the print media and did not apply to radio stations, which were much less reluctant and often pursued openly a party or ethnic agenda. Gustafsson (2016), 2.

proceedings. He was not reluctant to use ethnic and political labels to describe the situation in the Rift Valley:

During the post-election violence, while practically the entire country was gripped by an orgy of violence, it was the ferocity of events in Uasin Gishu that were beamed around the world by the media with most dramatic effect. Ocampo's action of merely naming this initial Hague Six has had a profound psychological effect on the nation's entire body politic, regardless of how the cases proceed. For while Ruto is the leading political figure in the Kalenjin community, Uhuru Kenyatta is one of the leading political figures among the Gikuyu community. Henry Kosgey is a longtime leading political figure among the Kalenjin community and ally of Prime Minister Raila Odinga. Joshua Arap Sang is the top presenter at the popular Kalenjin vernacular KASS FM.⁵¹ Francis Muthaura is a civil servant of the old school and significantly because he reports directly to the head of state, puts President Mwai Kibaki, for the first time, in the direct line of fire. And finally, Maj Gen Hussein Ali, former commissioner of police and now Postmaster General, whose illustrious military career will be forgotten now. Indeed, for all The Hague Six, charged as they are with crimes higher than murder, so high they have been internationalised, their previous careers became irrelevant on the December 15. Their professional gravestones will read, "Once charged with crimes against humanity"; nothing else will matter. This single effect, even if the cases unravel, will be important.⁵²

Githono also did not refrain from blaming prominent politicians, deploring "the father of OEV", Prime Minister Odinga, had not been on Ocampo's list. Next, he used a very blunt version of the frame, which blames "local elites" for the politically motivated violence in Kenya. This frame had also been used by The Daily Nation, albeit in a much weaker form. Referring to leaks of US cables, which had been published on the internet, Githongo claimed the impression from these files "are cementing the reputation of our top leaders as a venal, corrupt and murderous bunch".⁵³

This "elite conspiracy frame", which contained ethnic and political labels and included the naming and blaming of precise members of the political elite, was sustained and reinforced by Ocampo's comments during a press conference in Nairobi, to which The East African dedicated a lot

51 Kass FM is the name of Sang's radio station.

52 John Githongo: Now that Ocampo has dropped his bombshell, we must watch our step, The East African, 20.12.2010, available at: <http://www.theeastafrican.co.ke/news/2558-1075628-xvw6di/index.html>

53 Ibid.

of space, describing in details the charges against the six, which Ocampo would bring before the ICC pre-trial chamber.⁵⁴ This kind of coverage fit well into the way The East African used to lambast the ruling coalition in Nairobi not only as ruthless and corrupt, but also as less influent in regional politics than earlier Kenyan cabinets and smaller neighbor countries had been.⁵⁵ In the light of The East African's PEV and ICC coverage, the reluctance of the two dailies to name, blame, and shame and provide comprehensible and judgmental frames to its audiences can hardly be explained by an overarching policy of the editor houses – The East African belonged to the same owner as The Daily Nation.

The strong anti-elitist stance of The East African did not change after the confirmation of the charges. The latter rather reinforced the paper's criticism of the ruling political establishment.⁵⁶

The readiness to invoke tribalism and ethnicity enabled The East African to blame both as the root causes of the PEV, which – according to this frame which emerged in its coverage – had been instigated by political leaders who had “educated the population down to their level” so that it would easily be seduced by demagogy:

And as in all propaganda, it is packaged in highly volatile language that, as the post election violence of 2007–2008 exemplified, can quickly transmute into physical violence, pitting one impoverished Kenyan against another, as the super-rich high priests of the religion of hate propaganda and tribal politicking dream up the next tribal revelation behind the high perimeter walls of their multimillion-shilling homes. The tribe in Kenya has become our ideology, to which we align ourselves, whether professors, religious leaders, lawyers or economists, so that in what passes for political analysis, for example, one need just hear or read the analyst's name and one knows that he or she will bend or skip some facts, twist

54 Anthony Kariuki and Oliver Mathenge: Ocampo names Kenya chaos suspects, The East African, 15.12.2010, available at: <http://www.theeastafrican.co.ke/news/Ocampo-names-Kenya-chaos-suspects/2558-1073194-13cuue5/index.html>

55 Nick Wachira and Charles Onyango-Obbo: Diplomacy. How Kenya lost its standing in the outside world. The East African 31.1.2011, available at: <http://www.theeastafrican.co.ke/news/Diplomacy-How-Kenya-lost-its-standing-in-the-outside-world/2558-1097856-6afxbk/index.html>

56 As an example see: Patrick Gathara, Why Ocampo six matter more than 38 stupid Kenyans. The East African 14.2.2011, available at: <http://www.theeastafrican.co.ke/news/2558-1106234-yboq26/index.html>

the logic, manipulate the terms of reference in order to arrive at a particular position, which just happens to be the same position articulated publicly by his or her tribe's *de facto* chieftain.⁵⁷

For the first time during the period under examination in this chapter, a real, full-fledged frame had been created: the PEV had been the result of a local elite's conspiracy which had managed to seduce Kenyans into violence by appealing to their deeply entrenched tribalism and addiction to demagoguery. It is rather unlikely that this frame was the result of the confirmation of charges, although the ICC's ethnicized and personalized terminology had certainly contributed to increase the coverage about the PEV and the tendency to blame individuals (rather than abstract notions like "violence" or "chaos") for the PEV and to concentrate on members of the political establishment. Wambui Mwangi extended this frame in a saucy piece diagnosing Kenya a "Stockholm Syndrome", which made them cheer for political leaders, who – being on the accused bench at the ICC – threatened to hold them hostages in another PEV if they did not get their will. This was the way Mwangi interpreted Kenyatta and Ruto's warnings – the ICC proceedings could lead to another eruption of violence in Kenya. Mwangi wrote: "As we have all observed, the victims of 2008's bloody conflicts are not only those in the over 1,300 graves nor even only those who yet languish in IDP camps, although their suffering is surely in the front lines of loss. Our loss includes also the betrayed public trust, the mutual ethnic suspicions that now hamper efforts at co-operative work, the ethnic cleansing that has conjured geographies of mistrust, and the comprehensive decline in the people's capacity to enforce their collective interests against the state".⁵⁸

While it would have been difficult to find out the stance of *The Daily Nation* and *The Standard* toward the ICC proceedings, there was no such problem with *The East African*, which was firmly pro-ICC, supported the

57 Tee Nguni: Why Kenyans still find demagoguery so seductive. *The East African* 21.2.2011, available at: <http://www.theeastafrican.co.ke/news/Why-Kenyans-still-find-demagoguery-so-seductive/2558-1110702-8udeuh/index.html>

58 Wambui Mwangi: Prisons of the mind. Why we love the Ocampo six for the mercy they show to us. *The East African* 25.4.2011, available at: <http://www.theeastafrican.co.ke/news/2558-1149924-ye8529/index.html>

fight against impunity, frequently quoted international NGOs opposing the Kenyan governments efforts to bring the ICC trials to a halt by appealing to the AU, and lobbying the UN Security Council to defer the Kenyan cases.⁵⁹ This support for international (rather than domestic) criminal justice overlapped with The East African's anti-elitist position and was channeled into many articles and comments: "It is a national tragedy when people who will supposedly lead Kenya to become a middle-income country by 2030 offer crude insults instead of policies, but for anyone who watched the news that week, the overwhelming emotion, in addition to disgust and anger, was not sadness but shame", Tee Ngugi wrote, criticizing the large media coverage of Ruto's journeys to The Hague and his comments about the proceedings had gained in other Kenyan media.⁶⁰

Until the dropping of charges against Kenyatta in December 2014, The East African covered the ICC proceedings extensively, but without creating any frames about the PEV. This did not change after the charges against Kenyatta were dropped. The East African covered the hearing and the reactions to it, but it failed to repeat any previous PEV-frame or develop any new one due to the extensive coverage of election violence in other parts of Africa and especially in Burundi.⁶¹ Even when discussing a special mechanism to contain election violence, which had been developed

59 Dave Opiyo: Lobbies petition UN council to reject ICC deferral. The East African, 15.4.2011, available at: <http://www.theeastafrican.co.ke/news/Lobbies-petition-UN-council-to-reject-ICC-deferral/2558-1125462-pho3o0/index.html>

60 Tee Ngugi: Media frenzy over the Ocampo six is pathetic, an insult to the public intelligence. The East African 4.4.2011 available at: <http://www.theeastafrican.co.ke/news/2558-1137882-ydk6ve/index.html>

61 There were two articles about the ICC hearing: Fred Oluoch, ICC focus shifts as it drops rape, murder charges against Uhuru The East African 6.12.2014 available at: <http://www.theeastafrican.co.ke/news/As-Uhuru-Kenyatta-case-ends-what-is-next-for-others-before-ICC/2558-2547104-74muap/index.html> and Gerald Andae, ICC prosecutor withdraws case against Uhuru Kenyatta, The East African 5.12.2014, available at: <http://www.theeastafrican.co.ke/news/ICC-prosecutor-withdraws-case-against-Uhuru-Kenyatta/2558-2545880-nj6e48/index.html> All other articles which contain the phrase "election violence" until the second part of 2015 constitute coverage of Burundi or other African countries undergoing violence.

in Liberia and recommended by the AU as a “best practice”, almost no reference was made to the PEV and no PEV-frame was invoked.⁶²

Conclusion

Throughout the period, during which frames in both dailies were examined, a basic tendency could be observed, according to which newspapers (and to some extent and as far as it was detectable online, KTN television, too) avoided any ethnicization of the PEV in retrospective articles, avoided to blame or even name ethnic organizations as perpetrators and victims of the PEV, and presented the PEV embedded in a “natural disaster frame”, which deprived journalists of almost any possibility to identify causal links that had led to the violence and develop recommendations on how to preempt such violence in the future. PEV became an abstract, unavoidable phenomena which had randomly hit innocent victims whose – in the light of this frame – victimhood evaded any explanation.

This “natural disaster frame” bifurcated after the January 2011 decision to confirm the charges against three out of the 6 Kenyan ICC suspects into one, which lay most of the blame to “local elites” and another one, which emphasized that the PEV had been violence done by Kenyans to other Kenyans (again stopping short of any ethnic categorization). The divide of the “natural disaster frame” into two overlapping ones could only be observed in The Daily Nation coverage.

This “natural disaster frame” underwent considerable change when the witness hearings at the ICC started and shook the ethnic sterility and the abstract notions which had dominated the reporting before. In both newspapers, coverage became more personalized, much more focused on the accused as individuals and on their (alleged) actions in 2008, and the ethnic terminology of the ICC documents began to permeate media discourse in Kenya, channeling ethnic terms, ethnic affiliations, and ethnic group labels into the newsrooms. This returned to the previous state once the hearings were over and the case against Kenyatta was dropped. Despite

62 Jane Godia: Women’s Situation Room. An African approach to reduce electoral violence. The East African 29.4.2015 available at: <http://www.theeastafrican.co.ke/news/2558-2700774-r9m9cuz/index.html>

fears about rising ethnic tensions among the governing Jubilee Alliance, neither *The Standard* nor *The Daily Nation* allowed ethnic languages to resurface and kept their sterile narration to the extent of publishing reports which were almost empty in terms of their explanative value.

This was very different with regard to the coverage of *The East African*, which was much more political, analytical, and firmly in favor of the ICC proceedings and of the holding members of the Kenyan political elite accountable for the PEV. In this context, the weekly developed a frame which blamed the Kenyan political establishment for instigating violence and the population for falling for demagogy and tribalism. *The East African* could extensively blame ethnic cleavages, tribalism, and political polarization as the root causes of the PEV, because before it had not downplayed these factors as much as the two dailies. *The East African's* PEV-frames were therefore also much richer and explanative than the ones in *The Standard* and *The Daily Nation*. However, not much ICC influence on *The East African* could be detected. No single ICC decision influenced the weekly's frames, but – in a similar way this had happened in 2011, the ICC hearings furthered the personalization and individualization of blame in the news coverage and fueled media frames with ethnic terminology – due to the specific way the ICC uses to formulate its charges. This influence of ethnicized ICC terminology into media coverage could be observed in the daily and weekly coverage, but it could not be pinned to a specific decision of the prosecutor or the chamber.

Fortunée Bayisenge

Rwanda: shifts in media frames and the ICTR

Introduction

Rwanda's existence as a nation state dates from the 11th century. It is a country located in the Great Lakes Region of Africa with a total area of 26,338 km² and a very high population density of 400 inhabitants per km, and a high rate annual population growth (2.6 %). It has a total population of 10.5 million, of which 52 % are women and 48 % men; among these 83 % are living in rural areas¹. Before the colonial period, Rwanda was a centralized kingdom under which a monopoly of power was in the hands of the king and his advisors, who decided on all matters. The large majority of the population had little access to power or privilege except through the king. The advent of first the German and then the Belgian colonizers brought far-reaching changes to the country. Germany's control over Rwanda lasted only until its 1918 defeat in World War I. Subsequently, in 1919, Rwanda became a mandate territory of the League of Nations under the administration of Belgium. During this period, the Belgian colonizers had discriminated against the majority of the population (Hutu) and favored the minority (Tutsi), redrawing political, social, and economic relationships of power between the population². By the time of independence in 1962, the Hutu majority was both resentful and frustrated by the total domination of the Tutsi and Belgians in all spheres of lives. Thus, Hutu took power in the name of revolutionary democracy and in the spirit of revenge. As a consequence, the period after decolonization was marked by massive political violence against the Tutsi

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- 1 NISR (2012): The Fourth Rwandan Population and Housing Census. Kigali, Rwanda
 - 2 Gatwa, T. (2005): The Churches and Ethnic Ideology in The Rwandan Crises 1900–1994. Regnum Books International, Oxford Centre for Mission Studies, United Kingdoms.

(especially in 1959, 1973), leaving thousands of them killed and forcing others to flee to neighboring countries³.

In 1973, the Second Republic came into being due to a “coup d’état”, which removed the first president from power. From 1974, the president outlawed the existing political parties and created his own National Republican Movement for Democracy and Development (MRND)⁴. Both Republics were characterized by centralized, dictatorial, corrupt political regimes. Popular discontent grew through the 1980s. In 1990, as a result of pressure from the international community, the MRND agreed to allow partisan competition, and several new parties emerged in 1991. This situation coincided with the first attack of the Rwandan Patriotic Front, a Tutsi-dominated rebel army from Uganda, which had started in October 1990. In the same period, economic decline, political manipulation of ethnic animosities, and civil war all contributed to the disintegration of Rwandan society in the 1990–1993 period⁵. In 1994, a total breakdown occurred in the form of genocide. In response, the RPF stepped up its liberation efforts. In July 1994, the RPF had occupied the country and a transitional national government was formed⁶.

In the period after the genocide, Rwanda’s situation was particularly complex. This resulted from how the way the genocide had been perpetrated (mass killings committed by a huge number of perpetrators) and the destruction of almost all public assets, including the judiciary. The latter was not able to deal with trials of thousands and thousands of people who had been involved in these mass killings. The majority of those in the former military leadership and government who had planned the genocide had fled Rwanda and sought refuge in neighboring countries and elsewhere in the world⁷. Thus, the post-genocide reconstruction required a

3 Prunier, G. (1995): *The Rwandan crisis: History of a genocide*. Fountain Publishers Ltd, Kampala, Uganda.

4 MRND is a ruling party of the second Republic of Rwanda from 1973 up to 1994 which organized and executed the genocide against the Tutsi of 1994 (Prunier, G.1995).

5 Ibidem, pg. 121

6 Caplan, G. (2007): “Rwanda: Walking the Road to Genocide”, in Thompson A. (ed), *The media and the Rwandan Genocide*. London: Pluto Press 20–35.

7 Peskin, V. (2004): *International Justice in Rwanda and the Balkans, Virtual Trials and the Struggle for State Cooperation*. Cambridge: University Press.

quick, strong, and effective transitional justice system. However, the poor conditions of the courts, the need to develop a domestic law on genocide, and the lack of sufficient international aids forced Rwanda to delay its own trials until the end of December 1996⁸. Thus, the government of Rwanda called upon the intervention of the international community for assistance. As a response to this situation, the UN Security Council in its resolution 955 created the International Criminal Tribunal for Rwanda (ICTR).

Case selection criteria for the media and the ICTR cases

The genocide occurred at a moment in history when the global fight against impunity for gross human right violations had gained some momentum. This momentum, the enormity of the Rwandan genocide, and the shame of the international community at having stood by while hundreds of thousands of Rwandans were slaughtered had triggered the creation of the ICTR as one of the measures to bring the perpetrators of the genocide to justice and facilitate the post-genocide reconciliation process. It is the aim of this chapter to find out whether ICTR decisions triggered domestic changes in Rwanda with regard to public discourses and media frames concerning the events in 1994. This will be done based on a qualitative approach to the analysis of media narratives about the conflict in 1994 (and earlier) and with regard to *the prosecutor v. Bagosora et al.*

This case is chosen, because of its unique character, for the public in Rwanda, due to which it attracted enough much media coverage to render frame analyses viable. In *the prosecutor v. Bagosora et al.* (the so-called Military I trial) against high-ranking military officers of the Habyarimana regime, there were several aspects which made the cases valuable for this research. First of all, the trial challenged an important element of the official Rwandan narrative about how and why the genocide came about in 1994, which we call here the “conspiracy frame”. Secondly, the main accused, Col. Théoneste Bagosora, had already been a well-known figure before the trial started and had frequently been labeled “the mastermind

8 Desforges, A. (1999): *Leave None to Tell the Story*, New York: Human Rights Watch.

of the genocide” or “the devil” and thus hardly enjoyed the presumption of innocence. His trial could either confirm or challenge this dark image. Third, the trial was extensive enough and led to the testimony of a sufficient number of high profile witnesses to shake at least some of the popular convictions about the events in 1994. In any case, shifts in frames could be expected from *the prosecutor v. Bagosora et al.*, and this need not only be due to the changes in Bagosora’s sentence on appeal. On 18 December 2008, the trial chamber sentenced Bagosora to life imprisonment, then on 30 November 2011 the appeals chamber reduced this sentence to 35 years of imprisonment. The basis of this research will be news media, printed and broadcasted ones. In order to understand the case selection criteria for the media, a few words about Rwanda’s media system, past and present, are necessary.

Since its independence, Rwanda has been struggling to establish a solid and sustainable media system. The main challenge for this was the paramount role of the state with regard to media. For example, when Juvenal Habyarimana came to power by a coup d’état in 1973, he abolished the Ministry of Information and created an Office of Information (ORINFOR), which he integrated into the presidential office and managed all public media, such as Radio Rwanda, Rwanda Television, *Imvaho* (which means the truth), and *La Relève* (now la Nouvelle Relève). He, therefore, declared that media and journalists had to become the channels transmitting the orders from the rulers to the ruled. The media were hemmed by the restriction summarized in the phrase “close your eyes so that I govern you”⁹, which means that all of Rwandan population was not allowed to criticize the overlord political regime. Until the 1990s, only a few public and independent newspapers existed. The production, diffusion and control of information, the press, radio, television, film, and photography were all under state control¹⁰.

Besides this, as it was the case for many countries in the Sub-Saharan Africa, in Rwanda, since World War II, the radio has been the most important mean of mass communication. In general, the country was known as

9 Gatwa, T. (2005): *The Churches and Ethnic Ideology in the Rwandan Crises 1900–1994*. Oxford: Regnum Books International, 45–56.

10 *Ibid.*

a “radio country”, a country where for many people, the main channel to get genuine information (both before and during the genocide) was through listening to the radio. In some villages, the radio was like the voice of God. This is mainly because Rwanda’s entire population is linked by one language, Kinyarwanda. So most Rwandans get all information from Radio Rwanda, the only national radio station, which has been broadcasting since 1961, a year before independence. As a new media, Radio Rwanda has also always been a government-controlled media, and all what it said was considered the truth. Since then, the radio-station was the government’s voice: nobody contested its authority¹¹.

Concerning the written press, by the 1960s, the state had two weekly publications, *Imvaho* (the truth) in Kinyarwanda and *La Relève* (relief) in French. The two newspapers’ journalists were considered civil servants. Rwanda’s public television started broadcasting in 1992. Broadcasting was limited to three evenings a week; on weekends only until the genocide. There were three news bulletins every evening, one in Kinyarwanda, one in French, and one in English. However, the impact of television was very limited because only the rich and elite had TV at the time¹². Nonetheless, a big amount of literatures on media and genocide articulates on the role of media in generating and driving genocide ideology in Rwanda, especially in the period of 1990–1994. The news media, both local and international, played a crucial role in the 1994 genocide against Tutsi. The local media were deliberately used by authorities to promote hate and violence between the two ethnic groups (Hutu and Tutsi)¹³. The best known among others in this regard were *Radio-Television Libre de Mille Collines (RTL)*, Radio Rwanda, and some newspapers such as *Kangura*¹⁴. They formed what *Reporters Sans Frontières* (Reporters without borders) called the “media

11 See International Media Support (2003). *The Rwanda Media Experience from The Genocide*.

12 *Ibid.*, 10–12

13 *Ibid.*, 39.

14 Both *Kangura* newspaper and *RTL* radio were dominated by Hutu – hard-liners. *Kangura* was launched in June 1990 from Gisenyi (now Western Province), *RTL* was launched in April 1993.

of hatred”¹⁵. Indeed, the RTLM played a greater role in spreading racist anti-Tutsi ideology drawing on historical myths, stereotypes of the Tutsi, and appeals to Hutu unity, and it often did so in a thinly veiled code referring to “work” instead of killing and “cockroaches” instead of Tutsi. In sum, Rwanda’s media in general, specifically the radio stations, managed to generate and sustain genocide ideology using different dominant public discourses, such as an oppressive history (Hutu victimization before and in the colonial era and Hutu revolution of 1959 that precipitated the end of elite Tutsi hegemony), which justify the legitimacy of the post-colonial regime of Rwanda as a strategy for shaping the prevailing political crisis¹⁶.

In the aftermath of the genocide, each corner of life in the country was destroyed, including the media institutions¹⁷. The government’s policy toward them was extremely cautious. The new government had to work on this focusing mainly on the existing media policy and laws, and the political context was generally stressed by the growing threat of the ex-government armed forces and genocide militias behind the Rwandan borders.

As a result, the Rwandan media system went back to the previous situation of a state monopoly: the media system (public and private) was under the Ministry of Information, and only government-owned media such as Radio Rwanda and two written publications – *Imvaho Nshya* and *La Nouvelle Relève* – are still under the public media’s governing body, ORINFOR (which is now Rwanda Broadcasting Agency or RBA), which has kept the same structure as before the genocide. The number of private newspapers keeps increasing, but still many of them face challenges related to low skills, poor finance, and technological infrastructures, which is the reason why the Government has kept an eye on them through different Institutions like Rwanda’s Media High Council (MHC)¹⁸. MHC

15 Gatwa, T. (2005): *The Churches and Ethnic Ideology in the Rwandan Crises 1900–1994*. Oxford: Regnum Books International.

16 Li, D. (2007): “Echoes of Violence: Considerations on Radio and Genocide in Rwanda” in Thompson, A. (ed): *The Media and the Rwanda Genocide*, London: Pluto Press, 70–85.

17 Ibid., p.78.

18 Mpambara, I. & Alexis, M. (2003). International Media Support. Kigali, Rwanda.

is an independent institution responsible for media capacity building. It works under the supervision of the Ministry of Local Government and is managed by a board of directors with an executive secretariat. The board of directors consists of seven members who are nominated by the president for a three-year mandate, which is renewable once.

This chapter's media frame analysis intends to detect shifts in media frames in different articles from two newspapers, *Imvaho Nshya* and The New Times. *Imvaho Nshya* (or the new truth) is a weekly, Kinyarwanda, governmental newspaper which was launched after independence. It was first printed by ORINFOR, and since then and until now by RBA. Since the 1960s and until the aftermath of the genocide, it is the only newspaper of the government that is published in Kinyarwanda. This means that it is widely trusted and read by almost all Rwandans (from all classes) and contains information from government officialism and about government events, which are to the population through both government media (*Imvaho Nshya* and Radio Rwanda). The New Times is a daily, English-language, private newspaper. It was established in 1995 and owned by two shareholders. The online edition of The New Times was launched in 2006. However, it is regarded by many of being much closer to the government than other media. It has also a wide audience as it is consulted by local elites and intellectuals, the Rwandan diaspora, and foreigners.

Originally, we intended to analyze at least four media (two printed newspapers, one radio, and TV). However, while trying to access radio and RTV's archive, it turned out that the administration of these media (Radio Rwanda and TV) did not have orderly archives before 2013, and the items stored in the archives were not digitalized. Instead, 40 articles (20 from each newspaper) were analyzed for frame shifts.

The choice of the abovementioned media was based on different factors. *Imvaho Nshya* is the oldest newspaper printed in Kinyarwanda, owned by the government through the RBA, and read and trusted by all social categories of Rwandans. The New Times was selected as the only daily private newspaper published in English and mainly consulted not only by middle and elite groups but also by foreigners and the Rwandan diaspora across the world, thanks to its free online availability. Both newspapers had decent archives which could be accessed within the required timeframe before and after the *Bagosora* trial and appeals judgments.

The frames about the 1994 genocide before the trial of Théoneste Bagosora

Bagosora was born on 16 August 1941 in Giciye commune, Gisenyi prefecture, Rwanda. In 1964, he graduated from the *École d'officiers de Kigali* as a Second Lieutenant and rose to the rank of Colonel in October 1989. Bagosora was appointed *directeur de cabinet* for the Ministry of Defence in June 1992. He served in that position until he fled to Goma in the former Zaire on 14 July 1994. After, he was appointed chair of the political and external relations committee of the newly reorganized Rwandan Armed Forces High Command. Bagosora subsequently left Zaire for Cameroon, where he was also part of the Cameroonian wing of the Movement for the Return of Refugees and Democracy to Rwanda (RDR). Bagosora was arrested in Cameroon on 9 March 1996 and was transferred to the International Tribunal's detention facility in Arusha, Tanzania, on 23 January 1997¹⁹. It took 13 years for the ICTR to judge Col. Théoneste Bagosora.

Before the trial started, and even before the indictment was formulated against Bagosora, there was a widespread belief among the wider public in and outside Rwanda that the 1994 genocide had been the result of a long-lasting conspiracy by the leading members of the Habyarimana entourage, the military leadership, and prime minister Jean Kambanda's interim government. This "conspiracy frame" had already been contained in Alison DesForges's book "Leave none to tell the story", which had been tendered as evidence during *the prosecutor v. Akayesu*; later on, it had made its way into several indictments against other accused.²⁰ Popular accounts of the genocide, like Linda Melvern's "Conspiracy to Murder". also alleged the existence of a long-lasting conspiracy. Opposite to many other interpretations provided by DesForges as an expert witness, the ICTR chambers never endorsed this "conspiracy frame". But until *the prosecutor v. Bagosora et al.*, there never had been an urgent need to

19 United Nations (ICTR): The appeals' Judgement of Bagosora é, and Anatole Nsenyumva. Arusha, Tanzania, 14 December 2011

20 For example, in *the Prosecutor v. Ntuyahaga*, who was finally transferred to Belgium and tried there.

make a ruling on it. By then, this need appeared even for several distinct reasons: because Bagosora was accused of a conspiracy – to – genocide, because the prosecution claimed in the indictment not only the genocide as such, but also the murder of the Belgian paratroopers on 7 July 1994 had been planned beforehand and attempted at various occasions, and because the accused was described by the prosecution as the main culprit of the genocide who had controlled the situation during July and August 1994.

The frames of *Imvaho Nshya* and The New Times before the Bagosora trial about the person of Bagosora, the frames about victims/survivors, and about the “conspiracy frame”

If one looks at the different articles from *Imvaho Nshya* and the New Times during the period following the genocide, that is, in the transitional period between 1994 and 2003, one realizes that most journalists wrote about the general characteristics of the different acts of genocide, about ceremonies of genocide commemoration and the mourning period, and about the conditions in which genocide survivors were living. There was not much about specific perpetrators. Media coverage was not personalized and guilt and blame were not yet individualized.

“This year we are remembering for the fourth time ethnic extermination which happened in Rwanda against Rwandans although this happened less than four years ago. In 1994 thousands of Tutsi and Hutu who opposed themselves to extremist Hutu killers were all massacred and the killings are still going on although there are heroes who continue to fight against those blood shedders who have chosen to be Hutu rather than being Rwandans”.²¹ One might call this a “regime frame” – the violence of 1994 is presented in abstract terms, similar to the “natural disaster frame”, which some Kenyan media used in order to describe the post-election

21 Charles Nkurunziza, *Imvaho Nshya* no 1227, 6–12 April 1998, We waited for the death, we lived in the death up to when Inkotanyi came. The reference about those still fighting probably concerns the situation in Eastern Zaire at the time, where the Rwandan Army and pro-Rwandan rebel groups were entrenched in fighting against the remnants of the Hutu militias which had escaped Rwanda. The term Inkotanyi means literally warrior, activist, fighter but is used here as a synonym for the Rwandan Patriotic Front (RPF).

violence in their country. But there is a clearly defined culprit, which lacked in the Kenyan frames, and this culprit is the Habyarimana regime, which is often not even named. The term “regime” works as a kind of signifier which includes the late president’s entourage, the interim government under Jean Kabanda, and the military junta around Bagosora, which instituted the interim government. Later on, this “regime” will gain faces and names, become the “genocidaires”, and then be split into different factions, organizations, and persons. But during the first phase of the transition from the genocide, only “the regime” is mentioned, like in an article in *Imvaho* from 1998: “Since 1995, Rwanda has a mourning period which starts from 1st to 7th April each year. During that period, we remember how a blood shedding regime which in a period of only three months exterminated Tutsi just because of their ethnicity and massacred Hutu from the opposition”.²² A year later, *The New Times* already indicates the process of individualization blame, commemorating the genocide during the mourning period: “This devilish tragedy had struck and thrown the nation away [...] In towns and villages where the Interahamwe and other political extremists held deadly sway both day and night, of course there was sheer, naked, cold blooded physical fear in many hearts of the people”.²³ During this period, the genocide was mostly described in terms of “ethnic extermination”, “killings”, “massacres”, “the genocide of the Tutsi and massacres of Hutu from opposition” and the perpetrators were labeled as “killers”, “the blood shedding regime”, “extremist Hutu”, and “devils”. The genocide was often not even mentioned as genocide, but, as in a speech of general Kagame, “the dark moments”. This also means that there were actually no real frames about the genocide created. In the speeches and articles from the second half of the 1990s, the genocide appears as a dark period of unspecified violence which caused many victims and ruined the country and for which the old regime bore responsibility. But neither the

22 The article of Ntamuhanga N. Emmanuel in *Imvaho* No 1227, of 6–12 April 1998. Those who survived ethnic extermination do not remember their relatives who were killed only in the mourning period.

23 Rwanda: A nation on a panga-edge. The 1994 genocide. By Kainamura Robert. *The New Times*, 25 April–2 May 1999

speeches nor the articles described any causal links and did not provide any specific knowledge about the events.

This changed due to media coverage about specific crimes and specific suspects, usually when they either were arrested or put on trial – either in Rwanda or at the ICTR. This was the case, among others, when Bishop Augustin Misago, Rwandan’s highest ranking catholic cleric, was arrested under genocide charges by the judiciary in May 1999. Because he was defended by other catholic priests, *Imvaho Nshya* felt compelled to deviate from the presumption of innocence and expressed the hope, he would “find the humility to repent”. In the article, readers were also reminded that “priests abused the trust of innocent people by luring them into what they thought was the safe sanctuary of the church, only to be killed there en masse”.²⁴ There were other examples when reporters would introduce details into their accounts about the genocide, including eye witness accounts. But hardly ever did this lead to the creation of full-fledged frames. Rather than presenting casualties and explanations, these reports would emphasize the general cruelty of the situation in 1994, vilify those who ruled the country at the time and the atrocities committed by the (mostly unnamed) perpetrators.²⁵

As time went on, Rwandan society focused more on reconstruction and reconciliation. Most of the efforts were directed toward penalizing genocide ideology and reconciliatory justice like the Gacaca courts. The media reflected this tendency, reporting about ceremonies of genocide commemoration. The *New Times* started relatively early to write articles addressing the justice and trials of genocide suspects in Rwanda. Since 2000, The *News Times* has also published articles about Bagosora.

However, much of the coverage was dedicated to the future, not to the commemoration of the past, and even when it addressed the past, it did so in order to present the perspective of a brighter future. These

24 Tom Ndahiro, Standing up to injustice: a tale of two clerics, *Imvaho Nshya* 23–27.5.1999. Bishop Misago was later found innocent by a Rwandan court. See Christianity Today, Influence of Roman Vatholic Church in Acquittal of Rwandan Bishop debated, 20.6.2000, available at: <http://www.christianitytoday.com/ct/2000/juneweb-only/23.0b.html>

25 Emmanuel Ntamuhanga, Genocide Survivors of Rukumberi share their story, *Imvaho Nshya* 22.–29.4.2007.

were not actually genocide frames. Instead, the media – often following speeches of prominent political leaders – invoked the dark past of the genocide (without mentioning details) in order to distinguish it from the bright future, which they forecasted for the country. *Imvaho Nshya* provided an example in an article from April 2010: “Why must we always remember? We must do so because what caused us the pain is bad politics, bad politicians and bad leaders. Bad politics that killed people. [...] President Kagame urged Rwandans not to be consumed by their grief and pain but instead draw strength from remembrance and endeavor to be better people –better than those who caused the suffering”.²⁶ In another article from the same mourning period, one could read:

“The Vice Mayor insisted on the fact that those genocide survivors need to organize themselves in different cooperatives in order to fight against loneliness, and improve their living conditions. After genocide, life should continue, she added.”²⁷

This already indicates how much these forward-looking media frames were shaped by public speeches of local and national leaders. Sometimes, they had problems to get local communities to participate in the mourning and commemoration ceremonies. In Huye, Prime Minister Bernard Makuza linked both issues together, stressing that “[P]eople questioning the essence of the mourning period should be reminded that they are the reason such a period is commemorated”. Then he delivered a shining example of the Rwandan counterpart of the Kenyan “natural disaster frame”: “Ethnic division led to the killing of Rwandans in the most brutal ways. There was destruction of life and the dead were left to rot. This is what we have to change. This is why we mourn and bury the remains of the dead. When we do this, we seek to restore the dignity they were denied,’ said the Prime Minister”.²⁸

26 *Imvaho Nshya* no 1980 of 08–11 April 2010: we should draw strengths from Remembering genocide. By Niwemutoni Phoibe

27 The article of Mukagahizi Rose, in *Imvaho Nshya* No 1983 of 19–21 April 2010: To survive genocide is one thing and to stay in life is another one !

28 Paul Ntambara: Rwanda won’t be deterred by Genocide deniers [unreadable] Makuza, *The New Times*, 13.4.2008, available at: <http://www.newtimes.co.rw/section/read/3303/>; see also: Anastase Shyaka, Gatsata: The population

The frames of the ICTR trial judgment in the Bagosora case

On 18 December 2008, ICTR trial chamber I rendered its judgment in the *Bagosora et al.* The trial chamber found Bagosora guilty of genocide, crimes against humanity (murder, extermination, persecution, other inhumane acts, and rapes), and serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life and outrages upon personal dignity) pursuant to Articles 6(1) and 6(3) of the Statute. It held him responsible pursuant to Article 6(1) of the Statute for ordering the murder of Augustin Maharangari and the crimes committed between 7 and 9 April 1994 at Kigali area roadblocks. It further found Bagosora responsible as a superior under Article 6(3) of the Statute for the killings of Prime Minister Agathe Uwilingiyimana, Joseph Kavaruganda, Frédéric Nzamurambaho, Landoald Ndasingwa, Faustin Rucogoza, ten Belgian peacekeepers, and Alphonse Kabiligi, as well as killings committed at *Centre Christus*, Kibagabaga Mosque, Kabeza, the Saint Josephite Centre, Karama Hill, Kibagabaga Catholic Church, Gikondo Parish, Gisenyi town, Mudende University, and Nyundo Parish.²³ The trial chamber also found Bagosora responsible as a superior for the rapes committed at the Kigali area roadblocks, the sexual assault of the Prime Minister, the torture of Alphonse Kabiligi, the rapes and stripping of female refugees at the Saint Josephite Centre, the rapes at Gikondo Parish, and the “shepherding” of refugees to Gikondo Parish, where they were killed, and on these bases convicted him of rape and other inhumane acts as crimes against humanity, as well as outrages upon personal dignity as a serious violation of Article 3 common to the Geneva Conventions and of Additional Protocol II. The trial chamber sentenced Bagosora to life imprisonment.

However, it is important to set out here that the judges refused to sentence him for the conspiracy – to – genocide charge. And it was this part of the verdict which caused outrage in Rwanda: “In the context of the ongoing war with the RPF, [the] evidence does not invariably show that the purpose of arming and training these civilians or the preparation of

did not participate in commemorating activities, Imvaho Nyasha no 1602, 23–29.5.2005.

lists was to kill Tutsi civilians. After the death of President Habyarimana, these tools were clearly put to use to facilitate killings. When viewed against the backdrop of the targeted killings and massive slaughter perpetrated by civilian and military assailants between April and July 1994 as well as earlier cycles of violence, it is understandable why for many this evidence takes on new meaning and shows a prior conspiracy to commit genocide. Indeed, these preparations are completely consistent with a plan to commit genocide. However, they are also consistent with preparations for a political or military power struggle.... Accordingly, the chamber is not satisfied that the Prosecution has proven beyond reasonable doubt that the four Accused conspired amongst themselves or with others to commit genocide before it unfolded on 7 April 1994".²⁹

It is this fragment that subsequently was being quoted (often abusively) by genocide deniers as a proof that the genocide had not been planned beforehand or even that there had not been any genocide at all, but just a civil war between (morally and politically) equal adversaries, of whom one side, the RPF, had gained military supremacy over the other and won the war.

Therefore, it is important to stress what the verdict says and what it does not say. It did say, the evidence adduced by the prosecution had been ambiguous and therefore could be interpreted as a proof for the existence of a conspiracy, but it could also be interpreted as proof that a civil war had suddenly escalated into a genocide without such an escalation being planned by the Bagosora entourage, the interim government, and those who later participated in the killings. The problem is that as long as a conspiracy is not the only conclusion, which can be drawn from the evidence, the accused enjoys the benefit of the *in dubio pro reo* principle and cannot be convicted for conspiracy. Hence, the judges neither denied the existence of a genocide by sentencing Bagosora for taking part in it nor the existence of a conspiracy. All they did was refraining from sentencing Bagosora for conspiracy to genocide. If there were no genocide, Bagosora could not have participated in it. If there had been one, the evidence was not sufficient to link him to the conspiracy.

29 Trial judgment, Prosecutor v. Théoneste Bagosora et al., Case No. ICTR-98-41-T, December 18, 2008, para. 2109, 2110, and 2112, pp. 539–540.

But Rwandan media did not interpret the judgment in such a sophisticated way. On 19 December 2008, *The New Times* just reported the counts on which Bagosora had been convicted, without any further comment.³⁰

The frames of *Imvaho Nshya* and The New Times after the Bagosora trial

It is well-known and widely documented that the Bagosora judgment triggered outrage from a large part of the Rwandan media, from politicians and survivor organizations, because of its ambiguity about the conspiracy frame.³¹ By then, the official framing of the genocide in political speeches had shifted after the enactment of the new constitution in 2006. What had been the “Rwandan genocide” was then officially labeled “the genocide against Tutsi”. This was also the formula which was then used in public speeches and in the media. However, the old frame element claiming the genocide had been staged by “bad politicians” was still very widespread. After the Bagosora trial, an element linked to the “conspiracy frame” was added. For example, Prof. Rwanyindo Ruzirabwoba, the then director of the Institute of Research and Dialogue for Peace (IRDPA), addressed the inhabitants of the Gisozi sector in Gasabo during the mourning period, reminding them (as *Imvaho Nshya* reported) “that genocide did not come as an accident but rather was a conspiracy resulting from a genocide ideology which for many years has been seeded throughout Rwandan society, to be implemented when the time came”.³²

After the Bagosora trial judgment, politicians and the media maintained the basic frame from before, which included the blaming of “bad politicians” for the genocide as well as the imprecise notion of the genocide as a kind of disaster which had hit Rwandans and caused many victims. Even more

30 *The New Times* of 19 December 2008, ICTR gives life sentence to Bagosora, acquits Gen. Kabiligi. By Gashegu Muramira

31 Bachmann, K., Sparrow-Botero, T. and Lambertz, P. (2013): *When Justice Meets Politics. Independence and Autonomy of Ad Hoc International Criminal Tribunals*, Frankfurt&M.: Peter Lang, pp. 178–179; see also the reports in *The New Times* from 20.12.2008.

32 Twagira Wilson: Genocide was not an accident, but rather a plan of bad leaders. *Imvaho Nshya* no 1879, 4–8.5.2009.

than before the judgment, they stressed the conspiracy frame, but hardly ever described it in detail, insisting the genocide had been planned long beforehand, but without describing why and how. Besides the accused at the ICTR and prominent suspects in Rwandan courts, these texts never blamed any concrete person for concrete deeds and neither did it accuse specific organizations other than “bad politics” or “the regime”.³³ Usually this imperfect frame also included calls to build a better future and did not at all concentrate on past events.

There was one exception. In May 2011, *Imvaho Nshya* printed a short feature about a group of youngsters in Rusizi whose parents were in prison on genocide charges and who had decided to participate in a night vigil. According to the newspaper, they had distanced themselves from their parents: “it is still a paradox, that our own parents killed innocent people without thinking twice! The whole idea of wiping out an ethnic group is even worse”, the paper quoted the son of a prisoner serving community work for genocide crimes. “The youth appealed to authorities to be vigilant of parents who still harbor and teach their children Genocide ideology and ethnic differences”.³⁴

The appeal in *Bagosora*

Bagosora filed a notice of appeal on 8 January 2010, and his appeal brief on 24 March 2010, challenging his convictions and sentence. The prosecution responded to Bagosora’s appeal on 3 May 2010, to which Bagosora replied on 27 July 2010. On 14 December 2011, the appeals chamber reduced his sentence to 35 years of imprisonment. Given the qualification of Bagosora in the planning and implementation of the genocide, this decision was not appreciated by the government of Rwanda in general and

33 This was different with regard to Rwandan survivor organizations like the Ibuka umbrella and NGOs like African Rights that often operated with very detailed accounts about the genocide and the role of specific individuals when supporting government attempts to have them extradited to Rwanda from European countries, Canada, and the United States. But these reports were addressed to a foreign audience, not to Rwandan citizens in Rwanda.

34 Adolphe Higiho: Youth condemn Parents’ role in the Genocide, *Imvaho Nshya* no 2092, 5–8.5.2011.

genocide survivors in particular. The appeals chamber did not question the factual findings of the trial chamber with regard to the conspiracy frame. It did not create any new frames, because appeals chambers only assess errors in facts and in law concerning the case; they do not correct the narrative of trial judgments.

Media frames after the appeal

Just after the publication of the appeals chamber decision on the case of Bagosora, the government of Rwanda expressed a disappointment by the court and even requested the resignation of the president of the appeals chamber. For this, different media published many articles reflecting either political speeches of high personalities in the country or simply journalists' analysis of the genocide or the relation between ICTR and the Rwandan government. In the media coverage as well as in speeches of politicians and representatives of survivor organizations, the "failure of ICTR in prosecuting genocide perpetrators" was attributed to the international community as a whole. For example, the president of the Republic of Rwanda, HE Paul Kagame, while opening the 9th National dialogue council from 15th–16th December 2011, highlighted that: "[...] people from outside, those who call themselves teachers of political space, press freedom are the same ones who give freedom to murderers of our people. It has taken 17 years for them to try Bagosora and try the case so badly. They also have been letting those worked with him to kill our people go scot free".³⁵ Many members of the Rwandan government couldn't end their speeches without mentioning the appeal's decision on Col. Bagosora, insisting that the reduction of sentence exposed the shortcomings of the ICTR. Moreover, Bagosora was always framed by media and in political speeches as the architect, mastermind, and kingman of the genocide.³⁶

35 Republic of Rwanda, Office of the President (2011): Speech of H.E The President of The Republic the 9th National dialogue council from 15th-16th December 2011. Kigali, Rwanda.

36 New Times of June 20, 2013 published by CNLG

The grand narrative on the “Genocide against the Tutsi” and the impact of Rwanda’s system of social communication

The Bagosora appeal certainly contributed to changes in media frames about the ICTR, the UN, and the international community in Rwanda, but did it also change frames about the genocide in 1994?³⁷ All the main elements of the pre-Bagosora genocide frame remained as they were: The genocide remained a distant disaster whose main cause was identified as “bad government, bad politicians”, which had “nefarious consequences” for the countries and for the victims. But those victims needed to look to the future, in accordance with the 2012 slogan of “kwibuka”³⁸, “learning from the past to build a bright future”. *Imvaho Nshya* quoted Jean de Dieu Mucyo, the executive secretary of the National Commission, against genocide: “It is every Rwandan’s responsibility to identify whatever they can do to make their homeland a great nation”. The newspaper also cited Egide Gatari, the head of the genocide survivor students association: “during the week of mourning, we represent the darkest days in the country’s history, but we put the past behind and focus on the future. In general most of the genocide survivors have turned their lives around, many of them became inspiring entrepreneurs”.³⁹

Whenever media coverage provided details about certain aspects of the 1994 genocide, this was triggered by external events, but not by ICTR judgments. ICTR judgments were integrated into the overarching frame, promoted by politicians, victims organizations, and the media, whenever they were in compliance with this frame. When this was not the case, when a judgment challenged the frame, it was rejected and the frame was sustained, usually by arguing that the frame was in accordance with

37 Negative opinions about the ICTR and the UN were often channeled into articles whose main focus was on genocide commemoration (and the apparent increasing reluctance of the population to take part in such ceremonies), for example, Adolphe Higiho, Fighting Genocide denial, *Imvaho Nshya* no 2269, 4.4.2012 and Franck Ndamage, Rwanda remembers genocide, *Imvaho Nshya* 7.4.2012.

38 Kwibuka means to remember and is the main slogan which is used for the annual commemorations, comparable to the European “never again”.

39 Franck Ndamage, Rwanda remembers genocide, *Imvaho Nshya* no 2271, 7.4.2012.

common knowledge, whereas the controversial parts of the judgment were not. Bagosora was no exception to that rule.

The general tendency to depict the genocide as an unspecific and fuzzy “dark time” in Rwandan history, from which a new country would rise if everyone turned to the future and helped rebuilding Rwanda,⁴⁰ did not exclude the publication of very detailed accounts about certain events, for example, the assault on President Habyarimana’s plane in April 1994. In April 2014, *Imvaho Nshya* published a four-page report about it, explaining in detail why the assassination could only be staged by opponents to the Arusha accords within the Habyarimana entourage.⁴¹ This example shows that there is a very detailed grand narrative about the genocide, which tries to explain every detail of the genocide and to give answers to all possible doubts and challenges which arise in and outside Rwanda about these details. Elements of this grand narrative can be derived at any time by journalists and politicians, when they deem it necessary to dissuade doubts about certain events in the population or to reject interpretations promoted by critics of the current government.⁴² This grand narrative includes strong normative elements which can serve as an accusation of former colonial powers (who are blamed of having prepared the ground on which genocidal ideology and practice could grow), France (for supporting the Habyarimana regime before and during 1944), and even a large part of the international community (for failing to extradite suspects, judging them, or for the alleged failure of international criminal justice); it posits the genocide into the context of the Holocaust (e.g., in publications which create parallels between the fate of European Jews and the Tutsi).⁴³ An

40 Twagira Wilson: The 20th commemoration: Rwanda’s willpower is the secret to renewal. *Imvaho Nshya*, 84.2014.

41 Franck Ndamage: What do genocide deniers? Is the truth about the crash of Habyarimana’s plane known? *Imvaho Nshya*, 28.10.2014.

42 The different elements of this grand narrative, which puts the Rwandan genocide into the context of other genocides including the Holocaust, can be found in the expositions of the Kigali Genocide Memorial, in official publications, in the articles published in *La Nuit Rwandaise*, but only in a very fragmentary way in the media.

43 See, for example, Serge Farnel: *Bisesero. Le ghetto de Varsovie rwandais*. Paris: Aviso 2012.

important element of this grand narrative is the assumption about a long-lasting conspiracy to commit genocide which dates back to the early 1990s and which was based on a much longer-lasting tendency among the Hutu population to persecute the Tutsi (which, in some aspects, is reminiscent of European antisemitism as the ideological background of the Holocaust).⁴⁴

The Bagosora trial could not and did not change this grand narrative and it was unlikely to change elements thereof. Instead, it contributed to the already existing disappointment about international criminal justice and the ICTR in particular. For example, in news bulletin broadcasted by radio Rwanda on 8th April 2012, the failure of the ICTR and international communities in bringing those perpetrators to justice was much highlighted:

“[A]s we remember those we lost, some of those who killed them are still moving freely in some capitals of the so-called free world. There is little effort to apprehend them, and when this happens, it is a token meant to blind us and give us the impression that they are doing something about it. Even when that happens, they are released shortly after.”⁴⁵

This does not mean that there were no changes at all in media frames. In the media coverage of *Imvaho Nshya* and *The New Times*, the period of commemoration was renamed from “mourning period” to “genocide commemoration period”; there were similar changes with regard to the labels used for perpetrators, from a “blood shedding regime” to “genocide perpetrators”, from “victims of acts of genocide” to “genocide survivors”, from “genocide and massacres” to “genocide against Tutsi”.

These changes were linked to many other factors than ICTR decisions, and they were mainly grounded in the local and international politics of Rwanda. Among them is post-genocide legislation in Rwanda, like the new constitution of 2003, the Organic law on the organization of prosecutions for offences constituting the crime of genocide or crimes against humanity committed since 1 October 1990, the law establishing a national assistance fund for victims of genocide and massacres committed in Rwanda between 1 October 1990 and 31 December 1994, the Organic law setting

44 For example, Antoine Mugesera: *The Persecution of Rwandan Tutsi before the 1990–1994 genocide*, Kigali: Editions Dialogue 2014.

45 RBA, Radio Rwanda, new bulletin broadcasted in English, on 8 April 2012 (6h00 AM).

up “Gacaca Jurisdictions”, and so on. During the early period of the post-genocide transitional government, there was some confusion about the definition of genocide and the official government discourse about it. There was neither consensus nor a precise authoritative interpretation whether the genocide was constituted primarily by the killings of Tutsis or whether it also included massacres of Hutus or Twas by *génocidaires*.⁴⁶ To some extent, this confusion about the scope of criminal acts constituting the genocide can be partly attributed to the fact that the use of ethnic labels has been avoided in the official political discourse of post-genocide Rwanda, apart from the specific contexts discussed earlier.

The change in the official terminology can also be explained by a diplomatic strategy. The narrow definition of genocide in Kinyarwanda is *itsembabwoko*, which refers to ethnic extermination; it was often articulated by government leaders when they objected to the ICTR’s attempt to seek accountability for war crimes committed by the RPF and when they justified the government’s special focus on genocide-related crimes committed by the former regime. In February 2014, the UN Security Council solved this terminological by officially the notion of the “genocide against the Tutsi”.⁴⁷

Before and after the two judgments, The New Times and *Imvaho Nshya* used the same frames to describe the genocide. Both outlets usually did so during the mourning period in early April every year, and both did so invoking (or directly quoting from) speeches of political leaders, local leaders, and sometimes relying on information from moral authorities like the Commission for the Fight against Genocide and leaders of victims organizations. But even these speeches hardly ever revealed consistent and comprehensive frames about the genocide, instead referring to the grand narrative which has been promoted by the government since the introduction of the new constitution in 2003, after which the official notion of “the Rwandan genocide” was replaced by “the genocide against the Tutsi”.

46 Who are the genocide survivors in Rwanda? The New Times of 10th May 2000.

47 Edmund Kagire: Genocide against the Tutsi: It’s now official. The East African 1. February 2014, <http://www.theeastafrican.co.ke/news/UN-decides-it-is-officially-genocide-against-Tutsi/-/2558/2169334/-/2q2s7cz/-/index.html> UNSC Resolution 2150 (2014) at <http://www.un.org/press/en/2014/sc11356.doc.htm>

This was probably the biggest frame-changer ever, as the notion has now become embedded in public discourse.

The ICTR's Bagosora judgments did not change anything. If at all, it triggered a defiant reinforcement of the "conspiracy frame". Rather than questioning its validity, Rwandan politicians and media reconfirmed it, arguing that the ICTR had missed the truth, which was obvious to everyone in Rwanda.

But most of the genocide coverage in *The New Times* and *Imvaho Nshya* was not related to what had happened in 1994, but to what was going on later. Frames from both outlets are permeated by hazy allusions to the grand narrative, which is taken as given and widely known and accepted, but concentrate on the commemorations which take place every year in April and – when external events trigger such reactions – by fighting denial of the genocide or rejecting interpretations, which run contrary to the grand narrative.

There are different reasons for the immunity of media frames to ICTR influence. There is a general distrust toward the ICTR, which stems from the original conflicts between Rwanda and the UN over the establishment of the ICTR, its structure, and jurisdiction and the subsequent contentions about some genocide fugitives which Rwanda wanted to judge on its own, rather than have them surrendered to the ICTR. This distrust has been reinforced by acquittals for some of the accused, by the reduction of sentences vis a vis convicts on appeal, by the stand-off between the ICTR and Rwanda in the Barayagwiza case, and finally by the infighting between judges at the ICTY over the verdicts in the Simatovic and Stanisic, the Perisic and the Gotovina cases. The Rwandan government used judge Harhoff's accusations against MICT president Theodor Meron as an argument to seek a revision of the Bagosora appeal and other ICTR appeal judgments, which had lowered the sentences for some accused or even acquitted others. Whereas this strategy is comprehensible only to the insiders and international lawyers, it does hardly affect public perceptions. But from the inception of the ICTR, there has been a clash between the Rwandan public and the UN over what criminal justice after the genocide should be and how justice should be done. Rwandan survivor organizations, the media, and the political establishment see the ICTR as an instrument to punish those who are regarded as perpetrators, not as a means to establish

the truth and sever the guilty from the innocent. There has been no single case in which the Rwandan public and the government would have argued in favor of an accused, and there has been no single case either when their position was less punitive than the ICTR's. The lack of death penalty in the ICTR's statute was a bone of contention from the very beginning, and lenient sentences for convicts added to the low support the ICTR could garner from Rwanda in public opinion polls.

All this explains why the ICTR lacks the necessary authority in Rwanda to act as an influencer of frames in public discourse and media coverage. It does not yet explain the way the media deal with the genocide in their commemorative articles and every day coverage of events. This is due to three specific features of the country, of which two differ from many other post-conflict societies: the media system and the specific way in which mass communication takes place in Rwanda with regard to genocide matters.

Not only Rwandan but also international institutions have been engaged in the fight against genocide ideology.⁴⁸ New laws, policies, and a code of conduct for journalists have been introduced. According to them, journalists must desist in their writings from inciting violence of any kind, including ethnic or religious hatred, tension and animosity, and avoid any discrimination. The Rwandan Senate report of 2006 on genocide ideology in Rwanda stated that: "despite the government key role to change the poisonous role of the pre-genocide media in the Rwandan holocaust, the remnants of the genocidal ideology are persistent in the Rwandan media today" The media law stipulates the following crimes committed by media are penalized: apology for the crime of genocide and genocide ideology, crimes against humanity, and war crimes.⁴⁹ These reforms adversely affected the scope of interpretations, which can be used in the media when writing about the genocide, genocide commemoration, gacaca courts,

48 UNDP (2011): *Appropriate journalistic language in relation to Genocide against Tutsis in Rwanda: Key Guidelines*. Kigali, Rwanda; Law No 03/2013 of 08/02/2013, *Determining the Responsibilities, Organisation and Functioning of the Media High Council in Rwanda (MHC)*. Official Gazette n° 10 of 11 March, 2013, Kigali, Rwanda.

49 Media Law no. 22/2009 published on 17/08/2009.

and ICTR trials. However, it would be too simple to attribute the lack of frame changes about the genocide only to media reform and the above-mentioned kind of post-factum oversight of media content. The reform of the media laws can explain why certain expressions and interpretations are not used by journalists and why they do not appear in the media,⁵⁰ but it cannot explain why different media use the same frames, expressions, terminology, and interpretations of the past in their coverage. This is due to a specific mechanism which the Rwandan authorities have introduced in order to control specific coverage about the genocide. When reporting about the genocide and the genocide commemoration, journalists are expected to use certain formulas in their reports which are regarded as a commonly accepted and non-controversial way of describing the events of 1994. As a result, even competing media outlets use the same wording and framing when writing about the genocide or avoid writing about it at all. Avoidance is no option though, during the commemoration period in April of each year, when the media cover the speeches, gatherings, and rituals connected to the official commemoration of the genocide. The easiest way to write about these events is to replicate the frames used by leading politicians (especially President Paul Kagame) and quote from their speeches.

This why almost all articles in *Imvaho Nshya* and *The New Times* about the genocide stem from news coverage about commemorations and why almost all articles about the commemorations resemble each other, quoting from public speeches and reproducing the abovementioned frame, according to which “bad politicians” triggered a huge disaster which must be remembered in order to build a brighter future. Here lies the root cause of Rwandan media frames’ immunity against the influence of ICTR decisions. The few small shifts in terminology, which did neither affect the content nor the core of this frame, can be traced back to Rwandan legislation. They were not the result of ICTR decisions.

50 This mechanism can be observed in the media coverage about Darfur in Sudanese media. See the chapter on Sudan in this volume.

Klaus Bachmann and Mohammed Ali Mohammed Ahmet

Frames from Sudanese media concerning the conflict in Darfur

Introduction

On 31 March 2005, the United Nations Security Council referred the situation in Sudan (which, at that time, still included South Sudan) to the International Criminal Court. In June, the ICC prosecutor (then Luis Moreno Ocampo) decided to open an investigation, which finally led to a number of arrest warrants issued between 2007 and 2012,¹ the most prominent case being the indictment and arrest warrant against the Sudanese president Omar Hassan Ahmad Al Bashir. All these arrest warrants concerned the conflict in Darfur, which then and now constitutes a part of Sudan. They were not connected to the other conflicts which have been ravaging parts of the country during the last 15 years, although these conflicts impacted upon the conflict in Darfur (and vice versa) at various moments.

In this chapter, we examine whether crucial decisions taken by or connected to the ICC triggered shifts in Sudanese media frames. We decided to choose three decisions, one of which was closely connected to, but not issued by, the ICC – the UNSC referral of 2005, which was a turning point in the relationship between the UN and the ICC on the one hand and the Sudanese government on the other hand. The referral was formally based on the finding of the International Commission of Inquiry on violations of the international humanitarian law and human rights law in Darfur (ICID), which the UNSC had mandated to investigate human rights violations in Darfur. The report's conclusions found evidence pointing to war crimes and crimes against humanity but stopped short from finding the conflict genocidal: "The Commission concluded

1 These were arrest warrants in the cases of the Prosecutor v. Ahmad Muhammad Harun (2007), Ali Muhammad Ali Abd-Al-Rahman (2007), Omar Hassan Ahmad Al Bashir (2008), Bahar Idriss Abu Garda (2009), Abdallah Banda Abakaer Nourain (2011), and Abdel Raheem Muhammad Hussein (2012).

that the government of the Sudan has not pursued a policy of genocide.”² According to the report’s authors, genocidal intent had not been proven, but the perpetration of other mass crimes and massive human rights abuses was beyond doubt. Nevertheless, the Sudan government, apparently relieved after the no-genocide finding, endorsed the report. Three days before its official release, the ICID report was passed to Khartoum, which leaked the no-genocide finding to the media, ignoring the fact that international crimes such as crimes against humanity and war crimes may be no less serious and heinous than genocide.³

Soon afterwards, the Sudanese minister of justice informed, Dr. Sima Samar, the United-Nations Special Rapporteur on the human rights situation in Sudan, that Sudan was not bound to follow the ICC rules simply because Sudan was no signatory to the Rome statute.⁴ However, as long as the ICC did not issue any arrest warrants against Sudanese suspects, the government in Khartoum pretended to be satisfied with the work of the UN and ICC investigators, agreed with their findings, and pledged cooperation. On 13 December 2005, the prosecutor of the International Criminal Court, Luis Moreno Ocampo, briefed the UN Security council about the progress of his investigations on Darfur. Behind closed doors, he praised the cooperation with Khartoum, emphasizing that the government of Sudan had agreed to receive a delegation from his office in February 2006. The ICC prosecutor further highlighted that his office would start comprehensive investigations on a number of rape cases. During the same session, he also informed the UNSC that his delegation, consisting of about 29 experts, was not able to meet witnesses inside Sudan, and so his office had examined about 100 potential witnesses outside Sudan and analyzed more than 2500 materials that had been collected by the ICID led by Antonio Cassese.⁵ The following day, before the UNSC could finish

2 Report of the International Commission of Inquiry on Darfur to the Secretary-General Pursuant to Security Council resolution 1564 (2004) of 18 September 2004 (S/2005/60) retrieved from www.securitycouncilreport.org/atf/cf/.../WPS%20S%202005%2060.pdf

3 Julie Flint and Alex de Waal: *Darfur a short history of along war*, London, New York: ZED Books (revised and updated) 2008, pp. 182–183.

4 *Al-Ray-Al-Aam* 18/10/2005.

5 *Al-Ray-Al-Aam* 28.04.2005

its hearing session on the prosecutors report, the government of Sudan immediately described the report as very positive; Hassan Hamid, the head of the Sudan delegation to the United Nations, in New York labeled the ICID prosecutor's report as balanced and very objective. This was to be seen as a proof of good cooperation from the government side's and of the government's attempts to end impunity.

By the same token, the Sudanese minister of justice Mohammed Ali Al-Mardi also described the report as very objective and fair toward the government's position. By doing so, the minister revealed for the first time to the media that an earlier ICC visit had taken place in Sudan. During that visit, the ICC prosecutor's advisors had held a lengthy meeting which was attended by the minister of justice, the minister of foreign affairs, the minister of defense, in addition to high-ranking officers from the police and the national intelligence and security services. "We clearly, explained to them our real position, and informed them about the steps which have been taken by the government to end impunity, such as intensification of investigation and the opening up of new courts as well as the appointment of new prosecutors! And we have been optimistic that their report would be positive, concluded the same source," the minister told reporters.⁶ In September 2005, the same minister had told a high UN official about the many obstacles which allegedly stood in the way of arresting Darfur suspects, because they had run away and taken refuge within their own tribes.⁷

The UNSC referral in March 2005 does not mention genocide either and only claims that the situation in Darfur "continues to constitute a threat to international peace and security."⁸ Until January 2005, when a peace treaty was signed in Nairobi, the Southern part of Sudan had been ravaged by an internationalized civil war between the Sudanese army and several South Sudanese rebel movements. During that conflict, and especially when the Nairobi agreement was about to be concluded, the Sudanese government was not interested in highlighting the conflict in Darfur, because it would have deteriorated its negotiation position toward

6 *Al-Sahafa* 15.12.2005.

7 *Al-Ray-Al-Aam*, 28.04.2005.

8 UNSC res. 1593 (2005).

South Sudan and the international community. At the same time, the wish to achieve peace in the South also inclined the international community to neglect the dimensions of the Darfur conflict. The Sudanese government did its utmost to make the events in Darfur a blind spot for the media, international as well as national and even regional, and to conceal what was going on in the region. After the rebel attack on Al Fashir in April 2003, the police arrested and tortured a Darfur correspondent of a national newspaper, accusing him of spreading false news to undermine state security. Two other newspapers were suspended, the Al Jazeera biuro was shut down, and the government in Khartoum put pressure on local tribe leaders to close the border with Chad in order to prevent refugees from leaving the country (and informing reporters on the Chadian side of the border) and journalists from entering it.⁹

These factors explain why the situation in Darfur was extremely sensible for media to touch upon and why it was difficult to detect any frame shifts in Sudanese media about Darfur. However, this is only true for media, which the government expected to impact on public perceptions. In widely distributed Arab-language newspapers, the sensitivity of the issue made it almost impossible to detect any frames about Darfur, even in cases where the media were rather independent from (or even hostile to) the government. This was different in niche media, which the government did not regard as important for public opinion, and it was also different in media, over which the government had no leverage, because they had been established abroad and remained confidential about their network of informers and correspondents in Sudan. The first was the case with two English-language newspapers, the Khartoum Monitor and The Citizen¹⁰, the second was the case with Radio Dabanga, a radio station created to inform specifically about Darfur in the Netherlands.¹¹

The UNSC referral is unlikely, though not impossible, to have impacted on the frames applied by these media. Sometimes, such shifts of specific

9 Flint & de Waal (2008), 147–149.

10 Media in Cooperation and Transition: *The Sudanese Press after separation – contested identities of journalism*, Berlin 2012, 30.

11 Klaus Bachmann's Interview with Hildebrand Bijleveld in Amsterdam in July 2015.

frame elements may take place (often without the journalists knowing or intending it) even when the frames and the grand narrative, which forms their backbone, remain stable. Another such decision took place in April 2007 when the ICC pre-trial chamber issued an arrest warrant against Ahmad Muhammad Harun, minister of the interior and Ali Muhammad Ali Abd-Al-Rahman, minister of humanitarian affairs for war crimes and crimes against humanity. This is therefore the second decision which we will analyze here. The last decision under scrutiny is at the same time the most controversial one, and therefore the one which is most likely to trigger media reactions (and possibly also frame shifts) even under conditions of rigid censorship. It is the decision to issue an arrest warrant against the Sudanese president not only for war crimes and crimes against humanity, as did the first warrant of March 2009, but also for genocide. The second warrant was the result of an appeal by the prosecution after the trial chamber had denied the genocide accusation to be included in the warrant, arguing that the genocide was only one of several possible inferences which could be drawn from the prosecution evidence. Judge Anita Ušacka had dissented, arguing that the standard of proof required for an arrest warrant had to be lower than the one applied during a trial¹². The appeals chamber followed Ušacka, granted the prosecution appeal, and issued a second arrest warrant against Al Bashir, which included the genocide charge.

The conflict in Darfur

The current Darfur conflict began raging after rebels ambushed the Sudanese air force base in North Darfur beginning in early 2003. It was a humiliating defeat for Bashir and his government's security apparatus. The government responded as it had previously in the Nuba mountains and the Southern oil fields – by recruiting local militias to wage counter insurgency campaign, thus pitting tribes against one another.

12 A genocide conviction on trial would actually require a standard of proof according to which the only possible conclusion from the evidence would be that genocide had been committed.

Before the eruption of the current conflict, Darfur was considered as Sudan's largest region, on its western Border with Libya, Chad, and the Central African Republic. Since 1994, Darfur had been divided into three separate administrative units – South, West, and North. The predominant ethnic groups of West Darfur are the Masalit and Fur, who have often been united in marriage with the Arabs and other African tribes. The Darfur conflict has its roots in the distant parts, and it escalated in February 2003 when two rebels groups, the Sudan Liberation Army/Movement (SLA/M) and the Justice and Equality Movements (JEM) drawn from the members of the Fur, Masalit, and Zaghawa ethnic groups, demanded an end to the region's economic marginalization and sought power sharing within the Arab-ruled Sudanese state. They also sought government action to end the abuses committed by their rivals, Arab pastoralists who were driven to African farmlands by drought and desertification. Due to their nomadic tradition, they commanded armed militias. The government of Sudan responded to the rebellion by organizing a military and political partnership with some Arab nomads comprising what they called the Janjaweed. The government armed, trained, and organized them and provided them with effective impunity for all crimes committed. During this period, most of the local and international media organs described the conflict as one between the Arabs, and but according to many educated people from Darfur this is a misleading term, because many of the African and Arab ethnic groups are not direct participants in the conflict. Indeed, the Janjaweed is a code name for the tribal militias created by the National Islamic Front and comprises largely Baggara nomadic groups who historically were hostile to the original populations of Darfur and controlled vast farming and grazing territories.¹³

Following the attack on the El-Fashir airbase, the government responded by giving Arab tribal militias a free hand in West Darfur to carry out attacks on villages rather than rebel positions. From mid-March until July 2003, more than fourteen Fur and Masalit villages were burned and large

13 Ahmed Mohammed Salih: "Understanding the conflict in Darfur", Centre of African Studies University of Copenhagen Occasional Paper (May 2005), p. 18, available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.474.3260&rep=rep1&type=pdf>

numbers of people were killed, including an execution of about 150 men rounded up from their homes by Arab militia led by Ali Kushiieb in villages of Delig and Mukjar.

The Sudanese media system

At the time in question, Sudan was ruled by a government, which had come into office as the result of a bloodless military coup d'état in 1989, carried out by a group of army officers against a weak multi-party coalition. Al Bashir, then a brigadier, was the leader of the officers and introduced a one-party system (with the National Congress Party, which he leads, as the only legally acting party), whose power is based on the military and the security sector and the wealthier tribes of the Nile valley. His coup ended attempts to achieve a compromise with rebel movements in the South and instituted the Sharia law on a country-wide basis. During the 1990s, Sudan became more and more isolated in international affairs, due to the support the government lent to groups and politicians regarded as terrorist by Western governments.¹⁴ Since that time, a tight system of media control existed, with a period of liberalization following the enactment of a new constitution in 2005.

After the first ICC indictment against Ahmed Mohammed Haround, the then minister of interior, and the Janjaweed militia leader Ali Kushiieb in 2007, some of the very few independent Sudanese daily newspapers started supporting the ICC decision to deal with the case of Darfur. *Al Ayam* was one of them and tried to balance the relations between the government of Sudan on one side and both the UN Security Council and the ICC on the other side. Also, one of the other newspapers which has some substantial freedom and was sympathizing with Darfur was *Ajras-el-burria* newspaper fully owned by the Sudan Liberation Army/Movement (SLA/M), whose journalists often came from the North Sudanese Arabic-speaking ethnicities supporting the SPLA. The paper enjoyed some sort of

14 From the end of the 1980s until 1996, Sudan (then ruled by the NIF) hosted Oussama Bin Laden, who used the country as an airbase for his business, created a construction firm. Earlier, other international terrorists had taken refuge in Khartoum. See: John Young: *The Fate of Sudan. The origins and consequences of a flawed peace process*. London, New York: ZED Books 2013, 35–37.

protection because the owners were former members of the movement and had SPLA members in high-ranking position. Other than that, the rest of the other newspapers were either government-supported newspapers or owned by NCP businessmen.

Furthermore, after the first indictment, the government of Sudan has undertaken several legal reforms of the Press Law. The new legislation mainly regulated media and press in Sudan. It was used to stifle freedom of expression. The 2004 Press And Printed Press Material Act, for example, contained numerous provisions which have been used to curb criticisms. The application of the press law was supervised by the Press Council, a body that has broad powers and is generally perceived as lacking independence, because the majority of its members is directly or indirectly appointed by government-controlled bodies. The Press Council has the power to allocate licenses to individual journalists and may impose penalties such as the suspension of a newspaper publication license.

Since 20 March 2007, a general ban has been placed on news related to criminal cases connected with the Darfur conflict. The International Criminal Court (ICC) was not explicitly mentioned, but journalists have been closely monitored about their reporting of the ICC's work in Sudan. The ban was reportedly ordered by the Minister of Justice Mohammed Ali-Al-Mardi himself. The restrictions imposed on the media with regard to Darfur are based on several provisions of the Criminal Code, too, including articles 66, 159, and 160, which forbids the publication of false news, defamation, insult, and abuse. Article 115 of the Criminal Code imposed sanctions on interfering with the fairness of judicial and legal proceedings; this article has been repeatedly used by the Sudanese security authorities to prevent media from reporting on judicial investigations by imposing bans on reports about ongoing investigations. Editors and journalists who do not comply with such bans are liable under this article to be punished with fines or with up to three months of imprisonment.¹⁵

Also foreign media were targeted by government restrictions. After the UNSC referral, the first ICC prosecutor report urged full cooperation from

15 Report published by United-Nations Mission in the Sudan (UNMIS) 26/10/2007, in the possession of the author. See also: [No author]: Sudan: Intimidation and denial. Attacks on freedom of expression in Darfur, *The Citizen*, 6.8.2007.

the government of Sudan. This angered the government in Khartoum, because it regarded the investigation as an intrigue by Turabi to bring Al Bashir down by using the ICC. This was well-known by everyone in Sudan who had followed Turabi's speeches in which he was supporting the idea of bringing the Darfur Dossier to the ICC.¹⁶ However, according to some sources who requested anonymity, the government of President Al Bashir was even aware that Al-Turabi had met secretly in 2004 with the International Commission of Inquiry in the events in Darfur.¹⁷ After the ICC report, the government of Sudan intensified media censorship and sharply increased obstructions against local and international media. Authorities in Khartoum began issuing visas on a case-by-case basis to foreign journalists. Soon, some news media and individual journalists were blacklisted. In 2006, two incidents highlighted how risky it had become for the international press to enter Darfur. Paul Salopek, an American journalist writing for the Chicago Tribune who also had an assignment from National Geographic to report on the Sahel, was arrested together with his Chadian driver and interpreter on 6 August in North Darfur by members of the Sudan Liberation Army led by Mini Minawi (SLA-Minawi), a Darfurian rebel group allied with the government since 2006. Aside from not having visa, Salopek was officially accused of carrying two US passports as well as satellite photos of the region. After intense negotiations by Governor Bill Richardson of New Mexico, Salopek and his two assistants were finally released on 9 September 2006. The refusal to lead the UN Human Rights Council special mission led by Judy Williams enter the country at the beginning of 2007 was just a peak of the iceberg. Many journalists who were denied entry to Sudan or access to Darfur (which requires a special travel permit) cover the crisis in western Sudan from refugees' camps in neighboring Chad or illegally enter Sudan across the border risking arrest and trial. Anticipating the difficulties of getting

16 See, for example, Ahmed Elzobier: Interview: Sudan Turabi says international community has no o [sic] colonial motives in Darfur, *The Citizen* 11.9.2007; *Sudantribune* 10.9.2007, available at: <http://www.sudantribune.com/spip.php?article23687>; Ahmed Elzobier: *Political Islam. The Logic of governance in Sudan*, Bloomington: Author House 2014, 42.

17 Mohammed Ali Mohammed Ahmet's interview with these sources.

visa and travel permit, foreign journalists have often taken the easier option of covering Darfur's tragedy from eastern Chad.

Selection criteria for media frame analysis

Against this backdrop, it is obvious that frame shifts in Sudanese media covering the conflict in Darfur are not very likely to occur as a result of ICC decisions. As will be shown, it is already difficult to identify any frames about Darfur at all, but even where this was possible and frames changed over time, this was more likely to be the result of changes in censorship policy, the overall political climate, or conflicts within the ruling establishment rather than to the influence of the ICC. Media frames are also more likely to be influenced by changes in the political discourse of the ruling political and military establishment. In order to disentangle these possible causes of frame shifts, we first analyze a selection of media outlets and try to find frames. Next, we ask whether these frames about Darfur change over time. We do this on two levels: we examine whether Darfur as a region or a general issue of reporting is framed differently over time and whether the conflict there undergoes frame shifts. In the final part of the chapter, we try to identify other causes than ICC decisions (and the UNSC referral) which might have caused changes in media interpretations about Darfur, such as shifts in governmental discourse, internal politics, legal changes, or censorship rules.

During the time of our inquiry, the media system of Sudan consisted of the following outlets:

- 1) *Akhbar-alyoum*, a pro-government Arabic daily newspaper founded in 1994, editor-in-chief Ahmed Balal Al-Tayeb;
- 2) *Al-Tayar*, a pro-NCP Arabic newspaper founded at the end of 2009, edito-in-chief Osman Merghani;
- 3) *Akhir-Labza*, also a pro-NCP Arabic daily newspaper founded at the end of 2005, editor-in-Chief Mustapha Abu-al-Azaim;
- 4) *Al-Intibaha*, a pro-government newspaper founded at the end of 2005 and owned by Al-Tayeb Mustapha, the uncle of President Bashir;
- 5) *Al-Ahram*, a pro-government newspaper owned by Abdullah Daffa Allah, one of the NCP business men. The paper was founded in 2005;

- 6) *Al-Khartoum*, a pro-government newspaper owned by Dr-Al-Bakhr Ahmed Abdullah and founded at the beginning of 1997;
- 7) Most of the abovementioned papers were owned by members of the NCP, and the proliferation of these newspaper was encouraged by the government after the signing of the peace Agreement between the South and the North. Moreover, there were:
 - 1) *Al-Sudani*, an independent daily newspaper founded in the year 1986, whose editor-in-chief was Mahjoub Orwa;¹⁸
 - 2) *Al-Ahdath*, an independent Arabic daily newspaper, with Adil-Al-bath as editor-in-chief;
 - 3) *Agrass-elhurriya*, a pro-SPLM Arabic newspaper founded in 2005 after the signing of the Comprehensive Peace Agreement, headed by Murtada Al-Ghali. The newspaper has been managed by respected lawyers from the Sudanese Communist Party who had studied law in Russia. Some of them worked with the ICC during its investigation in some of the cases in Darfur.
 - 4) *Ray-Al-Shaab*, a pro-PCP¹⁹ paper whose editor-in-chief was Yassin Omer Al-Imam;
 - 5) *Al Ayam*, an independent Arabic daily newspaper founded in 1953 and headed by Mahjoub Mohammed Salih;
 - 6) *Al-Ray-Al-aam*, an independent newspaper established during World War II; editor-in-chief was Ali Ismail Al-Atabani.

During the time of this inquiry, two television channels were broadcasting news: *Omdurman National TV* and *Al-Shuroog TV*. Both were 100 % government-owned media organs, and they hardly ever addressed the conflict in Darfur independently, all what they broadcast was the government version of the story. In addition to this, at the end of the year 2007, *Radio Dabanga* was established with its base in the Netherlands. It had two airtime periods, one from 6:30 to 7:30am and the other from 6:00 to 7:00pm. The news was being read in three local languages – Fur, Massalit, and Zaghawa. Moreover, during the same period, most of the people in

18 The term “independent” should be understood as independent from the government.

19 Popular Congress Party.

Darfur also trusted and listened to both *BBC Radio* and *Al-Jazeera*. They followed BBC-Arabic as most of the local populations of Darfur and especially the elders and the middle age were illiterate and did not speak English. Since the beginning of the conflict in 2003, the government of Sudan has maintained that the crisis in Darfur was created by robbers and foreigners such as the Zaghawa from Chad. They were said to have proliferated weapons which they had received during the 1984 war between Chad and Libya over the Ozzo stripe, an oil-rich area between Chad and Libya. After the ICC intervention at the end of 2005, the government of Sudan started to present the conflict as resource based and as a fight between the nomads and sedentary people of Darfur. The government never admitted that there was a political problem related to the long-lasting marginalization and underdevelopment of the region. After the first arrest warrant in 2007 against the Sudanese minister of the interior Ahmed Mohammed Haroun, the government started to talk about international Zionists allegedly targeting Sudan because of its resources. Usually government members deny any link between the Darfur conflict and the region's political and economic marginalization.

In order to get a holistic and comprehensive picture of possible media frame shifts, we selected the most prominent, widespread newspapers which were being published before and after the crucial ICC decisions, including some media outlets which are widely regarded as independent from the government and where therefore frames about Darfur are likely to occur and frame shifts are possible. These are: *Al-Khartoum*, *Ray-Al-Shaab*, *Ajrass-elhurriya*, *Al Ayam*, *The Citizen* and *the Khartoum Monitor* and *Radio Dabanga*. We have to admit, though, that not in all of these cases was it possible to obtain the copies, which would have been necessary to carry out a meaningful frame-analysis. There were several reasons for these shortcomings: in some cases, we were not able to get access to older copies of some of the newspapers; in some cases, even when we had access to the necessary media coverage, it did not contain texts from which one would be able to derive a coherent frame, either because the respective articles did not deal with Darfur at all or only did so in a very fragmentary way. Some articles also constituted mere reprints from outside sources, so that even articles explicitly dealing with Darfur did not expose any frames produced by the media, which had published it in Sudan, but replicated

frames of international news agencies or foreign commentators. In sum, our analysis does neither include *Ray Al-Shaab* nor *Ajrass-elhurriya* coverage from before the UNSC referral. We did not have *Ray Al-Shaab* after 2010.

Tab. 1: *Media outlets and the relevant ICC decisions*

Media outlet	UNSC referral 31.3.2005	First ICC arrest warrant concerning Sudan (the prosecutor v. Ali Muhammad Ali Abd-Al-Rahman and the prosecutor v. Ahmad Muhammad Harun) 27.4.2007	“Genocide” arrest warrant against Al Bashir 12.7.2010	Explanation
<i>Al Ayam</i>	X	X		
<i>Khartoum Monitor</i>	X	X	X	closed from 12. July 2003 until 28 October 2003 and from 12 June 2005 until July 2005. On the 8 July 2011 the Khartoum Monitor moved to Juba. ^a
<i>The Citizen</i>		X		Founded in 2006, after 2011 became the only South Sudanese daily and biggest South Sudanese newspaper*
<i>Ray-Al-Shaab</i>		X		closed between 2011 and 2014 ^b
<i>Ajrass-elhurriya</i>		X	X	Shut down in July 2011

^a The articles which we managed to retrieve from Khartoum Libraries only allowed us to examine frames before and after the first ICC arrest warrant in 2007.

^b Mohammed Amin: Popular Sudan opposition daily reopened after three-year ban. Africa Review 1.2.2014, available at: <http://www.africareview.com/News/Sudan-daily-reopened-after-three-year-ban/-/979180/2169272/-/d5sjnw/-/index.html>

Frame shifts about Darfur in *Al Ayam*

Al Ayam is always described by many intellectuals as the only newspaper that was able to preserve its historical tradition as an independent newspaper. Although it has been banned and suspended several times throughout the different military regimes that have ruled Sudan since its independence. In Sudanese media, the conflict in Darfur has been framed in mainly two ways, which often overlap and reinforce each other. According to these dominant media frames, which are supported by the governmental discourse, the conflict there is a “tribal one,” which in essence is criminal rather than political and is fueled by external interference, especially by forces from Chad, who deliver weapons and fighters to the warring tribes in Darfur. Independent newspaper *Al-Ayam* did not much deviate from this line when it published an article in 2001²⁰, which was titled “How long will the armed robbery continue in Darfur,” written by the founder of *Al-Ayam*, Mahjoub Mohammed Salih. The article was an opinion piece which framed the conflict in Darfur as an “armed robbery,” without any claims about who the parties to the conflict were and who robbed whom. The author had decided to publish the piece subsequent to a visit of the minister of the interior in Darfur, Kamal Al-Sadig. The author wrote that the government had increased army and police troops and equipped them with new weapons.²¹ He described a “flow of weapons coming from neighboring countries,” mentioning Chad but also South Sudan (at that time still a part of Sudan) as sources of weapons. The inflow of arms was said to have impacted on the situation and complicated the “tribal conflicts.” The author stopped short from mentioning the tribes which were allegedly involved in the conflict. He argued the increase in security to be very much appreciated but insufficient to solve the problem. This statement can be regarded as prudent criticism of the the government’s efforts, which had inclined the author to write the article. “In order to solve it, the government must also deal with the other dimensions (political, social, and

20 Since articles covering the events in Darfur hardly ever sneak through the censors’ filter, selecting 10 articles from before the UNSC referral forced us to go back to 2001.

21 Mahgoub Mohammed Salih: “How long will the armed robbery continue in Darfur?”. *Al Ayam* 13.10.2001.

economical) in order to solve the grass root problem.” In addition to that, Mahjoub Mohammed Salih urged the civil society to make an “effort in order to enlighten the tribal leaders to take their responsibility to solve the conflict.” From this perspective, the main cause for the conflict (which, at that moment, was still of relatively low intensity) appeared to be rather non-political. From the perspective of the article, the conflict pitted local tribes against each other, for which their leaders bore responsibility. The conflict was framed as an armed robbery to which the government responded by sending in security forces, although the author saw deeper problems than just robbery at its roots.²²

The next article in *Al-Ayam* about Darfur demonstrated the viability of this “armed robbery frame”. In October of the same year, another article, calling for the endorsement of a “complete plan of fighting the armed robbery in Darfur,” was published, whose author discussed measures taken by the South Darfur State Administrative Council and the governor of South Darfur in order to improve the security situation, to reform the local administration, and to negotiate with the government in Khartoum the merger of some communities in Darfur.²³ The author then set out that: “The second item which has been discussed during this special meeting was about the security meeting in Al Fashir. It was a big meeting concerning security in Darfur, attended by all the 3 state representatives and the 3 legislative councils of Darfur and their security committees with representatives from the police and the Sudanese armed forces. The meeting was praised by the minister of the interior and a representative from the president. Its aim was to combat armed robbery and to eliminate all the elements of the robbery in the state and to deal with the tribal problems as well as with the proliferation of illegal arms. The plan is very comprehensive for all affected three Darfur states.” Surprisingly, the “armed robbery frame,” which presented the conflict in Darfur as a tribal quarrel whose consequences endangered public safety, persisted no matter who the author of an article was. The frame remained stable over time, at least until the UNSC referral. This changed slightly in 2002 when

22 Ibid.

23 Adam Mohammed: “Endorsing of complete plan of fighting the armed robbery in Darfur”. *El Ayam*, 31.10.2001.

Al Ayam dedicated an article to the educational and health problems in Darfur, whose author dealt with an incident, during which an unknown armed group attacked a village killing three inhabitants, among them the chairman of a local court.²⁴ The attackers had looted the market and burned some of the houses. At the same time, health workers continued their demonstrations for getting their salaries after an eight-month backlog. According to the authorities in Darfur, militias and the police had joined forces, chased the attackers, and killed six of them, arresting about 5 others. They also had seized large numbers of weapons from them. The army allegedly was about to arrest the other criminals, too. Despite that, the author claimed that “after this incident in South Darfur all the people felt very disappointed and lost confidence in the government.” This, the author claimed, had been due not only to the attack, but also because of the continuous closing of local schools whose teachers had not received their salary for many months. The article, thus, hinted at reasons other than just tribal quarrels and armed robbery which had caused frustration among Darfurians. During the same month, *Al Ayam* went back to the Darfur issue, but that time in the context of a controversy about the newspaper’s coverage of meetings of the National Human Rights Institution.²⁵ On the margins of the article, the author also addressed some grievances of the Sudanese Human Rights communities, claiming that “[t]he most important for the government of Sudan is to open prisons to Human Rights organizations, especially to the UN Human Rights bodies and the EU in order to see who is inside their prisons. Most of the prisoners are either from Darfur or South Sudan. If we are honest, let’s open the prisons and speak to the detainees.”²⁶

24 Ibrahim Hamad Nallah: “The schools closed their schools in South Darfur and there are serious problems in the health and education sector”, *Al Ayam*, 9.10.2002.

25 One of the Institution’s members had accused *Al Ayam* of publishing confidential information about internal meetings. Rifat Makawi from the Center of Legal Assistance and Human Rights in response to these accusations described a meeting at the Institution in which he had taken part. Rifat Makawi: “What has been discussed during the meeting of the National Human Rights Institution”, *Al Ayam* 21.10.2002.

26 *Ibid.*

At the end of October, another author openly challenged the well-established frame about Darfur as a tribal conflict, carried out by criminals. After attending a conference about peace and development in Darfur, the author, Tajelsir Makki, expressed his doubts of whether “the government is really honest in attempting to solve the problem in Darfur, because the problem is not just an armed robbery, but has other angles, it’s related to very long lack of development and also lack of education and health services.”²⁷ In the final part of the article, Tajelsir Makki asked the government rhetorically introducing a new frame: “You paid everything for South Sudan, why are you depriving Darfur of the same? It’s a beloved part of the country, one hundred percent of the Darfurians are Moslems, why are you giving South Sudan all these concessions and you are not giving the same to Darfur?”

In early 2003, this “underdevelopment frame” was reinforced by another article, written by Mubarak Ibrahim Yahya, who also attributed the conflict to lack of development, quoting President Al Bashir, who allegedly had stated the same during his first visit in Darfur in July 1989: “It’s all about underdevelopment and lack of education.” Back then, the author wrote, Bashir had pledged to improve that. Darfur needed the reconstruction of its basic infrastructure, paved roads, a strengthening of its traditional administrative system, confidence between the tribes, a comprehensive development plan for the three Darfur regions, and the reconstruction of the destroyed Fur villages.²⁸ Authors who described the conflict mainly as caused by underdevelopment usually refrained from labeling it an “armed robbery,” whereas the “armed robbery” supporters mostly remained silent about any responsibility of the government for the conflict and only invoked the need to tackle the security issue in Darfur. Supporters of the “underdevelopment frame” also opted against a military solution, urged the government to treat the conflict in a similar way as the one in the South (through negotiations), and saw it as a national rather than a regional or local conflict. One author expressed this openly in *Al Ayam*: “The conflict

27 Tajelsir Makki: “Sudan is a country for all its inhabitants”, *Al Ayam* 30 October 2002.

28 Mubarak Ibrahim Yahya: “Darfur and the issues of equal development”, *Al Ayam*, 14 February 2003

is very complicated and entails political, historical and development issues. And these must be taken together in order to solve it. The problem is not regional but national. The solution of the Darfur problem should come through negotiations and not any military solution.”²⁹ Salih also blamed the government for censoring information about Darfur: “The Media Council told media not to talk about the Darfur conflict in a way which could affect the solution of this issue.” The author disagreed: “Let the media say what they heard and see there, so that the government can benefit from it.” This is a frame element that would later show up again and diverged strongly from the one which blamed the government for “arming the land grabbers.” According to this frame, the conflict had gone out of control because the government had wrong information – due to its own censorship. In his comment, Salih also supported the views of a dissident military about the conflict. Marshall Ibrahim Suleyman, army marshall and governor of North Darfur, had told Bashir frankly that any attempt to solve the problem militarily (like it had attempted at the beginning in the South) would lead to a loss of the population’s confidence in the government. Salih agreed with Suleyman that the problem needed to be solved by political means. Suleyman was sacked for his criticism, although he had been very close to Al Bashir before, having rescued him during an SLMP attack.³⁰

At the beginning of March, a competing frame emerged in *Al Ayam*, an interpretation that went beyond the “armed robbery frame” and provided a relatively complex explanation of what was going on in Darfur. The author, Kamal Al-Sadig, first warned its readers, quoting a local leader, that “Something very dangerous is going to happen in Darfur, all of us have to pay attention to that. A nightmare will come to Darfur. I am afraid if we do not respond in its early stages, it will be a disaster.” Later in the article, he suggested, quoting military officers from the government in Khartoum, that the conflict in Darfur was about whether Sudan would remain one country or be split up and claimed that this could be prevented if the government started to negotiate with the Darfurian rebels in the same way it

29 Mahgoub Mohammed Salih: “Darfur again”, *Al Ayam*, 15 February 2003.

30 According to confidential sources interviewed by Mohammed Ali Mohammed Ahmet.

did with those from South Sudan. “All demands of the rebels should be taken into consideration, maybe they are fair demands to be answered by the government. But how can the government negotiate with these people while the leaders of the rebels sent to the government have been arrested.” For the author, the deeper causes of the conflict in Darfur were neither armed robbery nor tribal but socioeconomical. At its root were underdevelopment and the lack of infrastructure. Quoting a Zaghawa leader close to the PCP, he wrote: “The issue in Darfur is not a regional problem it is a national problem. I hope the government treats it as a national one. [...] The moment has come where the government has to pay the bills for every state, regardless whether it is Darfur, or any other.”³¹

The following day, the same author³² accused the government in North Darfur and the central government of falsely describing the rebels in the Jabbel mountains as outlaws. “But according to me they are not outlaws, they have real demands and the government should listen to these demands.” He demanded to establish a development committee for Darfur which should be directly reporting to the presidency in Khartoum in order to make sure that the plan is implemented. Here again the frame element of the government falling prey to its own censorship returned. The article also urged readers not to mix the problem in Darfur with South Sudan, because the people in Darfur were Muslims. The article goes so far as to defend the rebel movement: “We don’t have to distinguish between the Fur and the Zaghawa, they are the social component of the region. The Zaghawa wanted to be part of the Darfur Liberation Movement. They went there because they were under attack from the Arab tribes without the government being able to defend them, so it was their right to find a means to protect themselves.”³³

In early March, the Darfurian rebels stroke back with some resolve, capturing the Tine garrison near the border with Chad. The government army was mainly occupied with the war in South Sudan and, due to lack

31 Kamal Al-Sadig: “The secret behind the Al Fashir consultation meeting and the formation of the negotiation delegation”, *Al Ayam*, 2 March 2003.

32 Kamali Al-Sadig: “The story of the armed opposition movement in the Jabbel mountains”, *Al Ayam*, 3 March 2003.

33 Ibid.

of soldiers in Darfur, tried to take advantage of growing local conflicts between nomadic cattle herders and land owners who, for mostly ecological and climate reasons, had tried to prevent the nomads from entering their land. The herders started land grabbing in order to salvage their animals. Then the central government encouraged the nomads to grab more land and destroy the civilian strongholds of the rebels, a policy of scorched earth which triggered further escalation. An article from March addressed this issue openly.³⁴ For the first time, its author claimed that “the Arab nomad land grabbers” had been “invited by the government to live on other people’s land.” Hamad-Nallah Mohammed Al-Sadig, the author, openly named the Fur as the owners of that land, asking the government “Why are you bringing the armed Nomads to occupy the land of these poor people?”³⁵ Quoting Idriz Jussif, a former traditional administrator of the South Western Area of Nyala, Al Sadig accused the government of covering up its own complicity in the attacks on the Fur by organizing reconciliation conferences afterwards. “The Arab tribes attacked Fur villages and the government recommends a reconciliation conference.” He deplored he had not seen a single result from the 28 conferences that had taken place until then. “All these conferences are just an attempt by the government in Khartoum to enable the attackers to escape punishment for the attacks. These conferences are a waste of money which will not improve the situation in Darfur. [...] If we want real dialogue with confidence of the people, the government should arrest those who attack villages and take them to the court. Then everybody will believe, that the government is serious.” In a book review in April, *Al Ayam* came back to the issue printing the article of an academic who once again revived the “armed robbery” - frame shortly and rather on the margins of his text.³⁶ For the next two years, until the UNSC referral in March 2005, *Al Ayam* did not publish any article concerning Darfur. It was at the beginning of

34 Hamad-Nallah Mohammed Al-Sadig: “The Fur and Darfur – the memories and the lessons behind”, *Al Ayam*, 11 March 2003.

35 Hamad-Nallah Mohammed Al-Sadig: “The Fur and Darfur – the memories and the lessons behind”. *Al Ayam* 11.3.2003

36 Dr Osman Awuzet (faculty of media, at Al Nileen University): “Darfur - the new name for the tribal conflict”, *Al Ayam* 28 March 2003.

the crisis between the government of Sudan and the ICC. During that time, the government started a censorship campaign against many newspapers and in particular against *Al Ayam*, which had many columnists whom government officials perceived as communists and liberals. Until then, we can distinguish three different, partly overlapping frames whose elements were sometimes being used by different authors:

- The “armed robbery frame”, which interpreted the conflict in Darfur as a security problem which should be addressed by sending in armed forces and which usually did not blame the central government for negligence of the socioeconomical background of the conflict (but sometimes for not providing more security). This frame sometimes included the element of Darfur as a “tribal conflict”;
- The “underdevelopment frame”, which claimed the conflict to be rooted in a lack of infrastructure, in the central government’s negligence for basic needs of the population and lack of education and healthcare. This frame was usually accompanied by blame for the government in Khartoum and included calls for seeking a political, rather than military, solution, demanding negotiations with the Darfur rebels similar to the ones which Khartoum conducted with the South Sudan rebel movements.
- The third frame emerged relatively late in *Al Ayam* and provided a comprehensive and rather complex explanation for the events unfolding in Darfur: A dishonest (or badly informed) government had invited Arab nomadic land grabbers to disenfranchise the real owners of the land. This was seen as the root of the conflict, which the government tried to obscure behind a smokescreen of unsuccessful reconciliation conferences. As one may realize, this frame was largely consistent with the one that started to dominate Western media coverage about Darfur. We call this the “conspiracy frame”.

After the UNSC referral, which was followed on 6 June 2005 by the decision of prosecutor Moreno Ocampo to open an investigation, the Sudanese government immediately created the National Investigation Committee whose official task was to evaluate the situation in Darfur and thus claim Sudanese jurisdiction over crimes that might have been committed there. This way, the government intended to prevent the ICC

from taking over the investigations and tried to prove its ability and willingness to deal with the matter on its own. If successful, the move would open the way to claim the inadmissibility of the case at the ICC. The first article on the issue in *Al Ayam* did not concentrate on the question whether crimes had been committed in Darfur over which the ICC could wield jurisdiction but whether these crimes had amounted to genocide. This was in accordance with the position of the government which had reacted to the UNSC referral by admitting the commission of crimes but had immediately rejected claims about a genocide. Al-Sadig Ali Hassan, a lawyer of the Sudan Bar Association, also cast doubt on the genocide allegation. According to him, the ICC had not made any finding about a genocide in Darfur.³⁷ “According to the finding of the NIC, we understand that it has not been able to find any evidence that a certain ethnic group in Darfur was targeted by the government and that the government is trying to eliminate that group.” The article did not relate to the frames from before the UNSC referral. The framing in *Al Ayam* went back to the “underdevelopment frame” and avoided to discuss the ongoing events in Darfur, their legal significance, and the international context.

Al Ayam came back to the Darfur issue in April 2005 in an article written by Abubaker Adam Mohammed, who urged the central government to solve the conflict in Darfur.³⁸ His to-do list included only developmental and socioeconomic issues. It constituted a revival of the earlier well-known “underdevelopment frame”. Subsequently, *Al Ayam* remained silent again for years before another author revitalized the “conspiracy frame,” but without making it clear whether it suspected the government of inciting the conflict. *Al Ayam* described the war-like situation in Darfur as a “tribal conflict” and listed examples according to which South Darfur had witnessed more than eight tribal conflicts between different tribes.³⁹ “After each conflict the government is forming reconciliation committees

37 Al-Sadig Ali Hassan: “Where is the crisis in Darfur going to?” *Al Ayam* 2 April 2005.

38 Abubaker Adam Mohammed: *Al Ayam* 14 April 2005.

39 In Sudan, the notion of ethnic group usually describes either Arabs or Africans, whereas the notion of tribe is used in order to distinguish different groups either among the Arab population or the African population. According to this terminology, Africans and Arabs are not tribes (but instead ethnic or racial groups),

in order to deal with the problem and calm down the situation. But in fact, these committees have no jurisdiction, they are just communal communities made up by traditional leaders, but without budget, power; if they go and try to reconcile with tribes, they sit for some days, but when they leave, the conflict will start again.”⁴⁰ The next article provided one of the competing frames. According to him, the government had lost control over Darfur and other regions, because it lacked true information. The article read like a demand for the abolition of media censorship, but at the same time remained silent about the responsibility of the government for the Darfur crisis.⁴¹

Years of silence over Darfur came to an end after the 2005 constitution had been enacted and the central government had included representatives of the South Sudan rebel movements into the government. Now the atmosphere changed and things could be published, which in former times would have caused severe problems for an editor or journalist. In January 2007, *Al Ayam* called upon the people of Darfur to unite against the government.⁴² “I am really surprised that we are fighting one government, one party taking the power in Khartoum, while on the ground, we are fragmented and divide ourselves into many names, like the Sudan Liberation Army movement, the Justice and Equality Movement, the Sudan Liberation Movement, the faction of Free Will, the Justice and Equality movement, peace wing, the group of nineteen and the Justice and Equality movement, the faction of Idris. [...] Why are we fighting against ourselves, let us be one and fight the government of Khartoum.” Two days later, the newspaper printed an interview with Amin Banani New, one of the oldest members of the Islamic Movement Front from South Darfur. In 2001, after the split of the IMF between Bashir and Turabi, he decided to stay with Turabi, but later disagreed with Turabi about the latter’s support of the Zaghawi and formed his own party, the “National Justice Party.”

but there are different tribes among the Arab population and different tribes among the African population.

40 Ahmed Abdul-Hamid: “The South Darfur and unrealistic reconciliation agreements”, *Al Ayam*, 14 January 2007.

41 Dr. Mohammed Essawi: “The rule of information on the decision making process”, *Al Ayam*, 14 January 2007.

42 Sami Hajir: “People of Darfur, let us unite”, *Al Ayam* 16 January 2007.

In the interviews, he almost openly called for foreign intervention: “If the things continued like this in Darfur without the government to control the situation then we have no other options than welcoming the international forces.”⁴³ He claimed that the government had failed in Darfur, because either it had not been honest or had supported one party against the other. “If things continue like this, the Sudanese government will have no other option but to welcome international troops (from the UN or from elsewhere).” In the light of the interview, the rebels in Darfur appear as sponsored and directed by the Chad government and the conflict is framed not as an internal one (as all the other frames do), but a war between Chad and Sudan. The argument exonerated the government, which, according to the interviewee, “should investigate, where the development money for Darfur went to.” It was a new frame: an honest but negligent and somehow the helpless government loses control over Darfur, which is invaded by Chad. One might call it the “war frame.”

Before the ICC issued the first arrest warrant concerning Sudan, no new frames could be detected in *Al Ayam*. At the end of January, an article deplored the inequality between Darfur rebel leaders, who allegedly amassed wealth and built hotels in Darfur, whereas their relatives were suffering poverty in IDP camps. “In the end this is a game being played by the NCP, the rebel movement and the international community.” He author told the rebels what they should do: “The most important thing for the rebels in Darfur is to make available education for the population, health which can lead to sustainable peace in the region.” In this regard, it was an amended version of the “underdevelopment frame.”⁴⁴ Later in the same issue, the newspaper: “With regard to the health sector in Darfur, there are no government hospitals at all, which can treat the population, which have been injured or hurt during the armed clashes. If there are hospitals, the distance is very far away and more than 100 km, which is not easy for an ordinary person from the conflict zone to the hospital to be treated. There epidemic diseases, which increase in the camps. The government should give the health sector the priority. There is lack of

43 *Al Ayam*, 18 January 2007.

44 Dr-Hussien A-Ghali: “The Darfur the hotel boom and the suffering of IDPs and refugees”, *Al Ayam*, 24 January 2007

water, we have two Niles, the Blue and the White Nile running through Khartoum, so what will it cost the government just to extend one pipeline to the people of North and South Darfur. The government is lying and not serious.”⁴⁵

On 27 April 2007, a pre-trial chamber confirmed the arrest warrant against Ahmad Muhammad Harun, the minister of the interior, and against Ali Muhammad Ali Abd-Al-Rahman, the minister of humanitarian affairs, both for crimes against humanity and war crimes allegedly committed in Darfur. But this did not trigger the emergence of any new frames in *Al Ayam*; it did not even lead to an article about it. It was only in October of the following year when Darfur became an issue again. It had been neglected before, because most of the international actors began to focus on the implementation of the peace deal between the South and the North.

By then, peace talks between the Darfur rebels and the government in Khartoum, supported by the international community, had begun. As had been the case in the conflict with South Darfur, peace talks also led to more latitude for the media. But the first comment on the peace talks in *Al Ayam* actually was negative. It presented the peace talks as imposed upon the local tribes' hierarchies and claimed the local populations were against the talks in Abuja, the Nigerian capital: “Maybe they are being paid by unknown organizations, and it is their benefit to deteriorate the situation and that the social fabric of the tribes is being destroyed. Author is asking, how can we impose peace without the actual consent of the local populations, because the tribes themselves do not want to engage into a peace agreement. Why does the government impose such a peace agreement like in Abuja?”⁴⁶ The author argued in favor of admitting all, not only some, tribes into the talks in Abuja, but did not create any new frames about the conflict itself. “This negotiation will end up with something very deep/strong, it will make a very strong on Sudanese politics but

45 Ahmed Sulieman Mohammed: “Darfur, the development and the reasons which led to the destruction of the state”, *Al Ayam*, 24 January 2007.

46 The title somehow contradicted the content of the article: Dr-Ibrahim Mukhaier: “Abudja is the last chance achieving peace in Darfur”, *Al Ayam*, 11 October 2008.

it will not be a complete solution if the problem of Darfur and the Nuba mountains is not included.”

The first article mentioning the ICC arrest warrants comes from October 2008. By then, the ICC prosecutor had already applied for (but not yet obtained) an arrest warrant against President Al Bashir. The author, Molook Muyot, claims “that situation in Darfur has drastically changed after the accusations of the ICC against Al Bashir concerning crimes against humanity and genocide. After that, everything in Darfur completely changed. This is the biggest problem which has led to the lack of agreement between the government of Sudan and the international community. Because of this accusation, the only peace agreement signed with the Darfur rebels, the Abuja agreement failed and was not implemented.”⁴⁷ The failure of Abuja, according to the author, came about because the African Union and the Arab League could not agree on a common agenda, “this reluctance about an agreement between the two gives the rebel movement a big change for maneuver rather than sign a peace agreement.” Quoting one of the JEM leaders, the author concluded: “[...]unless all the parties to the conflict in Sudan including Darfur, Nuba mountain and Blue Nile come there to the negotiation table, then everything is nonsense.”

As we can see from the above analysis, there were three competing, but partly overlapping, frames about Darfur in *Al Ayam* which emerged prior to the UNSC referral. Only the “underdevelopment frame” and the “conspiracy frame” survived the UNSC referral, after which a new frame came to the fore (but only in one article), the “war frame,” which exonerated the Sudanese government, denied the existence of a conspiracy of the government with Arab nomads against Fur farmers, and blamed the government of Chad for the fights. This change, however, can hardly be attributed to the UNSC referral, to which only one article referred. The long periods of silence about Darfur in *Al Ayam* complicate accurate findings about the causes of frame shifts. It is more likely that the appearance of new frames (especially those blaming the central government) are rather due to changes in the censorship policy and changes in the general political

47 Molook Muyot: “Darfur between the African initiatives and the Arab initiatives”, *Al Ayam*, 9 October 2008.

situation (after the agreement with South Sudanese rebels and the new constitution in 2005) than to the ICC's activities.

Frame shifts in *Ray-Al-Shaab*

After the referral and before the following crucial date – the arrest warrant against Ali Muhammad Ali Abd-Al-Rahman and Ahmad Muhammad Harun in April 2007 – *Ray-Al-Shaab* published enough articles involving frames about the conflict in Darfur for an analysis of frame shifts. The first one, which allows to identify a frame, stems from the time when envoys of the EU, the Arab Ligue, the UN, and the AU tried to convince the government in Khartoum to accept a UN peace-keeping force in Darfur in place of the AU mission that had been in the three Western provinces before. In one sentence, *Ray-Al-Shaab* describes the background of the negotiations, avoiding any blame or attribution of guilt. The newspaper's language is neutral and describes the conflict almost as a man-made natural catastrophe without detectable causes: "Since rebels have got armed in 2003, around 200 thousand people died and more than 2,5 million were displaced from their homes accusing Khartoums government of neglect. Sudan is under severe international pressure to allow deploying a UN peacekeeping force consisting of 7000 to 20 thousands persons to replace the poorly equipped AU force of 7000 soldiers that faces financial hardship."⁴⁸ In the first sentence of the article and in the subtitle, the conflict in Darfur is referred to as a situation in which "armed rebellions" are confronted to "the government."

But already a few days later, *Ray-Al-Shaab* became more explicit in an article summarizing the discussions of the UN Human Rights Council about human rights violations in various countries, which had taken place in Geneva and during which the Sudanese government was specifically under pressure for an attack in Buram in South Darfur, where, as the newspaper claimed on its own (and without quoting any outside sources), the "Arab militias backed by Khartoum" had expelled "African tribes"

48 [No author]: On the liability of an international envoy. The government and the armed rebellions are trying to resolve the conflict in Darfur by military means. *Ray Al-Shaab* 27.6.2006.

and had made “the region completely subordinated to the Arab tribes.” Referring to a report that had been presented during the deliberations of the UN commission, the newspaper stated that “the attack that had killed hundreds of people” had been carried out by 300 to 1000 armed soldiers against 45 villages with 10 thousand people. According to *Ray Al-Shaab*, the Sudanese government had claimed the casualties to be caused by a “tribal conflict” and had been the response to a rebel attack in April. It denied any cooperation with the perpetrators.⁴⁹

After the CPA, with tensions escalating in Darfur, *Ray-Al-Shaab* did not hide its critical stance toward the Al Bashir government. The paper printed a SPLM-praising article, followed by an appeal to release a prominent SPLM leader, who had negotiated the CPA but had been extradited by Saudi Arabia to Sudan, where he was then imprisoned.⁵⁰ It closely followed the attempts of the UN, the AU, and the United States to upgrade the AU force in Darfur and the Al Bashir government’s struggle to prevent the AU mission to be strengthened with US soldiers. The way the newspaper framed these negotiations makes it clear that the journalists also regarded the AU mission upgrade as a possible step to foreign intervention. In October, a large analysis was dedicated to a comparison between Sudan and Somalia, highlighting the aspect of possible international intervention.⁵¹ These articles were so concentrated on the issue of a possible UN mission replacing the AU forces that it did not create any frames about the conflict in Darfur.⁵² Before the first ICC arrest warrant was issued, *Ray-Al-Shaab* refrained from creating any stable frame describing the events unfolding in Darfur. Even in a long article,

49 [No author]: Human Rights Council: conflicts and delays. An international report accuses Khartoum of complicity in Darfur’s attack. *Ray Al-Shaab* 2.7.2006.

50 [No author]: Darfurians demand release of engineer Albukasem Ahmed Albukasem. *Ray Al-Shaab* 2.10.2006.

51 Helmi Shaarawi: Scenarios of intervention in Darfur ad Somalia. *Ray Al-Shaab* 5.10.2006. The same topic is dealt with in: [no author]: Finding a third way to get out of the crisis of the international forces in Darfur, *Ray Al-Shaab* (based on news agency reports) 3.10.2006.

52 For example, [no author]: The United States reprove Sudan. *Ray Al-Shaab* 15.10.2006.

which discussed the roots and definition of international crimes, the newspaper did not explicitly frame the Darfur events.⁵³ The first consistent frame, which appears as one created by a newspaper author without invoking quotes from other sources, is an article from October 2006, which describes the Darfur events as a crisis and compares it to a snowball which turns into an avalanche. The article describes it as a “rolling crisis” which is political but (wrongly) treated as a military challenge. The author, Abdelmuttalib Ali Idriss, based its frame on the “underdevelopment frame” known from *Al Ayam*; the roots of the conflict are economic and have their origin in Khartoum’s negligence to respond to the poverty and underdevelopment in Darfur. This led to rebellion, which spread because the government’s security forces were too weak to respond to it efficiently. Referring to the attack on Al Fashir, the author sees the crisis as an “erupting volcano,” fueled by an international media campaign against Sudan and US preparations for an intervention in Sudan. Amid a cascade of powerful metaphors, the author frames the conflict as one between the “Arab Muslim population,” which wields “state power” in Darfur. “Discrimination and repression has been imposed on groups in Southern and Western Sudan which are African rather than Arab, or Christian animist rather than Muslim.” He claims that “[t]he Sudanese government has used this lull (the peace negotiations concerning South Sudan) as an opportunity to enforce ‘ethnic cleansing’ of ‘disloyal’ African-Muslim groups in the Western region of Darfur. They have done this by supporting and failing to restrain groups of Arab militias who have killed more than 30, 000 people and displaced close to a million more.” Then something follows one can only describe as a quite coherent “ethnic cleansing frame” whose main pillars were mentioned earlier in the text: “Why is the West suddenly concerned about the racist Arab drive to kill off dark-skinned Africans in Sudan?” At this point, the “underdevelopment frame” merges with the “tribal conflict frame”, but in a way,

53 The article discusses the effect of ethnic tensions in Nigeria (the decision to expulse Arab Mahamid Bedouins) on Darfur and then presents the origin of “ethnic cleansing,” discussing its relation to crimes against humanity, war crimes, and genocide. Al Ghali Chakifate: Nigeria ‘Mahamid’ crisis leads to the internationalization of Darfur’s Mahamid. Ray Al-Shaab 15.10.2006.

that opens the door to a new, radical, and very precise frame, according to which “racist Arabs,” supported by the government in Khartoum, commit ethnic cleansing against African groups in Darfur. However, this frame is introduced not in order to blame the government in Khartoum, but in order to attack the legitimacy of foreign powers that blame the Sudanese government for exactly the same atrocities. The author does not answer to his question (why the West cares about Africans being killed by racist Arabs), but directly moves to the claim that both know that “the entire White World policies are built on racism, the same racism, that allows the US to lie to the world and invade Iraq without the fear that they will be charged as war criminals.” As can be seen, the “ethnic cleansing frame” does not serve for blaming the Sudanese government or the Janjaweed militias in Darfur, but in order to relativize such blame with regard to the crimes of others. Nevertheless, even a reader who agrees with the claim about Western hypocrisy is exposed to the interpretation according to which the Darfur crisis consists of ethnic cleansing of Africans by “racist Arabs” supported by the government in Khartoum. The exposure of such a clear and accusatory frame is surprising, because at the same time (in October 2006), genocide allegations about Darfur became more and more frequent, often issued by non-governmental organizations and US diplomats,⁵⁴ and the genocide issue must have also become more salient for government censorship. However, *Ray-El-Shaab's* coverage of the internationalization of the Darfur conflict reveals the rising pressure by media, Western NGOs, and governments on the Sudanese government, although most articles from early 2007 do not contain coherent frames about what was going on in the Western provinces. They do contain frames about diplomatic action and the debate about the UN's role in Darfur.

54 Colin Powell's genocide allegations had been made already in September, but were quoted in *Ray A-Shaab* in October. The newspaper seemed to agree to the Sudanese governments' interpretation, according to which these allegations were a preparation for armed intervention by the United States through a UN-mandated peacemaking mission that would replace the AU peacekeepers (or supplement them). [No author]: The government is accusing the UN of using fake information. *Ray Al-Shaab*, 6.10.2006.

At the end of January, the newspaper printed an article which provided a slightly amended version of *Al Ayam's* “underdevelopment frame”: Underdevelopment was said to be the root of the armed conflict and at the same time its consequence. The author described the problems at length, beginning from the absence of electricity in the three provinces (except Nyala and Al Fashir), the lack of water and water distribution infrastructure, to the lack of educational institutions and hospitals, ending with the (already mentioned in *Al Ayam* articles) need for new roads linking Darfur with the center. But the author failed to link these problems with the conflict and instead only claimed that war only exacerbated them.⁵⁵

Did the first ICC arrest warrant against Sudanese politicians change the scarce frames which *Ray-Al-Shaab* had created before 27 April 2007? There are only a few articles after that date which deal with Darfur. Almost none of them contains anything that could be called a frame. Even the “underdevelopment frame” and the “ethnic cleansing frame” are not repeated. But then, somewhere between 2008 and 2010⁵⁶ readers got an in-depth analysis of the Justice and Equality movement’s strategy which produces an utterly clear frame. According to it, the “rebellion” in Darfur broke out between “the mainly ‘African’ rebels” and “the government forces and their proxy ‘Arab’ militias.” At that time, both rebel groups, the JEM and the SLM, had declared to aim at ending the economic, social, and political marginalization of Darfur. In 2006, a faction of SLM had signed a peace agreement with the government, whereas another SLM faction and the JEM had refused to do so. “The signing of the DPA, instead of bringing peace, only intensified fighting and caused the humanitarian situation in Darfur to deteriorate.” As a result, JEM changed its strategy from fighting for the interests of Darfur to regime change in Khartoum, which even led to an attack on Khartoum in May 2008. JEM, according to the author, is ethnically linked to leadership of Chad, which supports JEM, which is identified

55 Ahmad Suleyman Mohammad Abdullah: Darfur – growth and reasons of its collapse. *Ray El-Shaab* 24.1.2007.

56 The precise date of the article could not be identified, but from the content it becomes clear, that it had to be written between May 2008 and April 2010. Ahmad Suleyman Mohammad Abdoullah: Revolutionary movements in Darfur...dividing people until when? *Ray Al-Shaab* (no date).

as the reason which made JEM the “most powerful faction on the ground in Darfur.” *Ray-Al-Shaab* regarded JEM no longer as a rebel group but as a “revolutionary movement” with a real chance of “overthrowing the current regime and fundamentally changing Sudan.” “Considering the fact that every post-independence government of Sudan has been ruled by the members of northern ‘Arab’ tribes - which represent only 5 percent of the entire population and have spent the majority of development funds on the northern part of the country - the change proposal in the JEM’s manifesto would indeed be a profound, fundamental and revolutionary change.”

Frame shifts in *Ajrass-elhurriya*

There were only three articles available from *Ajrass-elhurriya* before the 27 April 2007 when the first arrest warrants were issued against politicians in Khartoum. One of them consists of an appeal of the SLM to destitute the governor of South Darfur Al Jaji Ata Al-Manan, which frames the conflict as one that is the result of tribal conflicts, which are fueled by the governor with the assistance of a faction of JEM which “consists of a bunch of displaced persons,” whereas “the people of the region” are alleged to support SLM. The appeal denies any split between the Zaghawa and Magalit and threatens the governor with retaliation. However, due to the document’s character as a political declaration, it is impossible to say whether the frame stems from SLM only or whether the interpretation inherent in this frame is shared by the newspaper, too. Unfortunately, the following article, which deals with a meeting between the SLM leadership and the central government in Khartoum, does not allow to draw any conclusions about *Ajrass-elhurriya*’s interpretation of the conflict, because the article does not produce any frames about the conflict itself. This changed with a large report about the conditions under which the civilian population had to live in Darfur as a result of forced displacements. The article describes the Darfur conflict as a situation in which the population suffers “between the hammer of the government and the anvil of the the [rebel] movements.” In this conflict, “tribal conflicts” are “the result of political decisions.” Based on the testimonies of people in the refugee camps, the article blames the government for keeping silent about the suffering of the civilian population and for inciting violence rather than

providing security.⁵⁷ The solution, the author proposes, is a return to the reconciliation conferences and voluntary repatriation of refugees.

Due to the limited number of articles available from *Ajrass-elhurriya*, frames produced after the first arrest warrants are regarded as frames before the last critical moment – the arrest warrant against Al Bashir in July 2010. Earlier, *Ajrass-elhurriya* published a number of articles about Darfur. One of the earliest was a report about the unification attempts of five rebel factions which had rejected the Abuja agreement in Juba, the capital of South Sudan. It produced a lot of frames about the rebel movement, but none about the conflict itself.⁵⁸ This changed with a large article published in June 2008, which offered a deep insight into the history of Darfur, its distinct character among the Sudanese regions, and the roots of the conflict. The author, Al-Sadigh Ali Hassan, first painted a comprehensive picture of Darfur's ethnic diversity, distinguishing between the "people of Darfur" who were living in the big cities (Nyala and Al Fashir) and "tribes" populating the countryside. Between these tribes, conflicts had always been frequent and usually had their causes in clashes over "pastures, grazing land, water and hay." But, the author claimed, these conflicts had always been limited, regional, and had been constrained by "local customs and traditions." This had been possible because there had not been any "social agenda" behind it, "even if Darfur suffers from lack of development, infrastructure, and political marginalization."⁵⁹ Here, the "tribal conflict frame" merged with the "underdevelopment frame", known from *Al Ayam*. Then, the article introduced a new frame, which one could label a "ecological disaster frame": the local tribal conflicts about scarce resources were exacerbated by drought

57 Hassan Saad: Darfur refugees are being hunted with guns. *Ajrass-elhurriya* 10.4.2007.

58 Khalid Fadl: Juba: The Unity of Darfur starts from here. *Ajrass-elhurriya*, 15.3.2008. The same is true about another article, written by a guest author, somehow associated to the Georgia-based US charity "Conscience International", who argues in favor of a new approach to the regime in Khartoum and against military intervention. Steve Eric Purner: A new chance for the people of Darfur. *Ajrass-elhurriya*, 14.5.2008.

59 Al-Sadigh Ali Hassan: Armed movements in Darfur and the trial of Debris Harvest. *Ajrass-elhurriya* 1.6.2008.

and desertification, to which the central government did not respond. The author hints at the fact that drought had inclined some of the (Arab) herders to move more to the south than usual in order to find pastures for their animals. By doing so, they had entered into the domain of (African) farmers who had not been accustomed to give foreigners access to their land, provoking small-scale conflicts. But for these conflicts, the locals had quickly developed a number of techniques which aimed at conflict resolution and reconciliation. What the author did not say – but implicitly suggest – was the inference of the center (the government in Khartoum) in these conflicts which let tensions rise by arming some of the herders. This aspect only shows up indirectly in the text when the author juxtaposes the negligence of the central government for Darfur with Darfur's historically entrenched tendency to support Sudanese unity and the integrity of the Islamic movement. Against this backdrop, attempts from Darfur to move against the center were marginal, the article argued. The article provided the most comprehensive frame *Ajrass-elhurriya* had ever published. It was not incidental – the subsequent article on Darfur involved similar frame elements. It invoked the “armed robbery frame” from *Al Ayam* in the title, but then in the text described the conflict as having its root in “old fighting between pastoralists and farmers” and a “tribal conflict” between three different groups during which tribalism was said to be more important than religion. This, at least, was the author's explanation of the fact that all warring factions were Muslim, but nevertheless fought against each other.⁶⁰ Some of these features resonated in a long article which summarized contributions to an academic conference on the Darfur conflict, which had been organized in June 2008 and presented a mixture of interpretations ranging from the “tribal conflict frame” to the “foreign intervention frame” (concerning mostly interference from Chad, but also attributed to the United States and Israel the intention to subdue Sudan in order to exploit its natural treasures).⁶¹ There, it is impossible establish

60 [No author]: The details of the story since the armed robbery from Polad to Khalil. *Ajrass-elhurriya* 15.6.2008.

61 Zuhail Attayeb: Peace in Darfur between reality and future aspects. *Ajrass-elhurriya* 25.6.2008.

whether the framing of the conflict was derived from the conference papers quoted by the author or had its origin in the author's mind.

There is strong evidence that the "tribal conflict frame" in *Ajrass elhurriya* was not incidental, but an important element of the paper's political orientation. This evidence is a highly emotional piece that was published on 3 June 2010 and presented the most comprehensive, detailed, and at the same time precise frame about the conflict, introducing a qualitatively new interpretation which was built on both the "tribal conflict frame" and the claims about external interference.⁶² The article also mentioned for the first time explicitly the ICC intervention in Sudan and the arrest warrant against Ahmad Harun.⁶³ It describes the conflict in Darfur as an attempt by the central government (which is only referred to as "they") to create an Arab-dominated Sudan from which non-Arab tribes were to be cut off (as they would be after the separation of South Sudan) and erased (in Darfur). The author argued that the separation of South Sudan would still have leave the Northern part of Sudan with a 58 percent majority of African people: "It means that the North is not an Arabic country even if they separate it from the Southern part there is no way to raise the rate of Arabic people in Northern Sudan unless they reduce the number of African people and bring in new Arab tribes from Niger or Mali." The central government's attempts to create such a situation where the author argued, challenged by the fierce African resistance in Darfur. During the Doha negotiations, the Sudanese government "is now defending some of its officials [...] from prosecution" rather than fighting for the Arabisation of Darfur. The second part of the article is an emotional accusation of Harun for the crimes he allegedly committed in the Nuba mountains and in Darfur and an appeal to bring Harun to justice. The article is the only one that introduces an interpretation of the conflict in Darfur as a genocidal one in which there are clearly identified perpetrators (the central government and some militias) and

62 Kacim Nassim Hamad Harbah: "Hey Aron, who killed us? Let's elect you!?" *Ajrass elhurriya* 3.6.2010.

63 Actually, the article does not mention the arrest warrant as such, but at several instances refers to the fact that Harun is "internationally prosecuted" among others for "killing and raping our population".

clearly identified victims (the population of Nuba and Darfur). As such, it goes even beyond the arrest warrant, which in 2007 charged Harun only with war crimes and crimes against humanity, not with genocide.⁶⁴ Until the second ICC arrest warrant in 2010, *Ajrass-elhurriya* published more articles on Darfur, but none of them contained any detectable frames about the conflict.⁶⁵

The Khartoum Monitor's and The Citizen's coverage of the Darfur conflict

The Khartoum Monitor was founded in 2000 by Alfred Taban, a former BBC correspondent in Sudan. It long remained the only English-language daily in Sudan. Its main audience was not the Northern Arab Sudanese population, but the mostly the African and Christian population of South Sudan. The Monitor, which was also read by foreigners in Khartoum and a part of the better educated Khartoum citizenry, concentrated on the conflict between South Sudan and the government in Khartoum and the peace process. When the media authorities in Sudan issued instructions to journalists to avoid reporting about the conflict with South Sudan, The Khartoum Monitor largely ignored them and kept covering human rights abuses in the South. Taban was later joined by Nhial Bol Aken. In 2003, after threats to arrest him, Nhial Bol fled to Kenya, supported with

64 The article was published before the second ICC arrest warrant was issued, which included the charge of genocide for Al Bashir (but not for Harun).

65 An example is the article written by the lawyer Baroud Sandal Rajab: The role of civil society in the peace process in Darfur. *Ajrass-elhurriya* 5.11.2009, which describes the steps necessary for a lasting cease fire, but does not provide any interpretation of the conflict's character. The same is the case with an article written by Hassan Issa Mokhtar: To whose profit it is doing that? *Ajrass-elhurriya* 2.2.2009, which does not repeat the previous frame about Darfur being a "tribal conflict" and only adds the element about Chadian interference. Chad's government is accused of supporting JEM and sending fighters to Darfur, France is accused of joining the US in pressuring Sudan (rather than constraining Chad). In 2010, Kamal Sadik published another article about the peace process in Darfur, "Darfur, from the beginning to the end", *Ajrass-elhurriya* 2.5.2010, but it did not contain any frames about the conflict.

a Human Rights Watch grant.⁶⁶ In 2005, The Khartoum Monitor's license was suspended and later renewed.

In 2006, Nhial Bol created *The Citizen*, also concentrating on issues connected to South Sudan. However, the newspaper also was edited in Khartoum. In 2011, when South Sudan separated from Sudan, the paper moved to Juba, where it became the biggest daily of the new country. The move had been triggered by the ban of foreign investment in media in Sudan, which would have prevented *The Citizen* from being published after the South Sudanese independence referendum. Nhial Bol was a member of the SPML until 2016 when he resigned in protest against the politics of the party and his newspapers were widely regarded as close to the party.⁶⁷

The coverage of both *The Khartoum Monitor* and *The Citizen* differed a lot from the coverage of the Arab-language dailies and weeklies in Sudan. They differed in general, but even more with regard to the conflict in Darfur. Both newspapers totally ignored the ban on reporting about this sensible issue and did not refrain from open criticism of the Sudanese government. Both papers provided a lot of coverage about Darfur, but they hardly ever presented consistent frames, and when they did, these frames were not created by the newspaper staff, but were frames replicated from other media, news agencies, and international organizations. The frames depicted the conflict as an assault by the Sudanese government and its Arab allies, usually called the Janjaweed, on local Darfurians, sometimes called "ethnic African tribes" or just "Darfurians." According to *The Khartoum Monitor's* frames, these Darfurians almost never fought back and were predominantly described as unarmed civilians and presented as victims. The articles, which started often on the first page and were illustrated with photos, were accompanied by emotional headlines, like the one on 20 November 2006 when an AP-report about the visit of an UN emissary was titled "Sudan commits 'inexplicable terror' in Darfur – UN

66 Human Rights Watch: Sudan. Persecuted Journalist flees country. HRW 11.11.2003, available at: <https://www.hrw.org/news/2003/11/11/sudan-persecuted-journalist-flees-country>

67 Why Nhial Bol quit politics. Eye Radio, 21.9.2016, available at: <http://www.eyeradio.org/nhial-bol-quit-politics/>

official.”⁶⁸ One week later, the paper published excerpts from an Amnesty International report on Darfur under the title “Sudan Government’s solution: Janjaweed unleashed in Darfur.”⁶⁹ The article ended with a call to readers to write and send protests to representatives of the Sudanese government and the Army and was accompanied by an emotional religious call to African and Arab states not to leave the Darfurians alone. This article also included a suggestion that what happened in Darfur might be genocide.⁷⁰ In most of the articles about Darfur, which were published before the ICC 2007 arrest warrant, there were no ethnic cleavages mentioned among the Darfurians. The conflict was described as one between Arab militias, supported by the Sudanese government and Darfurians, which appeared almost entirely as unarmed civilians. This was consistent with the “Save Darfur” campaign frame. “Save Darfur” strove to spread a clear-cut genocide frame in order to mobilize the public in the United States for a humanitarian intervention.⁷¹ In December 2006, The Khartoum Monitor deviated from this frame, reporting on clashes between “Government forces” and “reportedly SLA/Abdul Wahid Nur.”⁷² But in subsequent articles, the frame depicting the conflict as an assault by the Sudanese Army and the Janjaweed on unarmed civilians remained stable.⁷³ Part and parcel of this frame were frequent comparisons of the situation in Darfur with the Rwandan genocide in 1994⁷⁴ and the blaming of almost all outside actors for failing to rescue Darfur. This frame did not change in The Khartoum Monitor’s coverage of Darfur after the ICC arrest warrants

68 AP: UN says recent huge offensive in Darfur; Sudan commits “inexplicable terror” in Darfur – Unofficial; Sudanese army and Janjaweed carry new attacks in Darfur – AU all in Khartoum Monitor 20.11.2006.

69 Amnesty International, Sudan Government’s solution: Janjaweed unleashed in Darfur, Khartoum Monitor 27.11.2006.

70 Benedict T. Julius: Darfur: no one to turn to. Khartoum Monitor 27.11.2006.

71 Save Darfur declarations were published by The Citizen, for example, on 29.8.2007, when the newspaper reprinted a call from 2006.

72 At that time, the different factions of the Darfurian tribes had already split into warring paramilitary organizations. Alfred Soka, More humanitarian workers relocated due to insecurity in Darfur, Khartoum Monitor 11.12.2006.

73 IRIN: Women facing mental-health problems in Darfur, Khartoum Monitor 16.12.2006.

74 [No author]: Darfur situation gets critical, Khartoum Monitor 17.12.2006.

in mid-2007. Later articles still depict the conflict in Darfur as a humanitarian challenge which was “escalating rapidly from bad to the worst.”⁷⁵ Darfur was still regarded as one entity whose inhabitants appeared only as Darfurians, not as members of clans, tribes, or ethnic groups, but at that time, South Sudanese leaders had started to bring rebels and the central government to the negotiation table, and The Khartoum Monitor then urged the Darfur rebel movements to end their divisions and internal quarrels.⁷⁶ The Khartoum Monitor continued to criticize the division among the rebels in Darfur, mainly because it complicated negotiations with the government about a cease-fire. However, the article neither mentioned any of these factions (other than JEM, which already had split into several units) nor the ethnic affiliation of their members. From the perspective of The Khartoum-based journalists, whose main focus was on the South (and whom one might suspect of sympathizing with the South Sudanese leaderships efforts to broker a peace agreement between the Darfurian rebels and the central government), Darfur remained a distant part of the country where the central government persecuted civilian Darfurians and – this was the additional element to the frame – deeply divided rebels. The series of articles (and some of the other texts on Darfur, too) presented JEM in a relatively bright light, the Sudanese government as the main culprit, and the AU as biased toward the Sudanese government, hesitant, and as “dragging feet.”⁷⁷ This element was new in The Khartoum Monitor coverage; it had not been part of a frame before the ICC arrest warrant, but it can hardly be attributed to ICC influence, because the arrest warrant concerned Janjaweed leaders and did not deal with internal divisions among the African rebels.

The ICC arrest warrants did not trigger any frame change in the coverage of The Citizen either. This was also due to the lack of original articles

75 Awad Mustafa Al Hag: Darfur’s civil war’s harmful social consequences. Khartoum Monitor 4.11.2007. The article focused on the traffic of Darfurian children from Sudan to neighboring countries and to France.

76 Awad Mustafa Al Hag: Failure of the Darfur peace talks in Libya, Khartoum Monitor 1.11.2007 and Omuno M. Otto: Darfur peace and unity of the rebels. Khartoum Monitor 9.11.2007.

77 Suliman A Giddo: When will Darfur mediators learn? Khartoum Monitor, 14 and 15.11.2007

about Darfur in *The Citizen* during the first weeks after the arrest warrants. The paper mostly copied reports from news agencies, UN communiqués (and even the UNSC resolution about the Darfur Hybrid Force),⁷⁸ and reports from international NGOs, thus refraining from creating own frames about the conflict. The paper also published several articles written by Eric Reeves, a literature professor from Massachusetts who had become an activist and campaigner for Darfur, and Alex de Waal, thus channeling their frames into *The Citizen's* coverage of the conflict.⁷⁹ With regard to articles and op-eds written by Sudanese journalists, no frame change, not even a change in some frame elements, could be detected after the first ICC arrest warrant. Paradoxically, there were even less articles about the atrocities in Darfur and the fate of Darfurian civilians than had been before the ICC decision. Most of the Darfur-related coverage was extremely critical about the role of the AU in Darfur.⁸⁰ In one of the first articles about Darfur after the ICC's first Sudan-related arrest warrants, Wasil Ali, a journalist from the Sudan Tribune, writing as a guest commentator in *The Citizen*, blamed South Africa for accepting "the humanitarian catastrophe in Darfur," "appeasing to Khartoum at the expense of the Darfurian people." Ali ridiculed the South African government for opposing sanctions against Sudan. "By backing Khartoum, South Africa

78 In mid-2007, the UN, the government of Sudan, and the various rebel factions in Darfur, together with the AU, were negotiating the launch of a hybrid force of peacekeepers to Darfur. The name stems from the fact, that the force was meant to be staffed with Western soldiers and AU soldiers together (and financed mostly by the UN and the governments of these Western unit). In early August 2007, after the Sudanese government had agreed, the UNSC passed a resolution defining the conditions of the hybrid forces (UNAMID, United Nations Mission in Darfur), which was then published by *The Citizen*.

79 Eric Reeves: *The Darfur Resolution currently before the UN Security Council*, *The Citizen*, 2.8.2007; and Eric Reeves: *On the Future of Security in Darfur*, *The Citizen* 6.8.2007 and Eric Reeves: *Darfur Mortality: Shoddy Journalism at the New York Times*, *The Citizen* 16.8.2007. Some of these articles were reprints from *The Guardian*; Alex de Waal: *Deaths in Darfur: Keeping ourselves honest*, *The Citizen*; 8.2007; Eric Reeves: *How many deaths in Darfur?* *The Citizen*, 23.8.2007 and Eric Reeves: *Darfur betrayed again: The 'Hybrid' Force steadily weakens*. *The Citizen* 1.9.2007.

80 Wasil Ali: *African Union becoming a tool in the hands of Sudan in Darfur*.

is sending the wrong message to the world which means other countries would be encouraged to do the same.”⁸¹

The reason why *The Citizen* wanted the UN, the AU, and more powerful African countries to pressure the Sudanese government on Darfur was not so much the humanitarian concerns connected to crisis there but a larger strategy according to which the separatist pressure from the South and the West could be used in order to end the dominance of those ethnic groups which had gathered behind Al Bashir and the government in Khartoum and to transform Sudan into a federation in which also minority groups which had been marginalized so far (like the Muslim non-Arabs in Darfur and the African non-Muslim groups in the South) would be equal partners to the other groups. This was the agenda behind the exposure of the Darfur crisis in the coverage of both *The Khartoum Monitor* and *The Citizen* and of their attempts to discredit the central government and its militias as genocidal. When *The Citizen* started to refer to the Darfurians in terms of different tribes and political groups, it did so because their internal division complicated the peace efforts, which the leadership of South Sudan had undertaken to bring the rebel movements in Darfur and the central government together. This “New Sudan Agenda” was clearly spelt out in an article written by a US-based author, published in November 2007. It made clear that the ultimate aim was not the dismembering of Sudan, but the transformation of its ruling elite and its state structure into a decentralized one in which the different groups would have far-going autonomy.⁸² It was against this background that *The Khartoum Monitor* reported about negotiations between Darfur rebel factions and the SPLM⁸³ and hence an alliance which, in the opinion of some commentators, had the potential to transform Sudan into a more decentralized and federal state which would be more inclined to safeguard human rights and respect

81 Wasil Ali: South Africa’s disappointing stance on Darfur may tarnish its anti-oppression legacy. *The Citizen* 23.7.2007.

82 Chuar Juet Jock: Darfur in the realm of consciousness. *Khartoum Monitor* 7.11.2007.

83 *The Citizen* 15.8.2007 and [Staff writer]: Darfur Rebel Leader wants alliance with SPLM, *The Citizen*, 20.8.2007.

minorities.⁸⁴ Paradoxically, a few weeks after the arrest warrants, The Citizen added the ICC to the outside forces, which the paper used to blame for failing Darfur and dragging their feet, while a genocide was going on in the West of Sudan. Wasil Ali accused prosecutor Moreno Ocampo and the ICC in general of too much hesitance with regard to the Sudanese government. The ICC had acted too little, too late, and had been too reluctant in blaming and shaming Sudan before the UNSC for non-cooperation, because “the issue of getting Sudan’s approval to deploying peacekeepers to Darfur overshadowed the ICC arrest warrants.”⁸⁵

The ICC arrest warrants did not include charges of genocide, they only referred to crimes against humanity and war crimes. Nevertheless, The Citizen, in line with the grand narrative of the “Save Darfur” campaign, had so far emphasized the genocidal character of the conflict. In Darfur, a remote and neglected region of Sudan, Janjaweed and the Sudanese military were busy killing civilians of African descent and driving them into other regions or into Chad and more distant countries⁸⁶. Neither the coverage of The Citizen nor of The Khartoum Monitor ever clearly explained the alleged purpose of the Sudanese government. They also remained silent about the regional or local roots of the conflicts, such as tribal conflicts over resources, which had been highlighted in some of the Arab-language newspapers. This changed dramatically in September, hence several months after the arrest warrants, when The Citizen published a series of documents, prepared and translated by Abdullahi Osman El-Tom, a Darfuriian academic, who later became a JEM member.⁸⁷ The documents allegedly stemmed from a clandestine

84 El-Harris Omer: Analysis: Tragic end for Sudan, if South secedes, The Citizen 5.8.2007.

85 Wasil Ali: ICC lost leverage in the Darfur case, The Citizen 21.8.2007 (the issue was dated wrongly with 201 August instead of 21 August).

86 A report in The Citizen even provided information about Darfuriian refugees who had escaped through Egypt to Israel and were threatened with deportation because of Israel’s reluctance to recognize them on humanitarian grounds. [No author]: Israel to turn away Darfur refugees, 21.8.2007 (wrongly dated as 207 August 2007).

87 Flint & de Waal (2008), 52.

organization whose origins went back to the late 1980 and whose name has been translated as The Arab Congregation (the translation chosen by El-Tom) or The Arab Gathering. They contain a mixture of political claims permeated by a racist, Arab supremacist worldview, which altogether lead to the conclusion of leaving Darfur in the hands of an Arab elite. Arab supremacy and anti-African racism among Arab intellectuals had long been popular in Sudan, a country where several Arab ethnic groups ruled the country to the detriment of less influential Arab and all non-Arab ethnic groups, but it had its origin not as much in Khartoum as in Muḥammad Al-Gadāffī's Libya. It had been a major ideological justification for Libya's attempts to incorporate Chad and create an Arab block of countries across Northern Africa. In Sudan, Arab supremacy could be used in order to justify the power of the ruling Arab elites over marginalized, mostly non-Arab, and African regions like the South and the West and in order to justify the excessive use of force against separatist, autonomous, and pro-democratic movements. The core of these supremacist claims lies in the assumption according to which the underdevelopment and marginalization of non-Arab regions and groups was due to their insufficient Arabisation rather than the politics of the ruling elites. Stronger and deeper Arabisation would therefore lead to more development and was thus in the self-interest of these groups. At the same time, the authors of the Congregation documents drew plan not only for making Darfur and South Sudan more Arabic, but also for taking over power in the entire Sudan and to infiltrate the non-Arab groups and the state administration. This clearly indicated the clandestine character of the organization and implied they did not yet rule. The documents also included obscure, complicated, and unrealistic plans for a conspiracy against the ruling elite in Khartoum among others through the infiltration of the NCP, extensive sabotage of industrial production, and an alliance with South Sudanese rebel movements. Together with the claim, the only real Muslims, whose origins could be traced back to the Prophet Mohammed, were tribes which had entered the Sudanese territory from Libya; the Arab Gathering documents constituted a bizarre (and unauthored) pamphlet elaborated by some Arab conspiracy theorists for other conspiracy theorists whose worldview was at the same time simple and paranoid enough to believe in such a conspiracy.

As Flint and de Waal admit, there never was any proof that the Arab Gathering really existed, that it actually had an executive committee (which claimed to be the author of some of the documents), and that it had written the El-Toms documents.⁸⁸ Nevertheless, as the history of the Protocols of the Elders of Zion shows, such documents can have an impact on politics no matter whether they are authentic or not. In the Darfur context, they codified the scattered and unstructured supremacist and nationalist convictions which motivated young Arabs in Darfur to fight their African neighbors, they provided an ideological justification for the commission of mass atrocities of other ethnic groups, and they proposed a simple explanation for the atrocities which fit very well into the grand genocide narrative of the “Save Darfur” campaign: In Darfur, Arab tribes killed African tribes because of their supremacist, racist ideology. This interpretation also fit extremely well into all the already quite popular comparisons with Rwanda and the Holocaust, which at that time were circulating in the US media.⁸⁹ El-Tom directly referred to these stereotypes when he compared the document with the Ten Commandments of the Hutu from Rwanda and invoked the Holocaust.⁹⁰ When in September “genocide” appeared in the headline of an article, it was most probably the indirect impact of the “Save Darfur” campaign rather than the impact of the ICC arrest warrants, because the latter did not invoke the g-word.⁹¹ Throughout September, The Citizen reprinted many articles and documents from Western sources which reinforced the newspaper’s frame about Darfur as an onslaught of unarmed civilians by the central government and its Arab militias, but it did not reiterate the genocide accusation directly.

88 Flint & de Waal (2008), 49–54: “The Arab Congregation and the Ideology of Genocide in Darfur” (sic), *The Citizen*, 2,3,5,6.8.2007. El-Toms documents are also reprinted in English in Salah M. Hassan, Carina E. Ray (eds) (2009), *Darfur and the Crisis of Governance in Sudan. A critical reader*. Cornell University Press, appendix K.

89 Heinze, E. A. (2007). The Rhetoric of genocide in US foreign policy: Rwanda and Darfur compared. *Political Science Quarterly*, 122(3), 359–383.

90 *The Citizen*, 6.9.2007.

91 [No author]: Claims of genocide in Darfur, *The Citizen* 4.9.2007.

Was it the ICC?

Out of all the frames which were created by the authors of *Al Ayam* prior to the UNSC referral, only two showed up again in the newspaper after March 2005: the “conspiracy frame”, which explained the conflict in Darfur as the result of a badly informed government which instigated land grabbing of Arab nomads and then tried to cover up the crimes committed by them by convoking numerous but inefficient reconciliation conferences, and the “underdevelopment frame,” which focused on the dire state of Darfur and the negligence of the central government to improve living conditions there. Another frame appeared, which had not been present before – the “war frame,” which blames interference from Chad for the conflict. This is not a usual frame shift, as the frames from before the UNSC referral did not change – some disappeared (the “tribal conflict frame” and the “armed robbery frames”), others came to the surface. But the latter were almost totally new and did not contain any element that had been part of the previous frames. This is mostly due to the easing of the censorship which followed the new constitution and the creation of a more inclusive government in 2005.

There is a detectable frame shift in *Ray-El-Shaab* which took place after 2007. In 2006, the newspaper had interpreted the conflict as based on underdevelopment, but at the same time blamed the central government for instigating “racist Arab militias” of trying to extinguish African groups and bolster the supremacy of a minority Arab group from the Nile over the rest of the country. However, this “ethnic cleansing frame” never re-emerged in *Ray-El-Shaab* after the first ICC arrest warrant concerning Sudan.

Ajrass-elhurriya is the only investigated newspaper which produced a frame directly invoking the ICC (although the court itself is not mentioned in the article) and the accusations against one of the suspects for whom an arrest warrant was issued. This frame emerged long after the arrest warrant against Harun had been issued, and shortly after the first arrest warrant against Al Bashir for war crimes and crimes against humanity, but before the ICC issued the genocide arrest warrant against Al Bashir. It relies on several elements of other frames which had also been used earlier and by other newspapers, too. One of them was the “underdevelopment

frame” and the “war frame” about foreign involvement from Chad. But as such, it was a new frame which blamed the central government for carrying out a genocidal campaign for abolishing the non-Arab tribes in Darfur and trying to make Sudan a purely Arab state.

It can therefore not be excluded that some of these frame shifts are the result of either the UNSC referral or the ICC arrest warrants of 2007, 2009, and 2010. One would be able to assume such a link, if the frames, which emerged after these decisions, were inspired by the content of the UNSC referral and the ICC arrest warrants. The question is, therefore, whether these decisions contain similar frames and interpretations about the conflict like the ones published by the newspapers afterwards. This can be easily refuted for the UNSC referral because the text of the decision does not frame the conflict at all, it only claims that “the situation in Sudan continues to constitute a threat to international peace and security.”⁹²

The ICC arrest warrants are more outspoken on this issue. The “decision on the Prosecution Application under art. 58 (7) of the statute,” pre-trial chamber 1, discussing whether the conflict constituted an internal armed conflict or a riot (which would not fall under the ICC’s jurisdiction) described the conflict in Darfur in the following way:

In the present case, the main actors of the conflict were allegedly the Government of the Sudan confronted by an insurgency mounted by armed rebel movements, including the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM), which sought political change through military means by launching attacks in Darfur, Sudan. This resulted in a government military campaign against these armed groups. On the side of the Government of the Sudan, the combatants include the Sudan People’s Armed Forces (‘the Sudanese Armed Forces’) and the Popular Defence Forces (‘the PDF’). The Government of the Sudan also relied on militia primarily drawn from Arab tribes, namely the Militia/Janjaweed.⁹³

These groups had attacked four towns while they “were devoid of any rebel activities and while the civilian population was not taking any active part in the hostilities.”⁹⁴ The judges found the conflict to be an armed one

92 UNSC res. 1593 (2005).

93 Pre-Trial Chamber 1: Decision on the Prosecution Application under art. 58 (7) of the statute, ICC-02/05-01/07 from 27.4.2007, available at: <http://www.icc-cpi.int/iccdocs/doc/doc279807.PDF>

94 Ibid.

“not of an international character.” How did they frame it? “In light of the Prosecution Application and its supporting material, the chamber found that [t]he conflict arose when the Government of the Sudan, in an attempt to curb the rebellion, reacted by using the Sudanese Armed Forces against the above-mentioned armed rebel movements, including the SLM/A and the JEM.” According to the pre-trial chamber, the attacks on the civilian population were part of a governmental strategy and undertaken “in a bid to fight the rebels”; they “followed a ‘unified strategy’.” The judges continued: “At the national level, there was a ‘Darfur Security Desk’, also known as the ‘Darfur Security file’. At the state level, State Security Committees were used to organize the actions of the Sudanese Armed Forces, the police, the PDF, the police reservist force known as the Popular Police Force (‘the PPF’), the National Security and Intelligence Service and the Militia/Janjaweed.” This strategy included attempts to attack the civilian population as the backbone of the rebel movements. This interpretation transpired in the “warrant of arrest for Ahmad Harun,” but the judges stopped short from imputing the suspect genocidal actions or intent. The arrest warrant accused Harun of war crimes and crimes against humanity and framed the victims as “civilians” from three ethnic groups (the Zaghawa, Masalit, and Fur), but nowhere in the documents is the conflict described as one between Arabs and Muslims or as based on racism. There is also no “underdevelopment frame” included, and the issue of interference from Chad is left aside, as the conflict is regarded as an internal one only. The framing of the arrest warrant comes closest to the “tribal conflict”-frame but additionally blames the central government and its armed forces for using violence against civilians. The decision of the pre-trial chamber sees this violence as the result of the armed rebellions, it does not impute the suspects any of the intentions which are part of the newspaper frames: land grabbing, conducting ethnic cleansing in order to make Sudan Arab dominated or even purely Arab. As we see, due to the lack of any framing in the UNSC referral, the *Ray-El-Shaab* frame about Darfur being the theatre of ethnic cleansing by racist Arab groups against Africans cannot be explained by external influence from the UNSC. The arrest decision from 2007 also does not explain it since the article was published long before.

ICC influence on the framing of the conflict in Sudanese media is only visible in *Ajrass-elhurriya*. The 2010 article about Harun, which contains references to “international prosecutions” against Harun and accuses him of murder, torture, and rape, is clearly inspired by the previous ICC arrest warrants, and it contains at least some of the elements from the Harun arrest warrant and the first arrest warrant against Al Bashir (which invokes the same frame elements), although it ascribes a different motivation to the perpetrators (counter-insurgency rather than land grabbing and Arabization).

All in all, the impact of the ICC on media frames in Sudan was more than modest. This was due to several reasons. The most important one was censorship and the tendency of popular Arab-language newspapers to deal with the conflict in the West at all. Another important reason was the lack of frames in the UNSC referral, which makes it impossible to attribute frame changes (or changes of frame elements) to the UNSC. It is easier to carry out such an analysis with regard to the ICC arrest warrants, because they contain specific interpretations of the conflict. This, however, with the exception of *Ajrass-elhurriya*, did not lead to frame changes of Sudanese Arab-language media. The very different frames which English-language media like *The Citizen* and *The Khartoum Monitor* produced about Darfur were shaped by other actors than the ICC. This was first and foremost the “Save Darfur” campaign whose frames were taken over by these outlets. They remained very stable and did not change as a result of the ICC arrest warrants. In this case, too, the ICC did not impact on the way Sudanese journalists used to interpret the conflict. The English-language media with their predominant focus on South Sudan issues promoted an interpretation, which differed very strongly from the official government line as well as from the interpretation of Sudanese Arab-language media, but they did not change this interpretation as a result of ICC decisions. So even when media frames were more or less in line with the ICC’s interpretations of the conflict, this could not be attributed to ICC influence.

Conclusion: a transformative power of ICTs?

The ICTY and the ICTR were not just created in order to prosecute international crimes and punish their perpetrators. The UNSC and the UN

General Assembly also burdened them with non-judicial tasks, such as to contribute to the maintenance of peace and stability and to assist the reconciliation process in formerly divided countries. The ICC had no such tasks, but many authors see doing justice in countries which underwent massive human rights violations, wars, and political transitions as a means to contribute to lasting peace and reconciliation. From the perspective of legal scholars and practitioners, the punishment of perpetrators is likely to curb retaliation, prevent vengeance, and instill a sense of accountability of the powerful in societies, which may have become used to the widespread abuse of power. From the perspective of socio-psychological models of inter-group and inter-state reconciliation, ICTs can contribute to social transformation if they are regarded as impartial moral authorities which promote a unifying (rather than divisive) message about the conflict, which led to their creation.

None of the tribunals under scrutiny in this project was regarded as such an impartial moral actor. In the former Yugoslavia, the ICTY quickly became entangled in the conflicting narratives of the different nations, ethnic groups, and entities; in the bitter disputes about who has to be regarded as a collective victim or a collective perpetrator; and about the different claims to legitimacy in the nation-building process which have taken place there. In Rwanda, the ICTR has been less divisive, but mainly due to its own limitations: Crimes committed by the RPF against the civilian population were never on its trial agenda, and the whole jurisprudence only concerns crimes committed by leaders and supporters of the Habyarimana regime, the Kabanda interim government, and Bagosora's military junta. Since the ICC's interventions were usually triggered by the initiative of a government which referred crimes committed by its armed opposition to the ICC, it comes with no surprise that groups supporting the opposition usually oppose ICC investigations as interference from outside and the groups victimized by the suspects tend to support it. In cases where the ICC prosecution stepped in on its own account (in proprio motu investigations) or on behalf of the UNSC (in referral cases), it also comes with no surprise that the respective governments did its best to prevent the ICC from interfering, and, if that was to no avail, to sabotage the investigations and trials by claiming inadmissibility, refusing to

cooperate, tampering with evidence and witnesses, or even (as the case of Libya shows) by intimidating ICC staff.

Against this background, it was rather unlikely to find evidence about social transformation triggered by ICT decisions. The people on the ground did not change their perceptions, interpretations, and opinions about the respective conflict just because a tribunal issued a judgment which was contrary to these perceptions, interpretations, and opinions. In other words: Serbian media, which had described the conflict in Bosnia as a civil war, did not suddenly denounce it a Serb aggression just because the ICTY had issued a judgment against a Bosnian Serb perpetrator or a politician or military from Serbia proper. The Croatian Homeland War did not cease to be a successful, heroic campaign of liberation because an ICTY trial chamber sentenced General Gotovina for war crimes and crimes against humanity, nor did his eventual acquittal do so. In no single country, in no single case of a tribunal decision analyzed here, there could be observed a change of the grand narrative that had been established before the respective tribunal decision. In many cases, when this narrative was linked to a nation-building process (like it was in Kosovo, among Bosniaks in the Federation of BiH and to some extent also in Rwanda), it proved immune against any challenge from an external actor and tribunal decisions were incorporated into that narrative. In other cases, they were either rejected as examples of external aggression (when own heroes were indicted or sentenced) or as a confirmation of the former enemies' moral badness (when heroes of the former enemy were indicted or sentenced).

Nevertheless, already on the level of media frames, which usually are an emanation of these grand narratives transposed into smaller stories, there were shifts, sometimes tiny, sometimes quite impressive ones, for example, when a former pro-Milošević newspaper started to write about Serb crimes in Bosnia and the responsibility of Serbia and its former governments or when Croatian newspapers suddenly mentioned Serb victims of the Homeland War, but also to demand (low ranking) perpetrators to be punished for crimes, which the same newspapers had denied before all along. However, this should not be interpreted as a shining victory of the ICTY over the forces of denial and nationalism for several reasons. First, because it was rather the exception than the rule. Second, because the frame shift from a civil war in Bosnia to a campaign of Serb atrocities

was not due to a ICTY decision alone but to the joint effort of a human rights NGO and the ICTY.⁹⁵ Third, because it took place as the result of a rather unusual action by the ICC prosecutor (which was criticized by the trial chamber) which went beyond the ICTY's mission to do justice and appealed directly to the emotions of the ICTY's wider audience in the former Yugoslavia.⁹⁶ And last but not least, the frame shift in some Croatian media from an untainted Homeland War to one which included crimes and victims committed against was indeed the result of the trial judgment in *Gotovina et al.*, but the latter was later overruled on appeal with all defendants declared innocent and set free. Nevertheless, the frame shift did not entirely backlash, so that the trial judges might have left an imprint on the public in Croatia, which was stronger than the one caused by the unprecedented acquittal in *Gotovina et al.* Sometimes, it is difficult

95 The Belgrade-based Human Rights NGO, the "Humanitarian Law Center" had obtained the "Scorpions" video and given it to the Serb special prosecutor for war crimes, urging him to investigate. Nothing happened. Then the ICTZ prosecutor showed the video during the cross examination of a witness called by the defense in *Milošević*. The trial was broadcast in Serbia and after the video had been shown on TV, the police started to arrest members of the "Scorpions"-unit and the Serb media started to report about the video, the crimes behind it and the arrests. This is described in detail by Petrović, V. (2014): "A Crack in the Wall of Denial: The Scorpions Video in and out of the Courtroom." In Zarkov, D., & Glasius, M. (eds): *Narratives of Justice In and Out of the Courtroom*. Cham: Springer International Publishing, 89–109.

96 The video was only used as a kind of background material during the cross examination, it was not tendered as evidence. This was neither very important for the public nor for the media, but it is important in the context of the research presented here, because it means, that the subsequent frame shifts were not the result of an ICTY decision. The ICTY never ruled on the admissibility of the video, because the prosecution did not apply for such a decision and ultimately, the ICTY also never issued any Judgment in the case, because the accused died before the end of the trial. The only ICTY-related decision, which can be linked to the frame shifts, is the decision of the prosecution to show the video. Just alike the rule 61 hearings concerning Srebrenica, which strongly influenced media coverage about the war in the former Yugoslavia, the "Scorpions" case shows that ICTs' decisions have more impact on the wider public when they go beyond their purely legal mission and appeal to the emotions of the public rather than the rationality of their limited professional audience.

to disentangle the impact of one ICT decision from the general activity of the same ICT or from its interplay with other actors.

Frame shifts were quite frequent, but seldom did they take place as a traceable result of ICT decisions. Frames about the Darfur crisis shifted in Arab-language media in Sudan, but as a result of internal liberalization, constitutional reform, and changes in censorship policy, not as a result of ICC decisions or, what is also important in the Sudanese case, UNSC resolutions. Only a relatively small shift in a frame used by *Ajrass-elburrya* could be attributed to the influence of an ICC arrest warrant.

Where frame shifts and shifts of small frame elements took place, the influence of ICT decisions was usually counterweighed by other important – and mostly external – actors, such as international and domestic NGOs. This was the case with Darfur, where it played out strongly in the Sudanese and South-Sudanese English-language media, in media of the Serb entity in Bosnia in the *Lukić & Lukić* case, and in the case of the Skorpion video in Serbia. In some cases, frame shifts occurred as a result of changes in the media ownership (and a re-positioning of the newspaper in the public sphere of the respective country) or as a result of a change of government.

As the case of Sudan shows, it would be premature to conclude that frames can only shift in relatively democratic countries with relative pluralist media, competitive party politics, and without censorship. It is true that the biggest frame shifts all took place in such countries (Serbia, Croatia, Bosnia) but it is not the whole truth. Frame shifts in Kenya happened when the start of the ICC trial forced the media to abandon their strategy to avoid any ethnic labelling, but they were undetectable before and after – at least in the media, whose audience was Kenya only. During that time, Kenya was a democracy with a highly competitive party system and had elections shaped by extreme competition; there was no censorship but nevertheless, the media did not compete by emphasizing ethnicity and did not use any ethnicized frames about the conflict. One might call it self-censorship or social pressure. The conclusion would be that this factor played as strong a role as censorship in preventing frame shifts. Frames did not or hardly ever change in countries in which a strong social pressure prevented any deviation from the grand narrative (or, as in Kenya, the overwhelming consensus that there should not be any such

narrative because of its divisive potential). This was mostly the case when the ICT was regarded as an element of nation building – either as a stumbling block for nation building or a positive element. “Nation building” as a constraint on ICT-induced frame shifts played a role in Croatia (where the Homeland War has become a nation-building grand narrative), in Kosovo (where the narrative about independence is based on the, from the perception of Kosovars, righteous fight against Serb aggression), and in Rwanda (where the building of a nation of Rwandans, rather than Tutsi, Hutu, and Twa, is taking place on the basis of a grand narrative which presents the genocide of 1994 as a kind of natural catastrophe caused by almost anonymous “genocidaires”). In Rwanda, there was yet another reason for the total absence of frame changes – a government policy which does not only ban certain interpretations (and therefore frames) about the past from the public sphere, but which orders journalists to use frames pre-fabricated by the government rather than their own to cover the annual mourning period in Rwanda. Outside this period, it is difficult to find articles containing frames about 1994, which is also due to the depoliticization of the genocide which has taken place and which has led to the almost total ritualization of the genocide commemoration and its erasure from every day conversations and political discourse. There, a mixture of censorship and social pressure prevented any detectable frame shift in the coverage of the genocide and the genocide commemorations. Even when the ICTR issued the Bagosora judgment, which went contrary to the pre-established government-sponsored truth about the genocide, the media managed to refute the judgment without presenting any other coherent alternative narrative about the genocide other than a conspiracy of which Bagosora was said to be the mastermind. This does not mean that there is no such narrative. On the contrary, it is well described in official publications and has been successfully spread out into the world so that it forms part and parcel of almost any academic and popular science account about Rwanda. But the story which is told there is not at all replicated in articles, op-eds, comments, and reprinted speeches in Rwandan media (at least not in the ones analyzed here) when the commemorations or ICTR judgments are covered.

The results from this research demonstrate the ability of ICTs to contribute to social change on the ground by altering media content through

indictments and judgments if conditions on the ground are favorable, that is, if not only the media system and the political system, but also the public sphere and society adhere to pluralism and tolerance, if social pressure to stick to commonly acknowledged truth is low, and if there is no censorship. If these conditions are met, ICTs made a difference, altering pre-existing media frames and bringing new facts, details, and interpretations into the public sphere which slowly and partly changed public perceptions and interpretations of past atrocities. A conclusion one might draw from these results is not only that ICTs achieve certain non-judicial outcomes which their prosecutors and judges might not even have expected or intended. But there is also another conclusion which concerns the way research on ICTs was conducted so far. A lot of emphasis has been put on outreach, the ICTs' mission with regard to the wider public, and the legitimacy of ICTs in the eyes of its post-conflict audiences. Nothing is probably better monitored (even by the ICTs themselves) than how the media, the public, and the results of opinion polls respond to ICT judgments. And of course, all this research has revealed that ICT decisions are usually endorsed when they are favorable for a group's own heroes and negative for the heroes of the former enemy group, and that they are rejected when judges sentence a group's own heroes and acquit members of the former enemy group. But what happens to the long-lasting impact of the ICTs' findings? How does the content-related part of the judgment (rather than just the sentence) alter public perceptions of what happened in the past? How does it affect the way the conflict is narrated outside the courtroom and how is the story, which the contemporaries pass on to their children and friends, altered by such judgments? We could only give a partly answer due to the limited number of case studies and sometimes also the lack of sources (like radio transcripts in Rwanda) or lack of access to existing sources (like TV coverage in Sudan and some parts of the former Yugoslavia). It was enough to show that there – in the long-term consequences of doing international criminal justice – might be a key research field which is still waiting to be explored...

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