

MOVING IMAGES: A REFLECTION ON THE USE OF FORCE BY UN PEACEKEEPERS IN HAITI

By Erin Pobjie

It Stays with You: Use of Force by UN Peacekeepers in Haiti (2017) directed by Cahal McLaughlin and Siobhán Wills, 49 minutes, English, French and Kreyol

INTRODUCTION

'Well, there's no one to speak to. Who would we talk to about it? ... A massacre takes place in an area and no one comes to find out how many victims there were, how many people were lost, how many cases there are.'

Documentary film provides a unique space for observation and reflection, positioning the viewer between two worlds of direct presence on the ground and the (often) spatially distant scholarly writings in academic books and journals. It constructs a third space between direct experience and abstract thought, in which the viewer is invited to participate in a mediated yet direct way. Documentary film also presents an opportunity to reach a wider audience than academic publications, and in some forms can itself participate in the process of 'justice', broadly conceived, by giving a voice to marginalised individuals, documenting and disseminating a historical record of events and inviting an emotional as well as critically reflective engagement from the viewer. The documentary *It Stays with You: Use of Force by UN Peacekeepers in Haiti* (2017) produced and directed by Cahal McLaughlin¹ and Siobhán Wills² applies these possibilities to an exploration of the use of force by UN peacekeepers in Haiti and engages broader themes of the limitations and challenges of transitional justice (TJ), especially with respect to structural inequality and marginalisation.

OVERVIEW OF DOCUMENTARY

It Stays with You deals with the use of force by the UN Stabilization Mission in Haiti (MINUSTAH) in 2005 in the Bois Neuf neighbourhood of Cité Soleil, an area of slum housing in Port-au-Prince. MINUSTAH was mandated by the UN Security Council to provide a secure and stable environment in the face of civil unrest following President Aristide's forced departure in 2004.³ A major problem MINUSTAH faced was violence by gangs operating from Cité Soleil and other poor neighbourhoods of the capital, which it responded to in a series of heavily militarised raids. According to *It Stays with You*:

There were 15 major raids in Cité Soleil between 2005 and 2007. One of the largest was Operation Iron Fist on 6 July 2005 in which MINUSTAH stated it used: 22,700 firearm cartridges, 78 grenades, 5 mortar shells. US Ambassador to Haiti, James Foley, stated 'it is

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² Professor of Law, Ulster University. For further research undertaken by Wills on peacekeeping, see Wills, S. and Murphy, R. 'United Nations Peacekeeping Operations' in André Nollkaemper and Ilias Plakokefalos (eds.) *The Practice of Shared Responsibility in International Law* (Cambridge University Press: 2017), 585-613; Wills, S. 'Continuing Impunity of Peacekeepers: The Need for a Convention', *Journal of International Humanitarian Legal Studies* (2013, vol. 4(1)), 1-32; Wills, S. *Protecting Civilians: The Obligations of Peacekeepers* (Oxford University Press: 2009).

³ For information on the UN Stabilization Mission to Haiti (MINUSTAH), see www.un.org/en/peacekeeping/missions/minustah/mandate.shtml (accessed 14 August 2017).

The Crime of Aggression: A Commentary

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likely that rounds penetrated many buildings, striking unintended targets'. Deputy US Ambassador to Haiti, Douglas Griffiths, reported that allegations that MINUSTAH had killed twenty women and children were 'credible'.⁴

Despite the magnitude of the force used and the damage caused by MINUSTAH's operations in Cité Soleil, there was little international media coverage of the incidents, and the UN has not released the outcome of any investigation into the incidents. The survivors featured in *It Stays with You* state that the production of the documentary was the first time that they had been consulted and listened to regarding the attacks.

The format of the documentary, which features extensive indirect interviews with survivors (in which the interviewee speaks directly to the viewer) challenges and confronts this marginalisation. The documentary starts with direct testimony of survivors of the raids, filmed in their corrugated iron shanty homes. Apart from the opening titles and *mise-en-scène* featuring street scenes in Port-au-Prince, little additional context is provided. Survivors describe indiscriminate, heavily militarised attacks by MINUSTAH which caused deaths, injuries and extensive property damage. The film continues on to corroboration from other sources and more information about the attacks, then adds a broader context of the international law framework of rights and responsibilities with respect to the process that should have been followed and the broader TJ themes engaged. This part features interviews with international law experts as well as with members of international and Haitian civil society. The film then turns to the aftermath of the attacks, and closes with the theme of lack of accountability.

The sparing and direct style of the documentary (which contains no voice-over narrative) lends itself well to the themes that it addresses of marginalisation and exclusion, and invites a critical reflection by the viewer on the themes raised. Apart from limited intertitles providing basic context about the events described, the documentary is very sparing with the factual background to the events that it portrays, assuming a certain level of knowledge of recent events in Haiti. The spare nature of the exposition is probably a good thing, since the explanation of the situation in Haiti and its root causes is highly politically contested and controversial, with complex and often conflicting accounts given of the underlying causes. Leaving aside these contested issues allows the viewer to focus on the key themes presented in the documentary. For the documentary to be accessible to a wider audience it would benefit from providing more background explanation about the antecedents of the incidents covered in the film, but this would result in losing an element which gives the documentary its powerful impact – the impression of immediacy and direct and unfiltered conveyance of the incidents described.

THEMES RAISED BY DOCUMENTARY

It Stays with You provides an opportunity for reflection and critical analysis with respect to four key themes that will be addressed here: the conception of peacekeeping and its application in Haiti; process; accountability and marginalisation.

Conception of Peacekeeping and its Application in Haiti

A central reflection provoked by *It Stays with You* that touches on the core of the other critical issues it raises is the conception of peacekeeping and its application in Haiti. The documentary suggests or reveals how a particular conception of TJ – one that is primarily focussed on security – reinforces established structural inequalities and entrenches local individuals and groups in a particular power relationship with international actors (in this case, MINUSTAH). While it is acknowledged that the UN got some important things right in Haiti by applying lessons from other peacekeeping operations,⁵ the

⁴ *It Stays with You: Use of Force by UN Peacekeepers in Haiti* (2017).

⁵ See, e.g., Mani, R, 'De'ja' Vu or Something New? Lessons for Future Peacebuilding from Haiti' (January 2006) *Sicherheit und Frieden, Security and Peace* 1, 11-15, who includes in this category a timely response and generous allocation of ground forces; clear and strong mandate; strong leadership; mandate for local ownership (working

top-down, militarised approach employed by MINUSTAH played a key role in the failures demonstrated by this particular incident, which raise deeper questions about the aims and practice of TJ and peacekeeping in a transitional setting such as Haiti.

The focus of the MINUSTAH mission on rule of law as a means for building a stable peace was demonstrated by the emphasis in its mandate on ensuring ‘a secure and stable environment within which the constitutional and political process in Haiti [could] take place’.⁶ Rule of law and policing activities have been an explicit part of all UN peace operation mandates since 2001.⁷ The main reason for this expansion is ‘the growing recognition from the mid-1990s onwards that establishing the rule of law is a crucial element in the transition from war to stable peace.’⁸ This was recognised by Boutros-Ghali’s *An Agenda for Peace* (1992), and in the Brahimi Report which recommended ‘a doctrinal shift in the use of civilian police, other rule of law elements and human rights experts in complex peace operations to reflect an increased focus on strengthening rule of law institutions and improving respect for human rights in post-conflict environments’.⁹

The approach of MINUSTAH to implementing its security mandate to support democratic processes in Haiti was heavily militarised and as the security situation deteriorated in the face of gang violence and violent crime, its efforts and resources were increasingly devoted to this part of its mandate. MINUSTAH’s original mandate provided for 6,700 troops and 1,622 civilian police. It has been questioned ‘whether the composition and structure of the mission constituted an appropriate response to the context and needs of Haiti in 2004’ given that there was no armed conflict and it was not a ‘typical post-conflict situation’.¹⁰ Mani argues that ‘[s]oldiers who have been trained for warfare are ill-equipped to deal with such situations. ... When the military takes on policing operations, the distinction between defence and security becomes blurred, which leads to move coercive and military responses’.¹¹

The UN Security Council resolution establishing MINUSTAH ‘[e]mphasize[d] the need for Member States, United Nations organs, bodies and agencies and other international organizations ... to continue to contribute to the promotion of the social and economic development of Haiti, in particular for the long-term, in order to achieve and sustain stability and combat poverty’.¹² But by not adequately addressing poverty and economic development concurrently with ensuring a secure and stable environment and supporting the political process, the transitional mechanisms in Haiti in some ways reinforced and exacerbated the effects of poverty and inequality. For instance, the opportunity cost of the peacekeeping mission has been perceived among Haitians as a ‘trade-off between poverty reduction and international intervention for peace building or justice’.¹³ It is also clear from the interviews in *It Stays with You* that the poverty of the victims played a significant role in the harm that they suffered from the MINUSTAH attacks. This was due to a lack of protection within their iron shack, lack of access to affordable medical care after the attacks, and the trauma exacerbated by a lack of resources, such as one survivor’s account of taking the body of her dead child to the sea because the family could not afford a proper burial. Another survivor states: ‘From 3 a.m. until 2 p.m., we were cowering under the bullets ... We fell victim because we lived in a corrugated iron shack’.¹⁴

alongside Haitian institutions); recognition by MINUSTAH senior management of ‘the need to balance security with reconciliation’ and a commitment to staying in Haiti in the long-term.

⁶ UN Security Council, *Security Council Resolution 1542 (2004) [on establishment of the UN Stabilization Mission in Haiti (MINUSTAH)]*, 30 April 2004, S/RES/1542, para 7(I)(a).

⁷ Bellamy, A, and Williams, P. *Understanding Peacekeeping* (Cambridge: Polity, 2010), 380, citing O’Neill, W. G. ‘UN Peacekeeping Operations and Rule of Law Programs’, in A. Hurwitz (ed.), *Civil War and the Rule of Law* (Lynne Rienner: Boulder, CO, 2008), 95.

⁸ *Ibid.*

⁹ *Report of the Panel on United Nations Peace Operations*, 21 August 2000, A/55/305 S/2000/809, para. 47(b).

¹⁰ Mani (n 5), 12.

¹¹ *Ibid.*, 12.

¹² UNSC Res 1542 (n 6), para. 13.

¹³ Mani, R, ‘Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development’ (2008) 2 *International Journal of Transitional Justice* 253.

¹⁴ *It Stays with You: Use of Force by UN Peacekeepers in Haiti* (2017).

At the same time, those who are most vulnerable to the gang violence and insecurity that MINUSTAH were attempting to address are the poor themselves, who live in neighbourhoods in which the gangs are operating and who often do not enjoy adequate protection by the police (who in some cases are themselves human rights violators). Yet the issue of rising gang violence that MINUSTAH was mandated to address cannot be separated from the context of political violence and the conditions that lead to the political crisis.¹⁵ By attempting to enforce security through heavily militarised means, the UN peacekeeping mission in Haiti could be criticised for not taking adequate measures to address the root causes of the violence and insecurity. On the other hand, such a critique is itself open to the counter-argument that establishing the rule of law and conditions of security is fundamental to addressing the economic problems facing Haiti due to the relationship of the political crisis with the economy and with the deteriorating conditions of security in the capital. Commentators have argued that the political crisis in Haiti exacerbated the ‘already dismal economy’ and that the dismantling of the Haitian army by Aristide in 1995 ‘weakened state authority and filled the slums with disgruntled and well-armed former soldiers’.¹⁶ The link between security and development and between the rule of law and human rights is also well-interrogated.¹⁷

The prioritisation of civil and political rights through a focus on establishing the rule of law by ensuring security in Haiti raises deeper questions about the aims and practice of TJ and peacekeeping in such transitional settings, including its underlying assumptions and limitations. The conceptualisation of TJ and the particular form of justice that it seeks has been shaped by early events in its development, since the field arose in the late 1980s and early 1990s as a response to the political repression in Latin America and subsequent transition to democracy.¹⁸ These authoritarian regimes were characterised by particular types of human rights violations, such as extrajudicial executions, enforced disappearances and torture.¹⁹ Consequently, the perceived legitimate responses focused on accountability of individual perpetrators of international crimes and the consolidation of the rule of law and democracy.²⁰ Various definitions of transitional justice highlight this ‘distinctive conception of justice’ and its unique temporal context of ‘transitioning societies’.²¹ The perception of the transitions during this early period formed part of a discourse of progress toward democracy, which failed to consider underlying structural inequality.²² This paradigm conceptualised transitional justice as a process of negotiation between political elites rather than a broader socio-economic transformation.²³ This narrow understanding of ‘transition’ ignores that the limbo between conflict or repression and genuine democracy is not exceptional but widespread.²⁴ However, Ruti Teitel argues that despite the rise of ‘steady-state transitional justice’, transitional periods share common elements and unique challenges that should shape the type of justice being sought.²⁵ Ultimately the scope of TJ depends on the type of justice being pursued.

This raises the questions of whether transitional justice should address issues of structural inequality. As Teitel states, ‘transitions are rare periods of rupture which offer a choice among contested

¹⁵Mani (n 13), 259.

¹⁶ Malone, D, and von Einsiedel, S, ‘Haiti’ in Berdal, M, and Economides, S (eds.) *United Nations Interventionism 1991-2004* (Cambridge University Press, 2007), 168-191, 178 and 185.

¹⁷ See, e.g., de Greiff, P, and Duthie, R, *Transitional Justice and Development: Making Connections* (New York: SSRIC, 2009).

¹⁸ Arthur, P., ‘How “Transitions” Reshaped Human Rights: A Conceptual History of Transitional Justice’ (2009) 31(3) *Human Rights Quarterly* 321, 325-6.

¹⁹ Mendez, J, ‘Accountability for Past Abuses’ (1997) 19(2) *Human Rights Quarterly* 255, 280.

²⁰ Arthur (n 2) 355.

²¹ See, e.g., Teitel, R, ‘Transitional Justice Genealogy’ (2003) 16 *Harvard Human Rights Journal* 69, 69.

²² Ames, R, and Reátegui, F, ‘Toward Systemic Social Transformation: Truth Commissions and Development’, in de Greiff and Duthie (n 17) at 155.

²³ See, e.g., O’Donnell, G, and Schmitter, P, ‘Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies’ (1986) discussed in Arthur (n 18) at 346-7.

²⁴ Carothers, T, ‘The End of the Transition Paradigm’ (2002) 13 *Journal of Democracy* 5, 17-18.

²⁵ Teitel (n 21) 93.

narratives'.²⁶ They accordingly present a transformational opportunity to bring about structural and fundamental change, by transforming the systems and ideology that allowed the conflict or repression to take place,²⁷ 'reducing the justification for further violence',²⁸ empowering the marginalised and opening political space.²⁹ Issues such as extreme poverty, discrimination, inequality in distribution of and access to resources and endemic corruption fuel conflict and repression, lead to further violations of human rights and continue to affect victims after the end of the conflict or repression.³⁰ A focus on civil and political rights violations and the rule of law overlooks the connection with related violations of economic, social and cultural rights and obscures underlying structural violence and inequality.³¹ This affects victims' perception of justice and fails to address their often-precarious economic situation.³² Understanding and addressing these issues is required to effectively tailor transitional justice measures to the needs of the local population. It would also broaden the scope of individuals who benefit from its measures, and seize the transformational opportunity in transitioning societies to 'ensure respect for human rights and human dignity'.³³ Facilitating social transformation by addressing root causes and violations of all human rights is not just an imperative of abstract notions of justice, but is required to affirm the status of victims as rights bearers and empower the marginalised to participate in the (re)construction of society through active citizenship.³⁴

However, the challenges and limitations of transitional justice measures dealing with structural inequality and addressing a wider range of rights include doctrinal, practical, political and resource issues. Violations of economic, social and cultural rights are 'more culturally entrenched and more widespread, and therefore much harder to redress'.³⁵ The politically and economically powerful elites in transitioning societies may feel threatened by such measures since it requires structural reform of a system that they benefit from.³⁶ The economic and institutional situation in transitioning societies is often dire, resulting in a high opportunity cost of addressing economic, social and cultural rights.³⁷ Seeking to address violations of these rights in addition to violations of civil and political rights may overburden transitional justice measures and result in a dilution of purpose, with attendant implications for garnering political, popular and donor support. In these circumstances, some commentators have argued that instead of expanding the scope of transitional justice, practitioners should assess and consolidate its performance with respect to civil and political rights.³⁸

Despite these challenges, transitional justice measures arguably can and should address violations of economic, social and cultural rights and issues of structural inequality. For instance, standards should be developed to promote the careful sequencing and prioritisation of different rights rather than assuming that civil and political rights are always more important.³⁹ The issue of prioritisation has also been raised by Rama Mani, who notes that although:

²⁶ Ibid 86-7.

²⁷ Ames and Reátegui (n 22) at 145.

²⁸ Mallinder, L, 'Can Amnesties and International Justice be Reconciled?' (2001) 1 *International Journal of Transitional Justice* 208, 209.

²⁹ de Greiff, P, 'Articulating the Links Between Transitional Justice and Development: Justice and Social Integration', in de Greiff and Duthie (n 17) at 63.

³⁰ UN Secretary-General, *Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice* (2010), principle 9; Duthie, R, 'Introduction' in de Greiff and Duthie (n 17) at 19.

³¹ Arbour, L, 'Economic and Social Justice for Societies in Transition' (2007) 40 *International Journal of Law and Politics* 1, 4.

³² See Herz, J, 'An Historical Perspective', in A.H. Henkin (ed.), *State Crimes: Punishment or Pardon* (Aspen Institute: Queenstown, Md, 1989), at 22.

³³ Arbour (n 31) 23 and 26.

³⁴ de Greiff (n 29) at 58 and 62.

³⁵ Ibid at 41.

³⁶ Ibid.

³⁷ Duthie (n 30) at 19.

³⁸ McGregor, L, 'Transitional Justice and the Prevention of Torture' (2013) 7(1) *International Journal of Transitional Justice* 29.

³⁹ Arbour (n 31) 13.

[t]he senior leadership of MINUSTAH came in with a clear idea that both security on the one hand and reconciliation and longer-term consolidation of peace on the other would be pursued in tandem ... events got the better of them as violence and in security spiralled out of control; security dominated the agenda, ruling out any meaningful investment in reconciliation. ... The lesson is that volatility and uncertainty are constant albeit unpredictable in post-conflict situations. Therefore, an attitude of waiting till improved security will permit investment in longer-term reconciliation and consolidation is ill placed. However difficult, the two must be pursued together because they reinforce each other.⁴⁰

The conceptualisation of peacekeeping in Haiti and its prioritisation of security and the rule of law influenced the other critical issues addressed in *It Stays with You*, namely, the implementation of measures in a way that undermines other key goals of transitional justice including human rights; a lack of accountability to the local population, which raises the question of who is being served by such measures; and the key theme that runs through the documentary of marginalisation and voicelessness.

Process

The militarisation of law enforcement has led to a perception by some local communities and NGOs as the imposition of peace by MINUSTAH. The process of implementation of the security part of MINUSTAH's mandate appeared to suffer from a lack of adequate training, a militarisation of the peacekeeping operation and a failure to take required steps to minimise civilian casualties. As Philip Alston (UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions 2004-2010) notes in the documentary, the standards that apply to peacekeepers in a law enforcement context are international human rights law, even if the enforcement methods are militarised: 'That means force should only be used to defend against a threat to life, it means that all precautions should be taken to ensure that minimum casualties take place, and that human rights should inform all of the activities of the enforcement force'.⁴¹ Christof Heyns (United Nations Human Rights Committee) notes that 'anyone who plays the role of a police enforcement official is bound by the rules of necessity, proportionality and also the requirements on the use of force'.⁴² While Alston and Heyns do not directly comment on the legality of the MINUSTAH operation in the documentary, the implication is that if these requirements were not met then the use of force was excessive.

The choice of MINUSTAH to deploy Brazilian soldiers in armoured personnel carriers (referred to by survivors in the documentary as 'tanks') in a situation that was not an armed conflict was criticised by some commentators in the documentary. Camille Chalmers (Haitian Platform to Advocate Alternative Development) stated '[n]ot only were they shooting, also from helicopters, but they used tanks, that came in at four in the morning. We are talking about an area where the houses are quite fragile, often poorly-built, so houses were most likely destroyed.'⁴³ Chalmers argued that 'MINUSTAH is geared to repressing and controlling the population of the shanty towns. ... In fact, many of the MINUSTAH soldiers, many of the Brazilian soldiers said that, when they left Haiti, they were sent to Rio or São Paulo. They had been training in how to repress shanty towns and favelas, like those in Rio or São Paulo. Thus, it is clear that this is part of a general model, this MINUSTAH model.'⁴⁴ The militarisation of MINUSTAH's law enforcement operations in Cité Soleil was characterised by Ricardo Seitenfus (Special Representative of the Organization of American States in Haiti 2008-2011) as 'offensive actions' that were not just 'promoting peace [but] about imposing peace.'⁴⁵

Accountability

⁴⁰ Mani (n 5), 16, footnote omitted.

⁴¹ *It Stays with You: Use of Force by UN Peacekeepers in Haiti* (2017).

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

A related theme that is addressed in *It Stays with You* is the failure of accountability mechanisms in the aftermath of the Cité Soleil attacks. Beatrice Lindstrom, Staff Attorney at the Institute for Justice and Democracy, notes in the documentary that ‘MINUSTAH’s operations in Haiti are governed by a Status of Forces Agreement Under that SOFA MINUSTAH has an obligation to provide compensation and support when it’s peacekeepers are responsible for personal injury, illness or death that’s attributable to MINUSTAH.’⁴⁶ However, in practice this system is ‘incredibly opaque, and it is very difficult for victims to actually even know that this system exists, there is no public information really available about how one might file a claim with MINSUTAH and what happens to that claim when it’s filed.’⁴⁷ The experts interviewed in *It Stays with You* point out that the international human rights law obligations to investigate the potential arbitrary deprivations of the right to life, ensure accountability and provide compensation to victims were not met in this case. As Heyns notes in the film, ‘the failure to have accountability itself is a violation of the right to life’ and that the duty to investigate does not expire.⁴⁸ In contrast to this required response, Camille Chalmers (Haitian Platform to Advocate Alternative Development) noted that:

[a]fter [MINUSTAH] intervened in Cite Soleil in December 2006, they issued a communiqué saying it had been a ‘successful operation’ because MINUSTAH had suffered no casualties. But they never carried out any assessment of many people died in Cite Soleil, of how many were injured in Cite Soleil, of the material damage caused by the use of tanks. These are things that we must demand. An operation on that scale, involving hundreds of soldiers and tens of armoured vehicles, there has to be an assessment not just of the force, but of the effect on the population.⁴⁹

The lack of a clear evaluation of MINUSTAH’s operations in Cité Soleil in terms of its process or its consequences for the local population reflects a top-down approach to imposing peace. The depiction of the operations in testimony in the documentary raise questions about whether MINUSTAH even gave consideration to minimising casualties or to the impacts of its operations on the community that they were supposed to serve. This in turn raises questions about who these measures were supposed to benefit. Furthermore, a lack of investigation and accountability represents a lost opportunity to identify ‘lessons learned’. Most of all, the lack of accountability is devastating for the survivors of the attacks, whose voices have not been heard and who continue to await redress for the harm they have suffered.

Marginalisation

Finally, a common thread running through all three issues above is the lack of voice of the individuals who are supposed to benefit from the TJ and peacekeeping measures and who bear a disproportionate amount of its costs both in terms of actual harm from their implementation, as well as the opportunity costs of such measures in the poorest country in the northern hemisphere. This marginalisation relates to the process (lack of local ownership or meaningful consultation) as well as the goals and results of TJ (who benefits, and who experiences the costs of such measures). This theme was noted by Ricardo Seitenfus in the film, who noted that ‘[b]ecause there is the hope raised by MINUSTAH’s arrival, there is the immense disappointment at the results. But also MINUSTAH spent almost 12 billion dollars on itself, for its operation. 12 billion dollars could create an economic revolution in Haiti. And this was spent to keep soldiers here, in a country where there is no war.’⁵⁰ The allocation of resources to the peacekeeping operation is brought into contrast with a statement by a resident of Bois Neuf standing amidst the rubble of destroyed homes, stating that ‘[w]e need help to rebuild these houses so people can

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

live in them, so that the Haitian people who are outside, who are sleeping in the streets, those who had to leave, can return to their homes that were destroyed.⁵¹

Scholars have also noted the perceived trade-off between security and development in Haiti. Mani notes that the expense of the UN operation has led to public perception that the money is being “squandered” on peacekeeping, and that ‘[w]hen asked, Haitians have a varied list of priorities for MINUSTAH attention and international funds: infrastructure, employment, institutions, and education’.⁵² Mani argues that lessons to draw from this relate to the need for transparency and communication. This should include consultation with the local population on their needs, since they should be the ultimate beneficiaries of (and ideally, active partners in) international efforts at reconstruction and transitional peacekeeping. Paying greater attention to these needs may also go some way towards resolving the tension that Mani notes between two models for improving governance in Haiti, namely, UN-led (as in Kosovo), or UN-supported, and ameliorate problems of the UN being seen as a colonising or occupationist force given Haiti’s history.

Ultimately the film returns to where it began, to the voices of the survivors of the attacks. One woman notes the lack of possibility of communication between MINUSTAH and the civilians they were supposed to protect due to the language barrier of the Brazilian MINUSTAH personnel and local residents. Several of the survivors say that they are happy because it’s the first time that anyone has come to speak to them about the incident and listened to them. Another woman says, ‘It’s as though you’re worthless. After everything that happened, there is no one to come and talk to you, you’re worth nothing.’⁵³ *It Stays with You* goes some way towards addressing this marginalisation, by placing individuals at the centre and giving them a voice and recognising their agency. A second version of the documentary (which premiered in Haiti) dubs the foreign interviews into Kreyol, so that the film can also form part of a conversation at the local level about these issues.

CONTRIBUTION TO THE WIDER TJ LITERATURE

What is interesting about the format of *It Stays with You* is that it subverts the dominant discourse (of peacekeeping as an international, inter-organisational phenomenon in which individuals are either beneficiaries or spoilers of the process) and begins directly with the voices of the survivors and only later adds the lens of international law and corroboration and commentary from other sources. It also touches on various themes including structural inequality, poverty and the rights of women. The format provokes a direct emotional response which is then filtered through an analytical framework. Since the documentary circles back to survivors and their feelings of marginalisation and voicelessness, the documentary invites the viewer to critically reflect on TJ process and mechanisms through a particular lens: local, and individual. The approach of *It Stays with You* also aligns with the critical theory approach to peace operations. Such an approach includes ‘the view that it is important to seek out and illuminate the perspectives, concerns and experiences of those whose voices are often unheard – marginalized groups, ordinary citizens, women and children’.⁵⁴ The documentary highlights this key point by beginning with marginalised voices and then layering the TJ framework on top of this as an additional layer of interpretation.

CONCLUSION

After 13 years and serious problems including MINUSTAH’s role in the deadly cholera outbreak following the devastating earthquake that hit Haiti in 2010 and persistent allegations of sexual abuse, the UN Security Council voted unanimously in April 2017 to withdraw peacekeepers from Haiti.⁵⁵

⁵¹ Ibid.

⁵² Mani (n 5), 15.

⁵³ *It Stays with You: Use of Force by UN Peacekeepers in Haiti* (2017).

⁵⁴ Bellamy and Williams (n 7) at 28-9.

⁵⁵ UN Security Council, *Security Council Resolution 2350 (2017) [the question concerning Haiti]*, 13 April 2017, S/RES/2350.

Despite the planned withdrawal, the UN must ensure that it addresses the consequences of MINUSTAH's actions in Haiti including a full investigation of the incidents in Cité Soleil and redress for the harm caused.⁵⁶ In addition to complying with its human rights obligations, the UN should also use the opportunity to reflect on 'lessons learned' from the Bois Neuf incident and in particular, the need for consultation and local ownership when designing, implementing and evaluating peacekeeping measures in a transitional context. *It Stays with You* provides a reminder of the importance of broadening the perspectives and inputs of TJ to include voices from the 'margins' to ensure that its framework and mechanisms serve individuals both as agents and beneficiaries of its processes.

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⁵⁶ In another example of the lack of accountability of UN peacekeeping operations in Haiti, the United Nations has claimed immunity from legal claims related to the cholera outbreak, asserting that such claims are 'not receivable' pursuant to section 29 of the Convention on the Privileges and Immunities of the United Nations adopted by the UN General Assembly on 13 February 1946: <https://www.un.org/press/en/2013/sgsm14828.doc.htm> (accessed 8 September 2017).