

Power, Knowledge and Ownership: the Archives of the International Criminal Tribunal for Rwanda

International trials are sites that produce an overwhelming volume of information. The International Criminal Tribunal for Rwanda (ICTR) alone has produced over 4 km of documents that are now held in its archive (this excludes the archives of the Office of the Prosecutor (OTP) and Chambers, which remain inaccessible to the public). Over the life span of the tribunal, the archives became an increasingly central feature of the ICTR's legacy; a record both of the tribunal as a legal institution, and also of the violence that occurred in Rwanda in 1994, with claims being made that this record could secure a more peaceful future for the world and reconciliation for Rwanda.¹ This paper interrogates these claims by considering: What is in the ICTR's archive? Why? And what does the archive tell us about the ICTR's strategic function(s)? Before exploring these issues, I will first set out my working conception of the archive.

Archives of Power/Knowledge:

Archives sit at the heart of most, if not all, disciplines.² These disciplines³ are not only those of the University, but all sites that seek to control, shape, produce and govern the subject: the school; the hospital; the court; the museum.⁴ These are sites that construct identities and norms – of the individual, collective and nation – as they produce, and are produced by, discursive systems of power (discourses).⁵ They have, since their “creation”, been wedded to power, and indeed only exist as sites where power coalesces and is dispersed. The word “archive” was first used in relation to the *archons* (the magistrates) of ancient Greece: the archon's house (the archive, or *arkeion*) was the place where records were kept – domiciled and separated from the rest of society. The magistrate was given the responsibility and authority to protect and interpret the records and therefore create the law; thus, creating a subject identifiable as the archon.⁶ The archive here – as always – was a site of commencement, as an ontology and history was created as real; and commandment, as the law was created and then declared so.⁷

The archive has continually extended its reach (as all apparatuses seek to do) over an ever-wider domain of objects and subjects. It was central during colonial expansion – rendering those that the colonisers “encountered” “knowable” and “governable” subjects and *objects*⁸ – and the rise of the modern nation state. Here it functioned as a site where vast amounts of data about a nation's subjects could be processed and produced, and where a shared identity could be established through the collection and consignment⁹ of objects that constructed a sense of the nation's past - its identity.¹⁰ Its reach increased further as technology

¹ See <http://www.unmict.org/en/about/archives-international-criminal-tribunals> (last accessed 25 May 2016)

² This, to an extent, depends on what you understand to mean by the term archive. Throughout I draw on both Derrida's conception of an archive as something physical and fixed to a location – sets of records housed in a particular space, for instance – and Foucault's conception that sees archives in a similar light to his conceptualisation of discourses – sprawling landscapes that limit which statements can be legitimately be made. Whilst these might seem to contradict each other, as is explored more in this essay, Derrida too undermines the finite sense of the archives, and similarly Foucault's notion of apparatus helps us to conceptualise how certain sites – like archives – act as places where these discourses coalesce. J. Derrida, ‘Archive Fever: A Freudian Impression’, *Diacritics*, Vol. 25, No. 2, (Summer, 1995), passim; Foucault, *Archaeology*, 127.

³ For a good introduction to the concept of disciplines, see M. Foucault, *Discipline and Punish*, (New York: 1977), 135-177.

⁴ T. Osborne, ‘The Ordinarity of the Archive’, *History of Human Sciences*, 12:2 (1999), 56-63

⁵ J. M. Schwartz and T. Cook, ‘Archives, Records, and Power: The Making of Modern Memory’, *Archival Science*, 2:1 (2002), 9-11

⁶ Derrida, ‘Archive Fever’, 9-10

⁷ I, Velody, ‘The Archive and the Human Sciences: Notes Towards a Theory of the Archive’, *History of the Human Sciences*, 11:4 (1998), 1-2

⁸ B. Anderson, *Imagined Communities*, (London: Second Edition 2006), 178-85; A. Stoler, ‘Colonial Archives and the Arts of Governance’, *Archival Science*, 2:1 (2002), 91-97. It was stated at the 1936 Congress of German Archivists that: ‘There is no practice of racial politics without the mobilisation of source documents informing us on the origin and development of race and people... There is no racial politics without archives, without archivists’, Velody, ‘The Archive’, 5.

⁹ “By consignment, we do not only mean, in the ordinary sense of the word, the act of assigning residence or of entrusting so as to put into reserve (to consign, to deposit), in a place and on a substrate, but here the act of *consigning* through *gathering of signs*... [which] aims to coordinate a single corpus, in a system or a synchrony in which all the elements articulate *the unity of an ideal configurations*” (emphasis added). Derrida, ‘Archive Fever’, 10.

¹⁰ B. Brothman, ‘Perfect Present, Perfect Gift: Finding a Place for Archival Consciousness in Social Theory’, *Archival Science*, 10 (2010), 160-162; E. Kaplan, ‘We Are What We Collect, We Collect What We Are: Archives and the Construction of Identity’, *The American Archivist*, 63 (2000), 126-151; R. Brown and B. Davis-Brown, ‘The Making of Memory: the Politics of the Archive, Libraries

– which influences what can be seen and therefore what can be archived¹¹ – has meant that the archive is now placed in the foreground of governance models.¹² Archives are now so central to the running of most organisations that documents are archived and categorised *as they are created*; there are simply too many potential records that are too important to retrospectively assess and store.¹³ Driving this process is both a fear that without archiving we will inevitably forget and render the future less sure (a process that also ensures that *we necessarily forget*¹⁴) and the knowledge that the archive will always end up consuming itself as it ends up remembering that which is no longer remembered – which is no longer of value. Derrida called this ‘archive fever’.¹⁵

Even now, though, whilst we can store huge amounts of data we do not store everything, as archives are necessarily and inevitably exclusive, and excluding. This is not least because archives, defined by their singularity and uniqueness, seek to demarcate a finite space with clear limits.¹⁶ But also because archives are sites that function as conduits – intersections perhaps¹⁷ – where the materiality of discourses become most visible; discourses which through their rules of formation limit, define, and make possible, *a priori*, which statements can be made, seen, and then thought of as worthy of storage;¹⁸ a process that is temporally contingent.¹⁹ This process is inherently political because of its role in (re)constructing identities, managing (and producing) populations and subjects in certain ways, and, following from this, because of what is excluded; what is either prevented from being said, or from being accepted as legitimate.

This archival process begins, then, long before anyone thinks about what or what not to save (or say), and continues long after something is archived.²⁰ For whilst these discourses shape what can be archived – and hence what must be excluded – they are potentially reproduced every time we extract anything from the archive. You only have to look at some of the historical narratives that are produced as a result of drawing on colonial archives – such as Australia’s – to see the continued effects of this (and the continued physical violence that it produces).²¹ This is more than an “academic” issue, however, as the repercussions of these discourses repetitions transcends the academy and reproduces the same – often violent – exclusions or orderings throughout society; the reality that we speak of, and allows us to speak, is created anew each time we utter anything comprehensible – *each time we record anything within an archive*.²² The problem is perhaps with

and Museums in the Construction of National Consciousness’, *History of Human Sciences*, 11: 4 (1998), 18-20; V. Harris, ‘The Archival Sliver: Power, Memory and Archives in South Africa’, *Archival Science*, 2:1 (2002), 63-86.

¹¹ Derrida, ‘Archive Fever’, 13-17; E. Ketelaar, ‘Tacit Narratives: The Meanings of Archives’, *Archival Science*, 2:1 (2002), 134; Brown, ‘Memory, identity and the Archival Paradigm’ 87-88; M. Hedstrom, ‘Archives, Memory, and Interfaces with the Past’, *Archival Science*, 2:2 (2002), 27-29

¹² Brothman, ‘Prefect Present’, 150-153

¹³ *Ibid*, 150

¹⁴ This is both because by choosing to remember something you necessarily exclude – which, as Agamben argues unites the two concepts of exclusion and inclusion together – and because the act of archiving and selecting to remember is part of the process through which we accept that we cannot any longer remember (a concept very similar to Nora’s *lieux de memoire*). B. Brothman, ‘The Limits of Limits: Derridean Deconstruction and the Archival Institution’, *Archivaria* 36:1 (1993), 209; ¹⁴ P. Nora, ‘Between Memory and History: les Lieux de Memoire’, *Representations*, 26 (1989), 7-24.

¹⁵ Derrida, ‘Archive Fever’, 12-13; D. Greetham, ‘“Who’s In, Who’s Out”: The Cultural Poetics of Archival Exclusion’, *Studies in the literary Imagination*, 32:1 (1999), 7-9

¹⁶ Osborne, ‘The Ordinarity of the Archive’, 58. This is held to be the case even if a cursory glance at an archive’s contents makes it apparent that the *excesses* of the archive strip away any sense of its walls. This is first as the position, *responsibility*, and identity of the author of a record – and indeed the possibility of *the* author – is undermined as it becomes clear that each record within and archive is an archive in itself – an unending process. Second because the records can never remain static. Despite being preserved so as to be recalled in the future “as they were” – despite never having a fixed existence – the future also shapes how they will appear. Derrida, ‘Archive Fever’, *passim*; Greetham, ‘“Who’s In, Who’s Out”’, 1-3 and 6-7.

¹⁷ Osborne, ‘The Ordinarity’, 52

¹⁸ Foucault, *Archaeology*, 127; G. Agamben, *Remnants of Auschwitz: The Witness and the Archive*, (New York: 1999), 137-144; T. Osborne, ‘The Ordinarity of the Archive’, *History of Human Sciences*, 12:2 (1999), 53; G. Deleuze, *Foucault*, (London: 1986), 3-8.

¹⁹ Greetham, ‘“Who’s In, Who’s Out”’, 4-5

²⁰ Ketelaar, ‘Tacit Narratives’, 133-134

²¹ See Tom Griffiths, ‘The Frontier Fallen’, *Eureka Street*, 13:1 (2003), 24-30.

²² Brown, ‘Memory’, 89; Greetham, ‘“Who’s In, Who’s Out”’, 12-14; Derrida, ‘Archive Fever’, 51-53; Ketelaar, ‘Tacit Narratives’, 136-141.

how we continue to imagine the archives: as spaces of ‘objective knowledge.’²³ Perhaps we all have too much riding on the sacrosanct nature of the archive to push at these definitions too much.²⁴ For without the archive it is unclear whether the disciplines would be viable anymore; for that matter, it might put us as recognisable, stable, and knowable subjects in danger.²⁵

The archive is neither a neutral site (if a site at all) where the traces of the past are recorded intact for posterity nor a place that we should visit without due caution. Alongside seeing archives as sites where information can be harvested, then, we should also see them from a more ethnographic perspective: as sites that can reveal how particular systems of power work to produce and exclude certain forms of knowledge, and render certain subjects, objects and concepts visible and others invisible.²⁶ Moreover, how an apparatus relates to its archive (what it prioritises, what it saves for the future) can perhaps suggest something about how the apparatus functions that cuts through the rhetoric of how it wants itself to be viewed. The remainder of the “think-piece” explores these issues at the ICTR.

The Archive and the A Priori

The ICTR’s archive contains thousands of witness testimonies, which formed the main source of evidence at the tribunal and were also seen as a crucial resource for understanding and coming to terms with Rwanda’s past. It is now widely accepted, however, that law’s discourse worked to restrict – and as a result make *possible - a priori*, what could be said within the ICTR’s courtrooms. Witnesses’ testimonies, like all other records and narratives constructed by the tribunal, had to relate to the crimes that the accused had allegedly committed; crimes that were limited by the statute, and therefore temporally, geographically and substantively restricted.²⁷ This discourse worked away at these narratives further, forcing them to unfold in particular ways so as to capture a story of the purposeful, guilty, perpetrator working consciously and deliberately towards committing a crime against the passive, and therefore innocent, victim.²⁸ Here witnesses – both “victims” and “perpetrators” - lost their ability to speak as they and their narratives and experiences became interchangeable within this grid of intelligibility.²⁹ Through this construction of statements, the discourse produced those subjects, objects and concepts (perpetrator, victim, guilt, innocence, bystander, responsibility, prosecutor, judge etcetera) that it was supposed to already be able to see, thereby (re)producing itself.³⁰

²³ “The Archivist’s... Creed, the Sanctity of Evidence; his task, the Conservation of every scrap of Evidence attaching to the Documents committed to his charge; his aim to provide, without prejudice or afterthought, for all who wish to know the Means of Knowledge... The good Archivist is perhaps the most selfless devotee of Truth the modern world produces. J. M. Schwartz and T. Cook, ‘Archives, Records, and Power: The Making of Modern Memory’, *Archival Science*, 2:1 (2002), 11 (fn. 9)

²⁴It is for this reason – as is suggested by Derrida – that we (like Freud) switch from an archival understanding of knowledge – which allows for its unending, sprawling, and contradictory nature – to an archaeological (positivist) understanding that believes that the archival records can “speak for themselves”. Derrida, ‘Archive Fever’, 57-8.

²⁵ J. Edkins, *Trauma and the Memory of Politics*, (Cambridge: 2003), 11-14.

²⁶ Stoler, ‘Colonial Archives’, 90, 98, and 100; Deleuze, ‘What is a Dispositif?’, 160.

²⁷ M. Drumbl, ‘Pluralizing International Criminal Justice: From Nuremberg to the Hague: The Future of International Criminal Justice by Philippe Sands’ (Review), *Michigan Law Review*, 103:6 (2005), 1309; M. Steinitz, ‘The International Criminal Tribunal for Rwanda as Theatre: The Social Negotiation of the Moral Authority of International Law’, *Journal of International Law and Policy*, Vol. 5, (2007), 7-15; K. Campbell, ‘The Laws of Memory: The ICTY, Archive, and Transitional Justice’, *Social and Legal Studies*, 22(2), 151-153

²⁸ T. Kelsall, *Culture under Cross-Examination: International Justice and the Special Court for Sierra Leone*, (Cambridge: 2009), 9; K. McEvoy and K. McConnachie, ‘Victims and Transitional Justice: Voice, Agency and Blame’, *Social and Legal Studies*, 22:4 (2013), 493-497.

²⁹K. Franke, ‘Gendered Subjects of Transitional Justice’, *Journal of Gender and Law*, 15:3 (2006), 819-822. See M. Dembour and E. Haslem, ‘Silencing Hearings? Victim-Witnesses at War Crime Trials’, *European Journal of International Law*, 15:1 (2004), 151-178.

³⁰ Much could be added to this, such as the OTP’s overarching understanding of the genocide that similarly structured the narratives in each case (including only a handful of variations of the each accused’s characters). Interview with Member of the former member of the OTP, June 2015. For this also see the start of the opening and closing statements in almost all ICTR trials. For examples see: Akayesu, *Trial Transcript*, 09/01/1997 and 19/03/1998; [CYANGUGU] - NTAGERURA ET AL - REDACTED TRANSCRIPT OF 18/09/2000, [TRA000207/01](#); TRA002053/1, [CYANGUGU] - NTAGERURA ET AL - REDACTED TRANSCRIPT OF 11/08/2003, 11/8/2003; GATETE - REDACTED TRANSCRIPT OF 20/10/2009, 20/10/2009; GATETE - REDACTED TRANSCRIPT OF 08/11/2010, ICTR-00-61, TRA005592, 8/11/2010.

A few points need to be added to flesh out this notion of the strict *a priori* constraints placed upon these statements: the temporality, adaptability, and multiplicity of the archive.

The temporality of the archive is shaped not only by the temporal limitations that are placed upon the narratives constructed within each trial but also through the specific conditions and circumstances that led to the construction of each narrative. This was first at the moment of capture. Here the investigative priorities and structure of the OTP and external politics shifted the foundations upon which the investigations occurred and therefore which evidence was added to the archive.³¹ For instance, in 1997 the investigative priorities changed as the OTP created special sexual violence investigation teams to better highlight gender-based crimes (after the *Akayesu* decision discussed below),³² and changes in Rwanda during the early 2000s (such as the quickening of its prosecutions, and implementation of *Gacaca*) meant that the prosecution had access to “insider” witnesses for the first time.³³ The second moment was that of the trial (a moment that far exceeded its seemingly fleeting nature). The narratives constructed during a trial depended on factors such as: the evolution of jurisprudence, which shaped how the elements of a case should be presented; and the political environment that surrounded the tribunal, such as the UN’s pressure on the tribunal to close down as quickly as possible from 2003 onwards.³⁴ As a result, over time trials became shorter, more pointed, and produced less evidence - less records for the archive.³⁵

There is also evidence of the way in which law’s discourse was contested and reshaped. Witness J’s and Witness H’s unplanned testimony that they had witnessed or had been raped during *Akayesu* led the prosecution to alter the indictment to include allegations of sexual violence, and ultimately to the first decision that rape was an act of genocide. This was also partly responsible for the creation of the sexual violence investigation team mentioned above.³⁶ This (although not unproblematically) challenged the discourse’s previous exclusion of women as subjects and objects with which ICJ was specifically concerned with.³⁷ The extremity of the violence in Rwanda also influenced how law ended up functioning. Throughout the trials it appeared as if the level of violence during the genocide exploded the limits of the law³⁸, and that law had to re-form *around* the violence itself. Throughout, the prosecution used the scale of destruction as a (often accepted) reason for: why their evidence might be less than perfect; the ambiguous nature of charges against the accused; and shifts/contradictions in the witnesses’ testimony.³⁹ This final point in

³¹ [CYANGUGU] - NTAGERURA ET AL - REDACTED TRANSCRIPT OF 14/02/2001, TRA000434/2, 62; [CYANGUGU] - NTAGERURA ET AL - REDACTED TRANSCRIPT OF 20/09/2000, TRA000209, 94-96; [CYANGUGU] - NTAGERURA ET AL - REDACTED TRANSCRIPT OF 07/05/2001, TRA000409/2, 56. See also Prosecutions, *Best Practice Manual for Prosecution Sexual Violence Crimes*, p. 29

³² A/52/582/ - S/1997/868, *ICTR Annual Report*, 13.11.1997; E/CN.4/1998/54/Add.1, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences*, 4.02.1998,

³³ Interview with Upendra Bengal (ICTR Investigator), July 2015

³⁴ UNSC, S/RES/1503, 28.08.2003; UNSC, S/PV.4999, 29.06.2004; UNSC Minutes to Meeting, 29.06.2004, S/PV.4999. See, for example, all completion strategy reports from 2003 onwards. In particular see diagram on S/2010/574, UNSC, *Bi-Annual Completion Strategy Report for ICTR*, 05/11/2010, 9-10.

³⁵ For examples of how this affected the cases directly, see the changes made to the Gatete indictments in its various iterations. GATETE - AMENDED INDICTMENT, ICTR-00-61, ICTR-00-61-0036/1, 10/5/2005; GATETE - THE PROSECUTOR'S SUBMISSION COMPLYING WITH THE DECISION ON DEFENCE MOTION CONCERNING DEFECTS IN THE AMENDED INDICTMENT DATED 3 JULY 2009, ICTR-00-61, ICTR-00-61-0074/1, 7/7/2009; GATETE - DECISION ON DEFENCE MOTION RAISING DEFECTS IN THE PROSECUTION PRE-TRIAL BRIEF OF 19 AUGUST 2009, ICTR-00-61, ICTR-00-61-0100, 2/10/2009; Gatete, *Trial Judgement*, 1

³⁶ Akayesu, *Trial Transcript*, 27/01/1997; Akayesu, *Trial Transcript*, 06/03/1997

³⁷ C. MacKinnon, ‘Crimes of War, Crimes of Peace’, *UCLA Women's Law Journal*, 4 (1993), 59-86.

³⁸ M. Osiel, *Mass Atrocity, Collective Memory, and the Law*, (New Jersey: 2000), 118

³⁹ “As with any undertaking, Your Honours, of this magnitude, there may indeed have been shortcomings in the investigations expected of an International Tribunal such as this. But these, Your Honours, can best be explained by the limitations placed on perfection by the specific circumstances of one of the worst chapters in human history, the Rwandan genocide. The decimation of up to 13 per cent of the pre-genocide population of eight million, the mass exodus or displacement of another 50 per cent in the space of just 100 days, created conditions that did not lend themselves to the meticulous forensic inquiry often found in domestic jurisdictions during times of peace. Police and judicial authorities were either dead or in flight, and the Prosecutor did not arrive on the scene of crime until almost two years after the fact. Reliance, therefore, has to be placed on the oral testimony of survivors and perpetrators, all eyewitnesses to the gross outrages of mass slaughter that you have heard in this Chamber over the last three years.” Cyangugu, *Trial Transcript* (prosecution closing arguments), 11.08.2003, 2.

particular suggests that the Tribunal – in order to maintain its legitimacy – was forced to make allowances by considering the cultural specificity of Rwanda, the fluidity of memory, and the impact of trauma (of the act of witnessing).⁴⁰

Within the literature, the archive (or the Tribunal's historical record) is often seen as containing only a handful of restricted records that the court allowed to be constructed. However, it is perhaps more appropriate to see multiple, sprawling, and unending records contained within the tribunal's archive. This is partly because the different accounts of the violence constructed by the defence and prosecution during each case remain accessible in the archive (and the infinite texts that reside in each record);⁴¹ but also because of the different intensities of the discourse at different moments of the trial process. As such, what was captured during the investigations differed to what was captured during the trial, in the judgement and the appeals judgement. Within these records it is possible to see how with each stage of the trial the discourse's intensity (and therefore its excluding potential) increased. There is, then, not only multiple variations of each piece of evidence within the archive, but also, at moments when the intensity of the discourse waned, far more information and "richness" provided in these accounts than is often thought. These moments document the individual and local specificity of the trauma, and often breach the temporal and geographical restrictions placed upon the narratives, and even blur the binary of the victim/perpetrator.⁴²

Throughout, however, the discourse is never quite ruptured. Rather, these shifts demonstrate the flexibility and adaptability of the discourse, and its ability to extend its reach over a domain of objects and subjects to ensure its continued authority. What this should, however, do is make us think more about what is in the archive when we use it: where in the archive the evidence we are drawing on comes from and how this might affect its appearance, remembering that the archive contains multiplicities,⁴³ and objects and records that conflict with each other.⁴⁴ This should also caution us against drawing on the archive without paying attention to the effects that this might have in reproducing the discourse (its conception of the subjects, objects and concepts), the reality that this conjures up, and the potential violence and exclusions that this can result in.

The Strategic Function of the Archive:

In this final section, I want to explore with you (for there is no I or archive, without you and your archive) two final points about the ICTR's archive based on the questions: Who owns the archive? For what purpose? And what can this tell us about the tribunal?

For most of the ICTR's existence the archive was an afterthought, always playing catch-up with the rest of the organisation and only functioning to support the tribunal's immediate legal needs.⁴⁵ This functional existence (seeing the archive in only legal and institutional terms) and a lack of forward planning shaped

⁴⁰ Importantly it became accepted practice that where there was a variation between the written statement and the in court testimony the in court testimony would be favoured (potentially showing a shift in criminal justices' evidence paradigm that since the advent of written technology – and then photographic technology – had prioritised the written and the visual (or what, in effect, could be rendered to appear static and unchanging). Akayesu, *Judgement*, para. 155-156; Gatete, *Judgement*, 75; ICTR-00-61-0029, GATETE - DECISION ON DEFENCE PRELIMINARY MOTION, 29/3/2004, 4.

⁴¹ Derrida, 'Archive Fever', *passim*

⁴² Nahimana et al, *Judgement*, 338-339; Akayesu, *Trial Transcript*, 15/01/1997; Akayesu, *Trial Transcript*, 03/11/1997; ICTR-00-61-0133, GATETE - DECISION ON DEFENCE MOTION ON ADMISSIBILITY OF ALLEGATIONS OUTSIDE THE TEMPORAL JURISDICTION OF THE TRIBUNAL, 3/11/2009

⁴³ Deleuze, *Foucault*, 14.

⁴⁴ For a particularly good example of this see the conflicting conclusions in *Nchamihigo* and *Cyangugu* over Prefet Bagambiki's responsibility for the violence at Karamapaka Stadium. Whilst at Bagambiki's trial it was found that his actions to remove Tutsis from the stadium (who were later killed) was an attempt to protect the remaining Tutsis inside the stadium from the armed attackers outside, during *Nchamihigo* it was found that Bagambiki was responsible for their deaths and that, moreover, similar actions where he removed certain individuals whilst "sparing" others, were intended so 'they must be in a position to prove to the international community that not all Tutsis had been killed and they must thus ensure that some were saved.' As such, it became clear that Bagambiki was only saving some Tutsis so that he might kill others with impunity. *Nchamihigo*, *Judgement*, 36

⁴⁵ Interview with former member of the ICTR archive team, June 2015.

the appearance of the records, and therefore how they are encountered. Many early trials do not have complete public records, and most records are: only partially translated (and are almost never in Kinyarwanda); suffer from over-zealous redaction (making some largely unintelligible but often still failing to protect the identity of the witnesses); and are only categorised by case (limiting the ways the archive can be explored).

The idea of the archives as a record of the legal and institutional history of the tribunal was solidified in 2003, when the archive became increasingly presented as a key aspect of the tribunal's legacy.⁴⁶ This had two further effects. First, it produced a technocratic archival policy that enhanced the sense of its apolitical nature (it was simply continuing to assist the tribunal with its legal and institutional needs), and thus absolved the archives and the tribunal from its responsibility to capture the memories of those silenced by the tribunal and its archive.⁴⁷ Second, it resulted in the decision to house the archives in Arusha where it could assist the Residual Mechanism take up the ICTR's mantle by retaining the institutional and legal memory that was being lost with the ICTR's closure - a perfect *lieux de memoire*.⁴⁸ Rwanda objected, arguing that the archives belonged to them - containing their history, their memories, and largely created by (and supposedly for) their citizens; the UN responded, in no uncertain terms, that the archive was theirs.⁴⁹ This suggests a possible tension between the tribunal's different strategic functions, and questions its ability to act as both a site of international law - acting on behalf of and for the international community as a whole - and of history and reconciliation - more specifically for Rwanda.

Finally, the question of "who is this for?" can be brought together with the issue of silencing mentioned above. Testimony of a trauma, as Jenny Edkins argues, is a potentially powerful and disruptive tool: it can unveil the responsibility of the sovereign, and the power-relations that produce both the sovereign and us as subjects, for the occurrence of that trauma.⁵⁰ The sovereign, then, attempts to neutralise the testimony by concealing their responsibility for the harm caused. Edkins argues that this happens by co-opting the testimony, and mobilising it in settings (statutes, monuments, museums, court hearings etcetera) that acknowledge the suffering - through the creation of *victimhood* - and the responsibility of the sovereign for bringing this to *an end*, thus producing a sense of closure.⁵¹ As a result, the systems of power that produced the violence are revived and reproduced as they are held to resolve the suffering, rather than being central to its existence. This, I would argue, can suggest a way to view the ICTR's archive: drawing a line under the past, and coercing testimony in a manner (*and despite its multiplicities*) that reproduces the "international community" - and the UN - as a moral force for good and a particular imagining of what the 'international system' looks like, and how it functions; an imagining that we too engage with when we use and reproduce the archive.

⁴⁶ "[The archives] use is primarily related to the judicial activities of the Tribunals, but they also have a secondary value for memory, education and research." S/2009/258, UNSC, *Report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals*, 21.05.2009, 12, See Completion Strategy reports available (www.unict.org). 2003 was, I think tellingly, the year that the Tribunal was ordered that it must cease to exist as quickly as possible when the UN ordered that the ICTR - as well as the ICTY - must produce completion strategies. It was also at this point that the tribunal's and the UN became cognizant of the criticism that the tribunal's outputs were only relevant to lawyers, and marked an increase in attempts at various "outreach" programmes, where the archives also featured heavily.

⁴⁷ Here I am thinking of both the voices of the tribunal's staff- and capturing the tribunal as a social where ideas are exchanged and power-relations performed. But importantly also the voices of the witnesses and victims. The critique of the courtroom silencing the witnesses is not new and could have given the tribunal the opportunity to explore other ways of recording their memories. I was also struck by how certain bureaucratic structures and policies seemingly ensure the continued silencing. During one interview with a former member of the WVSU I was particularly surprised that no records were ever produced about the witnesses experience of the trial process after they have testified. Interview with former ICTR WVSU Officer, June 2015.

⁴⁸ P. Nora, 'Between Memory and History: Les Lieux de Memoire', *Representations*, 26 (1989), 7-24

⁴⁹ See, S/2008/849, UNSC, *Letter dated 19 December 2008 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council*, 31.12.2008, 3. Underneath this decision, moreover, lies a continued mistrust of the Rwandan state and the fear that they might destroy certain unfavourable aspects of the archive, and as a result destroy history. Interview with Former ICTR Archivist, June 2015.

⁵⁰ "What we call trauma takes place when the very powers that we are convinced will protect us and give us security become our tormentors: when the community of which we considered ourselves members turns against us or when our family is no longer a source of refuge but a site of danger", Edkins, *Trauma*, 4 and 189

⁵¹ Edkins, *Trauma*, 5-15 and 190-191 and 201.

Concluding thoughts:

What I hope I have started to suggest in this think-piece is that all archives – and there are many that remember the Rwandan genocide – are shaped by some discourse and will therefore be incomplete. It is, then, perhaps less important to focus on this idea of absence as such, than it is to consider what forces have shaped these and what their effects are – that is, what “reality” the archive seeks to reproduce. Or perhaps we need to go further? Edkins cautions against constructing monuments to trauma that induce the sense of closure (like the ICTR’s archive), and instead suggests the need to encircle trauma; to show its unending nature. Perhaps we should think more about what this might look like. More broadly, Edkins’ work has made me question if with all of the spaces that have been constructed to “let” Rwandan’s speak, if anything has been *heard* yet?