

Cross-cultural communication in the courtroom: a case study of the International Criminal Tribunal for Rwanda

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Abstract

Purpose – *This study aims to examine cross-cultural dynamics between legal professionals and witnesses during testimony provided at the International Criminal Tribunal for Rwanda (ICTR).*

Design/methodology/approach – *The authors conducted a thematic analysis using transcripts from four different types of witnesses (overview, crime-base, expert and insider) across 13 cases, comprising 13,755 pages of transcripts in total.*

Findings – *The analysis revealed more cross-cultural challenges in witness responses than in questioning by attorneys. The authors also found that defense attorneys used closed questions more frequently, while prosecution attorneys preferred open-ended questions.*

Originality/value – *This is the first empirical study to examine question and answer dynamics within witness transcripts from the International Criminal Tribunal for Rwanda while focusing on potential cultural differences. The findings stress the importance of cultural sensitivity in questioning of witnesses by legal professionals.*

Keywords *ICTR, Cross-cultural communication, Questioning style, Culture, Eyewitness*

Paper type *Research paper*

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Introduction

Cross-cultural communication in the context of interviewing and courtroom interactions is a multifaceted and evermore common component of legal proceedings. In this study, we explore the intricacies of cross-cultural communication in the courtroom of the International Criminal Tribunal for Rwanda (ICTR), focusing on how questions and responses differ when trial participants have different cultural backgrounds. This is the first time that transcripts of an international criminal tribunal have been systematically coded to provide a comprehensive understanding of cross-cultural communication in an international courtroom.

The ICTR was established in 1994 by the United Nations to prosecute individuals responsible for genocide and other serious violations of international law committed in Rwanda earlier that year. As of December 31st, 2015, the ICTR has been closed. New cases and appeals have been transferred to the Residual Mechanism for International Criminal Tribunals. The ICTR tried high-ranking officials, military leaders and others involved in orchestrating and executing the mass killings, torture, sexual violence and other violations of international criminal law committed in Rwanda against the Tutsis and moderate Hutus. In total, 93 people were indicted by the ICTR, 62 of whom were sentenced and 14 acquitted (UNICTR, 2013 [1]; Holá and Smeulders, 2016). The ICTR was chosen for the present study because of the many cultural elements that played a part in the genocide and due to the international makeup of the tribunal's staff interacting with predominantly Rwandan witnesses. For example, in the Chambers, no two judges had the same nationality and

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judges were from a wide array of countries, including Denmark, Italy, China and Senegal (UNICTR, 2013). Examining cultural differences between legal professionals and witnesses at the ICTR can aid our understanding of fairness and accuracy of fact-finding in international legal processes. This is especially important given the increasing globalization and cultural diversity in contemporary societies.

Rwanda itself is comprised of multiple ethnic groups (Hutu, Tutsi and Twa), as well as multiple languages (French, English and Kinyarwanda) that makes it a particularly interesting case for this study (WorldAtlas, 2017).

Cross-cultural communication involves the exchange of information between individuals from different cultural backgrounds. In the context of interviewing, it encompasses the ways in which cultural differences impact the formulation, delivery and interpretation of questions and responses. When extending this concept to the courtroom, communication can be particularly challenging due to the high stakes and formal nature of courtroom interactions. Misunderstandings and miscommunications can have significant consequences, potentially affecting the outcomes of trials and the administration of justice. The nuances of language, cultural norms and nonverbal communication all play a role in how information is conveyed and understood in a courtroom setting (De Bruïne *et al.*, 2023). While some empirical literature exists on cross-cultural communication in investigative interviewing (Beune *et al.*, 2011; Hope *et al.*, 2021), the literature specifically addressing cross-cultural communication in the courtroom is limited to anecdotal observations and legal texts (Drenk *et al.*, 2024). Here, we will review that limited literature as well as more general observations on cross-cultural communication that are likely to be relevant in court settings as well.

In the context of international tribunals, to gain the best evidence possible from witnesses, it is important to focus on effective interviewing techniques and adapting questioning styles to accommodate cultural differences. O'Brien and Kebbell (2014) highlight the need for interviewers to be culturally sensitive and flexible in their approach, using techniques that are respectful of and responsive to the cultural backgrounds of interviewees. However, they focus mainly on the investigative phase, pointing to a need to expand our understanding of what happens after investigations go to the trial phase.

Higgins discusses cultural defenses in international criminal courts, highlighting the importance of understanding cultural contexts when evaluating legal arguments and evidence (Higgins, 2018). This underscores the broader issue of how cultural differences can influence the interpretation of legal concepts and the credibility of witnesses. In the Ongwen trial (International Criminal Court, 2025a, 2025b) (country of the prosecuted: Uganda) at the International Criminal Court (ICC), for instance, defense counsel attempted, unsuccessfully, to link spiritual possession in Acholi culture to post traumatic stress disorder when arguing for defenses and mitigating circumstances (Nistor, 2023). Cultural experts were brought in to testify and create a link between the two cultural concepts, which led to misunderstandings and distorted the local cultural concepts (Nistor *et al.*, 2020). However, judges were not convinced and chose to disregard this evidence.

International criminal courts and tribunals, such as the ICC and ICTR, provide a rich context for examining cross-cultural communication. Combs identified several cultural differences that may affect testimony in these settings, the most relevant of which for our study is the use of indirect communication, which can be misinterpreted by judges and lawyers from direct-communication cultures (Combs, 2010). Combs (2010, page 99) listed “parables, gnomic expressions, exaggerated descriptions, allegorical accounts, and ritual metaphors” as forms of indirect communication. Examples of these were also found in our data (hunting metaphors and other words used in Kinyarwanda to mean something else like inyezi and igitero). Swigart discusses the challenges of cultural and linguistic diversity in international criminal justice, emphasizing the need for effective communication strategies to bridge cultural divides (Swigart, 2016). In later research, using over 60 interviews with ICC staff,

Swigart further elaborates on the importance of recognizing and addressing cultural and linguistic diversity to ensure fair and effective legal proceedings, once again noting that cross-cultural communication in the courtroom may lead to miscommunications and lack of understanding of witnesses and legal practitioners (Swigart, 2020).

Cross-cultural communication in the courtroom is a complex area that requires further research and attention. Studies are beginning to broaden their focus from investigative interviewing in cross-cultural contexts to include a more holistic view of the cross-cultural communication in the judicial process (Gavrilović Nilsson, 2022; Hope *et al.*, 2021). While these studies do bring the issue of culture into the international legal discourse, they are largely anecdotal and impressionistic. By analyzing courtroom transcripts from the ICTR, this study is the first to take an empirical and systematic approach to identify cross-cultural interactions between legal professionals and witnesses during testimony.

The psychological literature identifies several key issues in cross-cultural communication within legal settings. Hofstede's (2001) cultural dimensions provide a foundational framework for understanding cultural differences. Dimensions such as individualism versus collectivism, power distance and uncertainty avoidance (Hofstede, 2001) can significantly influence communication styles and interpretations in the courtroom. Compared to an individualistic society, where people value their autonomy and personal goals and do not view the in-group as a priority, collectivistic societies tend to see the in-group as an integral part of their identity and value their relationships the most (Triandis, 2001). The concept of power distance examines the extent to which a difference in power is seen as normal and affects the interaction between individuals (Basabe and Ros, 2005), with higher power distance implying a more hierarchical structure. When it comes to uncertainty avoidance, cultures that are high on that dimension tend to avoid risky or ambiguous situations and follow the law (Matusitz and Musambira, 2013). These dimensions help explain why individuals from different cultures might respond differently to similar questions or situations.

In high power-distance cultures, individuals are less likely to challenge authority figures, which can impact how they respond to questioning by judges or attorneys. In contrast, individuals from low power distance cultures typically feel more comfortable expressing dissent or disagreement (Anakwah *et al.*, 2024). Further, mock witness experiments have shown that people from low power distance cultures report more details than those from high power distance cultures (Anakwah *et al.*, 2024). Similarly, people from cultures with high uncertainty avoidance may exhibit more anxiety or caution in unfamiliar legal settings, affecting their demeanor and responses during testimony (Matusitz and Musambira, 2013). In a comparative analysis of cultural dimensions between Taiwan and the USA, Wu (2006) illustrates the practical implications of these cultural differences as society changes over time. This approach highlights the dynamic nature of Hofstede's cultural dimensions and how cultural context may shape expectations and behaviors. It also underscores the need for legal professionals to be aware of these cultural factors.

Recent developments in the literature on investigative interviewing have provided some more insight into the impact of cultural differences on memory and testimony. For example, Vredevelde *et al.* (2023) review the literature on culture, trauma and memory, highlighting the limitations of the Western 'trauma' model and various cultural barriers to disclosure and effective communication. Anakwah *et al.* (2020) note the need for culturally sensitive approaches in legal proceedings. Both studies demonstrate that cultural background can influence how individuals perceive and recall events, which has significant implications for the accuracy and reliability of eyewitness testimony.

The literature also emphasizes the role of translators and interpreters as integral participants in cross-cultural communication, noting that they must navigate linguistic and cultural differences to ensure accurate and meaningful translation of testimony (Evans *et al.*, 2019; Goodman-Delahunty and Howes, 2019; Xian, 2008). Interpreters may have trouble

building rapport with interviewees, which in turn may hinder the ability for those questioning the interviewee to build their own rapport. The use of interpreters can also interrupt the natural flow of information in an interview. Consecutive interpretation, where the interpreter listens to the interviewee and then relays the message, causes pauses and breaks in communication. The interpreter's presence as a third party may also limit spontaneous communication or nonverbal exchanges, such as gestures or eye contact, which are often critical in building rapport (Goodman-Delahunty and Howes, 2019). No standardized training exists for interpreters working within the legal system. The lack of standardization presents problems during cross-cultural interviewing for interpreters who may adhere to different standards than those required by the investigator or legal system.

There is also the potential for cultural cues to lead to misinterpretations in cross-cultural verbal communication. For instance, certain behaviors or expressions that are culturally normative in one context might be misread as indicators of deceit in another (Leal *et al.*, 2018). This may be something as simple as avoiding eye contact. In some cultures, this is seen as deferential, while in other cultures it may be seen as evasive. Recent research has explored cross-cultural investigative interviews in African and European populations, providing insights into how cultural contexts shape the dynamics of questioning and answering, and emphasizing the need for culturally sensitive approaches in legal settings (de Bruijne *et al.*, 2023).

Cross-cultural communication in the courtroom relies on effective questioning techniques to elicit rich and accurate responses. How a witness is questioned prior to giving testimony can also influence a witness' response in the courtroom. The Cognitive Interview is widely regarded as a model for best practice when interviewing witnesses in the policing context (Köhnken *et al.*, 1999; Memon and Gawrylowicz, 2018; Memon *et al.*, 2010; Méndez *et al.*, 2021). This model has a structure that promotes open-ended questioning when gathering information, which allows for more free-flowing information from witnesses. Vrij, Hope, and Fisher (2014) distinguish between information-gathering and accusatorial interview styles. The information-gathering style, which uses open-ended exploratory questions, is more effective in establishing rapport and eliciting accurate information. This approach encourages interviewees to provide detailed narratives, allowing for a more comprehensive understanding of their perspectives and experiences (Vrij *et al.*, 2014). Open-ended questions allow respondents to elaborate on their answers, providing richer and more informative answers. Particularly in cross-cultural contexts, it is important for an individual to be asked in a way that allows them to elaborate on their experience fully, since the interviewer does not have any first-hand knowledge of it or understand the full complexity of an individual's perspectives (Eades, 2010). However, this may not always be possible or desirable in a courtroom due to procedural rules and specific needs with regard to proving elements of a crime.

Our research bridges these two streams of scholarship – the legal psychological and the international criminal justice literature. Our research question is: are there cultural differences in questioning styles by legal professionals and response styles by witnesses at the ICTR? The cultural and linguistic diversity pointed out by Swigart (2020) and Combs (2010) that is present during trials at international tribunals, coupled with the psychological literature including Hofstede's (2001) cultural dimensions, lead us to believe that we will observe such differences at the ICTR as well. Specifically, we expect that legal professionals from WEIRD (Western, Educated, Industrialized, Rich and Democratic) countries (Henrich *et al.*, 2010) ask more open questions and fewer indirect questions than legal professionals from non-WEIRD countries, and that witnesses from WEIRD countries respond with more direct and fewer indirect answers than witnesses from non-WEIRD countries.

Methods

This study aims to systematically investigate and increase understanding of cross-cultural communication in an international courtroom setting. The study uses a qualitative research design in the form of a thematic document analysis of trial transcripts from the ICTR.

Materials and case selection

The materials used for the study consisted of publicly available transcripts from the ICTR in English. Case selection for initial coding was based on available information from ICTR judgments and was informed by an expert panel of 12 academics and practitioners. The expert panel advised on cases that potentially had instances of cultural misunderstandings. Several judgments specifically mention culture as an issue during witness testimony. In the cases of Akayesu, Kajelijeli and Rutaganda, judges specifically mention culture as a factor that influenced the evaluation of witness testimony ([The Prosecutor v. Jean-Paul Akayesu \(Trial Judgement\)](#), 1998; [The Prosecutor v. Juvénal Kajelijeli \(Judgment and Sentence\)](#), 2003; [Prosecutor v. Rutaganda](#), 1996). Therefore, these three cases were used to create the initial coding scheme and conceptual framework for analysis. Case selection was then expanded to include a total of 16 cases throughout the 20 years of operation of the ICTR. These cases were selected based on two criteria. First, an equal number of cases completed prior to and after 2004, respectively, was selected, the year in which simultaneous Kinyarwanda-English interpretation was introduced (prior to, 2004, the translations were from Kinyarwanda into French into English). Second, cases were selected only if they contained at least one witness from each group below. With these two criteria, the following cases were selected: Akayesu, Rutaganda, Nahimana, Kajelijeli, Bagosora, Seromba, Ndindiliyimana, Rwamakuba, Bikindi, Kalimanzira, Hategekimana, Gatete, Ngirabatware, Semanza, Musema and Kamuhanda.

Witness selection

For each of the 16 cases, one witness from each of the following groups was coded: overview witness – a witness called to give context about a certain event or events, crime-base witness – those who have witnessed or been the victim of a crime, expert witness – a witness with a specialized knowledge that allows them to present their opinion about certain aspects of the case, and insider witness – those who have “a direct connection with the accused” ([International Criminal Court, 2025a, 2025b](#)). Per case, all publicly available transcripts were assigned a number and a witness type. A random number generator was then used to choose four witness transcripts of each type from each case. Thus, we analyzed 64 transcripts of 64 individual witness testimonies, which comprised 13,755 pages in total.

Coding procedure

First, the following demographic information was extracted from each transcript: witness type, calling party and questioning attorneys. Using publicly available information, questioning attorneys were further categorized by nationality and split into WEIRD (e.g. USA, Canada and Australia or Non-WEIRD (e.g. Senegal and Rwanda). Witness nationality was determined from the transcripts and categorized as WEIRD or Non-WEIRD. Transcripts were split between examination in chief and cross-examination. First cycle coding used question-and-answer pairs to code speaker type (witness, prosecution, defense, legal representative for victim, judge, interpreter or defendant). Additional codes were assigned to each question-and-answer pair to understand the type of question, its complexity and level of understanding of the witness. Second cycle coding used deductive codes identified by a literature review and expert panel to further examine different culture-dependent variables that may be present in each transcript. For example, we coded for the explicit use of culture-specific terms from Rwanda, such as “inyenzi” or “kuyuzi.” Each transcript was coded independently by two co-coders. Following that, the co-coders discussed and agreements were made concerning any conflicting codes.

Thematic analysis

A variation on a thematic analysis according to Braun and Clarke was conducted on all selected 64 transcripts (Braun and Clarke, 2006). The most salient patterns were synthesized using thematic analysis. Data familiarization began with a literature review of the influence of culture on eyewitness testimony (Drenk *et al.*, 2024), reading three transcripts from the first ICTR trial [The Prosecutor v. Jean-Paul Akayesu (Trial Judgement), 1998] and reviewing judgments from Akayesu, Kajelijeli and Rutaganda [The Prosecutor v. Jean-Paul Akayesu (Trial Judgement), 1998; The Prosecutor v. Juvénal Kajelijeli (Judgment and Sentence), 2003; Prosecutor v. Rutaganda, 1996] to create an initial coding scheme. Similar codes were organized together to help compare the relationships between categories of codes (Strauss and Corbin, 1998). For example, researchers expected to see agreement or disagreement on specific terms when explicit references to culture were made by a witness. However, most explicit cultural references were made by expert witnesses (anthropologists) when testifying broadly about Rwandan culture. Attorneys and judges tacitly agreed with their statements without voicing approval.

Codes were then combined into patterns to create themes using Atlas.ti (widely used qualitative data analysis software; Hwang, 2007), and thematic mapping. Thematic mapping creates a visual representation of patterns that facilitates comparison of connections and themes (Braun and Clarke, 2012). For example, directness of answer was initially grouped in the theme of language. However, upon thematic mapping, it could be seen that the code was more related to the theme of questioning style. Determination of final themes was not a linear process, but an iterative one that considered how relevant each theme was to the research question and ability to capture relevant conclusions (Braun and Clarke, 2012).

Results and discussion

The qualitative analysis of the ICTR transcripts provided key insights into the cross-cultural dynamics that occur between legal professionals and witnesses. This study examined 64 witness testimonies (43 Non-WEIRD witnesses and 9 WEIRD witnesses) across 16 cases encompassing 13,755 pages, revealing patterns in how cultural differences influenced courtroom interactions, particularly in the framing of questions (see Table 1), the nature of responses and overall communication. Results and further discussion are broken down by theme. As there is not always agreement on the definitions of different questioning types, the definitions used for this study can be seen in Table 1.

Questioning style: open vs closed questions by party

The first theme that emerged in the analysis was the variation in questioning styles across the prosecution, defense and judges. This theme involved breaking down instances of open and closed questions by party, regardless of cultural background. We found that defense attorneys preferred closed questions, with 53.5% of their questions fitting this category,

Table 1 Overview of questioning types and definitions*

Question type	Definition
Leading	Questions that prompt or encourage a specific answer
Open	Questions that probe for a longer, free-form answer
Closed	Questions that probe for a short answer (e.g., “yes,” “no,” “a green shirt”)
Forced choice	Questions that provide specific answer options which the respondent is forced to choose from
Negated	Questions that include a negation (e.g. “so the problem was not only that. . .?” / “It wasn’t possible for you to return?” / “He didn’t protect human beings?”)

Source(s): *Table created by authors

compared to 34.1% by the prosecution and 13.4% by judges. Conversely, open-ended questions were used more frequently by the prosecution (46%) and the defense (43.4%) than by judges (10.6%). Forced-choice questions were used in 6.5% of questions by the prosecution, 1.1% by the defense and 47.8% by judges. Negated questions were used in 6.3% of questions by the prosecution, 1.0% by the defense and 25.6% by the judges. Finally, leading questions were used in 7.1% of questions by the prosecution, 1.1% by the defense and 2.6% by the judges.

As the ICTR procedure resembles common law adversarial hearings in which the prosecution presents a case and the defense must find weaknesses in it, the procedural structure is split into examination in chief and cross-examination. A potential explanation for the observed difference in questioning style could be that the goal during cross-examination is to cast doubt on the testimony and the witness' credibility and not to find the truth (Kebbell *et al.*, 2003).

Closed questions, which are used to elicit specific, concise answers, were more prevalent during cross-examinations, especially when directed at crime-base and insider witnesses. The question's phrasing and composition can impact a witness' response and cause confusions, as seen in the example below (Akayesu DCC, page 82, l.10–16):

Q. And sometimes you would see him alone in this vehicle?

A. I have no answer for you. I did not understand the question very well.

Q. Well, when you saw him in this vehicle was he alone or was someone with him?

A. Do you mean he was driving himself?

The approach of asking closed questions during cross-examinations also seemed to reflect a strategy to control the scope of the testimony and limit elaborative responses, as has been previously noted in the literature (Kellermann, 2007). Closed questions have been shown to be the most damaging to a witness' memories and answers (Sharman and Powell, 2012). Sharman and Powell (2012) contrasted different compositions of leading questioning styles and their effect on the suggestibility of adult witnesses. They found that questions that reduced the space and freedom to respond led to the most misinformation and incorrect reports.

In contrast, open-ended questions in our study facilitated more narrative-driven answers, which often unveiled cultural subtleties and comprehensive accounts. However, these questions also posed challenges when witnesses came from cultures that valued indirect communication, often resulting in responses that were less linear or more contextual, as illustrated in the following example (Kajelijeli GDD part 1, page 53, l. 24–25, page 54, l. 1–7):

Q. How did you show him the smoke?

A. We stopped before the communal canteen, because from the communal canteen. You can see at a bird's eye view in the direction of Kinyowowa – and we showed him – and we pointed out and we said there you go, Mr Juvnal, (*sic*) the only thing that remains there is the smoke. We have eliminated everything. Thank you.

Types of questions and cross-cultural parity

The study revealed that the types of questions asked by legal professionals from WEIRD and Non-WEIRD backgrounds to witnesses from Non-WEIRD backgrounds had differences that should be noted (see Table 2). Both WEIRD and Non-WEIRD attorneys utilized a comparable mix of question types, but Non-WEIRD attorneys used more closed questions, reflecting courtroom practices aimed at eliciting specific types of information. The distribution of question types for Non-WEIRD attorneys was: closed (72%), open (16%),

Table 2 Overview of question types and response styles by questioning party (Q) and witness (W) combination*		
	Q: Non-WEIRD W: Non-WEIRD (%)	Q: WEIRD W: Non-WEIRD (%)
Closed	72	58
Open	16	26
Leading	6	7
Forced	3	4
Negated	3	5
Direct answer	84	87
Indirect answer	16	13
Understood question	90	92
Did not understand	3	3
Needed clarification to understand	7	6
Certain of answer	21	22
Uncertain of answer	41	38
Admits not knowing	38	40
Source(s): *Table created by authors		

leading (6%), negated (3%) and forced choice (3%). WEIRD attorneys used fewer closed questions and more open-ended questions: closed (58%), open (26%), leading (7%), negated (5%) and forced choice (4%).

Despite the differences, the majority of questions asked by both groups were closed, particularly in cross-examinations where direct, factual answers were sought. Open-ended questions, which allowed for greater elaboration, were asked less frequently. This suggests that while cultural influences may shape interpretation and understanding, the procedural norms of the ICTR seem to have promoted a relatively uniform approach to questioning.

Moreover, the similarities in question types suggest that cross-cultural challenges were more pronounced in witness responses than in the formulation of questions (Bresnahan, 1991). Witnesses from Non-WEIRD backgrounds often had to navigate unfamiliar legal terminology and adjust to questioning styles that might not align with their cultural communication norms. Bresnahan (1991) examined how misunderstandings and disagreements in criminal trials arise when the questioning and the response style are not a match. He found that when defendants were nonnative English speakers, their response styles tended to challenge the prosecution's negative suggestions during questioning. However, due to their unfamiliarity with the legal terminology, as well as linguistic and cultural barriers, foreign defendants' attempts to challenge the negative suggestions were unsuccessful and were understood as hostile, vague and unreliable. This underscores the importance of cultural sensitivity and adaptive questioning strategies (Lekas *et al.*, 2020; Steefel *et al.*, 2016) to ensure that testimony is accurately understood and recorded.

Influence of cultural norms on witness responses and directness of answer

Cultural norms play a role in shaping witness responses. Witnesses from collectivist cultures, which prioritize group harmony (Lim, 2009), often use less direct language. Their responses tend to emphasize shared or collective experiences rather than individual perspectives.

The directness of witness answers was another theme found in the data that varied according to cultural backgrounds. Witnesses from non-WEIRD cultural contexts often provided indirect answers, aligning with cultural norms that discourage direct confrontation or overt disagreement. We found that 31% of responses from non-WEIRD witnesses were categorized as indirect, compared to 17% from WEIRD-background witnesses. This pattern reflects a communication style that can be misinterpreted by WEIRD-background attorneys

and judges as evasiveness or uncertainty (Bresnahan, 1991), as shown in the following example (Bagasora DAK pt. 3, page 6, l. 23–28):

Q. During the cross-examinations by defense counsel yesterday you were asked a number of questions about who was responsible for the death of the prime minister. So the first issue I would like you to explain is this: did you personally see either the prime minister – or her body, that is, did you see her alive or dead at any time on April the 7th, 1994?

A. I delivered a message to the soldiers who were at the residence of the president. I did not go to Agathe's place. I wasn't able to see her. I didn't go to her place. I went back to the camp immediately, and I didn't go to see her body after she was killed, I did not go there. Maybe there were people who went there and who can say more about this to you.

Further breakdowns showed that indirect answers were more frequent during questioning by the defense (45%) than by the prosecution (27%), highlighting how different roles in the courtroom influenced the types of responses elicited. This suggests that defense attorneys' tendency toward closed questions, even with their own witnesses, might amplify the indirectness of witness responses. As the role of the defense is to elicit doubts regarding the prosecution's narrative, and not discovering the truth, their focus is on undermining the evidence (Evans, 1995). In line with that, Kebbell *et al.* (2003) analyzed question types used in the examination and cross-examination in rape trials in the UK and found that closed questions obstructed witnesses' opportunities to give direct and full reports of their experiences (Kebbell *et al.*, 2003). This is illustrated in the following example from one of the transcripts (Nahimana – Omar Serusho, page 94, l. 16–25, page 95, l. 1–3):

Q. Well, isn't it true that Lizinde tried to overthrow Habyarimana unsuccessfully and ended up in Ruhengeri prison; isn't that – do you know that much?

A. I would like to draw the Chamber's attention to the fact that we are speaking about politics of Rwanda. We are here to speak about the events which took place in 1990, and subsequently. So this Lizinde issue should be set aside.

Mr Floyd. Your Honor, will you instruct the witness to answer my question.

Understanding of questions

Witnesses often had trouble understanding the questions posed to them due to exposure to the legal system and educational background, particularly witnesses from non-WEIRD backgrounds. Complex, multi-part questions and legal jargon often led to confusion and partial responses. Approximately 40% of witnesses from non-WEIRD backgrounds showed signs of misunderstanding of complex questions, e.g. by saying "I do not understand" or giving an answer that was not related to the posed question, compared to 20% of WEIRD-background witnesses. Complex questions were coded as any multiple questions asked at once, with no break in between to let the responding party answer. This discrepancy underscores the impact of cultural and linguistic barriers.

The transcripts contain specific examples where witnesses had difficulty with questions that required an understanding of abstract legal concepts or precise terminology. One example from a transcript is shown below:

(Akayesu – DCC, page 67, l. 1–11).

Q. You were saying that in the month of April there was genocide. What do you mean by genocide?

A. I have not been to school. I do not speak French. I heard people use the word genocide at the end of the war and also when the war started. When I talk of genocide what I mean by this is massacres, war, the war which took place at that time.

Q. Do you know that genocide is a legal term which means something specific?

A. I do not know that.

In our data, 38% of cases involved instances where interpreters needed to intervene multiple times to clarify questions, which disrupted the natural flow of testimony. The presence and performance of interpreters were crucial in these situations, as their ability to convey legal terminology effectively impacted witnesses' comprehension and the accuracy of their responses (Swigart, 2016).

Implications for legal practice

These findings highlight the importance of cultural sensitivity among legal professionals to effectively manage cross-cultural interactions. Questioning techniques that account for cultural nuances, such as simplifying questions and using follow-up clarifications, are essential for eliciting clear and comprehensive testimony. Furthermore, improved training for interpreters to bridge linguistic and cultural divides can mitigate potential misunderstandings and enhance the quality of courtroom communication.

Limitations

As with most research, this study has some limitations that should be taken into account when interpreting the findings. First, after following the expert panel's recommendations, as well as filtering based on the judges' notations of cultural issues, we decided to analyze 64 witness testimonies out of approximately 2,200 (www.irmct.org, 2025). Therefore, it is possible that the selection of testimony analyzed in this study was not representative of the entire body of testimony provided at the ICTR. Nonetheless, we attempted to select a sample that was as representative as possible, by including a range of cases spanning different time periods at the ICTR involving a mix of different types of witnesses (overview, crime-base, expert and insider).

Second, it should be noted that our analysis of WEIRD versus non-WEIRD witnesses suffered from an important confound, namely, that most WEIRD witnesses were expert witnesses, whereas most non-WEIRD witnesses were overview, crime-base or insider witnesses. We should therefore be careful with interpreting the observed differences between WEIRD and non-WEIRD witnesses as a cultural difference as opposed to a difference between the different types of people involved. In addition, the ICTR more or less mimics the structure of a common law system, where the defense and prosecution follow specific questioning styles to achieve their goals. This could have potentially overshadowed the cultural differences, but these should still not be ignored.

Third, only publicly available transcripts were included in this study. In those transcripts, some sections were not available because testimony was held in a closed session or otherwise redacted. Not having the full transcript could mean that we missed some important information in our analysis.

Conclusion

Cross-cultural communication in the courtroom is a multilayered and complicated issue. With a growing number of mechanisms for handling international crimes, including international courts and tribunals, various investigative bodies or domestic special international crimes units, not to mention increasingly heterogeneous populations across the globe, this field urgently demands further research and practical solutions. While much of the existing focus has been on investigative interviewing, our study broadens this perspective by examining cross-cultural interactions in the courtroom. Analyzing transcripts from the ICTR, we explored the communication dynamics between legal professionals and witnesses from WEIRD and non-WEIRD backgrounds during testimony. Using a qualitative

research design through thematic document analysis, we identified distinct patterns in questioning strategies and their outcomes.

Our findings underscore the critical importance of cultural awareness among legal professionals. By addressing the challenges discussed, judicial processes can become more inclusive, equitable and effective in managing cross-cultural interactions.

Note

1. 93 individuals indicted by the ICTR:

- 62 sentences.
- 14 acquitted.
- 10 referred to national jurisdictions for trial.
- 3 fugitives referred to MICT.
- 2 deceased prior to judgement.
- 2 indictments withdrawn before trial.

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