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Transitional justice and liberal post-conflict governance: Synergies and symmetries, frictions and contradictions

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Conclusion

Some thirty years after it burst upon the world stage, transitional justice has become the “globally dominant lens”¹ through which we grapple with legacies of violence and mass atrocity. That lens has not been an apolitical, acultural, or non-ideological one, being most accurately viewed as a fairly narrow liberal prism. Indeed, the idea of transitional justice as handmaiden to liberal political transitions—the “paradigmatic transition” of transitional justice—remains a deeply embedded narrative in thinking, policy, and practice today. However, that the contours of transitional justice have been shaped by the light cast from that liberal prism is not itself, without more, an indictment of transitional justice. Key to our understanding of transitional justice and its possible future is a critical examination of the implications of the narratives and assumptions undergirding transitional justice, both historic and those possibly emerging.

Parts I and II of this dissertation sought to explore the ways in which the liberal optics of transitional justice practice, policy, and study have served to shape our sense of what it means to “do justice” in times of transition. I have argued that these optics contributed, at least in part, to some of the blindspots and frictions associated with transitional justice initiatives today, helping to push certain questions and modalities of justice into the foreground, while relegating others to the background of transitional justice concern:

Set in the Foreground	Set in the Background ²
the global, the Western	the local, the non-Western “other”
the modern, the secular	the religious, the traditional
the legal	the political
civil and political rights	economic and social rights
physical violence	economic and structural violence
the state, the individual	the community, the group
formal, institutional, “top-down” change	informal, cultural, social, “bottom-up” change

In exploring just a few of the historic peripheries of the field in *Parts I and II*, I have argued that there is nothing particularly natural or inevitable about the privilege, dominance, and marginalization reflected in the chart above; nor is it obvious that objectives of peace and justice can best be achieved in all contexts by emphasizing the foreground at the expense of the background. I have also argued that while a narrow and perhaps *neoliberal* understanding of liberal traditions has contributed to this backgrounding and foregrounding, it may be possible to recover from liberalism itself some of the keys to striking a better balance. Thus, for example, in *Part I*, I have argued that the field’s engagement with questions of “the local” and the “non-Western” has been both complex and clumsy, fraught with frictions and contradictions. Transitional justice has tended to privilege largely Western approaches to and understandings of what it means to “do justice.” Yet the choice going forward is not a simple one between vigorous

¹ Paul Gready and Simon Robins, “From Transition to Transformative Justice: A New Agenda for Practice,” *International Journal of Transitional Justice* (2014) (Advance Access).

² Chart adapted from, Dustin Sharp, “Addressing Economic Violence in Times of Transition,” 15.

localism and strongly assertive liberal internationalism. Rather, the dilemmas of “the local” reveal competing liberal principles and commitments that need to be balanced. In and of itself, there is nothing particularly illiberal, for example, in giving greater weight to local autonomy, participation, and decision making. If taken seriously, principles of pluralism and concepts like the “margin of appreciation” worked out in historically liberal societies would also go a long way towards generating transitional justice practice reflective of greater contextual openness and adaptability. As I argue in *Chapter I*, giving life to such principles means moving beyond invocations of near empty signifiers such as “local ownership,” and requires us to deconstruct and disaggregate what we mean by those terms. I have proposed that understanding concepts like “local ownership” across multiple dimensions of “control,” “process,” and “substance” would be a useful construct for striking a better global-local balance in the transitional justice context and beyond. In sum, the clash between the global and the local, or between the Western and the non-Western in transitional justice may therefore flow in large part from a narrow and arrogant version of the liberal tradition associated with the 1990s and the triumphal spirit of the “end of history” that has come to undergird so many aspects of liberal post-conflict governance in recent decades.

In *Part II* of this dissertation, I sought to reinforce arguments made in *Part I*, exploring the ways in which narrow liberal understandings of what it means to do justice in times of transitional have served to marginalize questions of economic violence and economic justice in the post conflict context. Yet, much like the dilemmas of the local, recovery of more accommodating strands of the liberal tradition could go a long way towards rectifying this blindspot. Thus, there are certainly threads of the liberal tradition that would pay greater attention to everyday needs, economic and social rights, and questions of distributive justice even if they have not characterized liberal post-conflict governance since the end of the Cold War.

I have made two particular arguments that contribute to the transitional justice literature in this area. First, I have suggested that the paradigmatic transition of transitional justice, with its implicit narrow assumptions that liberal democracy and free markets are the unique pathway to peace, might not be the best foundation for a more contextually sensitive and relevant transitional justice project. As an alternative, I have offered the concept from critical peacebuilding theory of “positive peace,” rooted as it is in the need to address questions of economic and structural violence, as a potentially useful construct in moving the transitional justice debate forward. Second, I have argued against the misconception in some of the literature that addressing questions of economic violence will of itself over-stretch the resources and intellectual coherency of the field. There are potentially narrow and broad approaches to questions of economic violence, just as there are narrow and broad approaches to redressing violations of physical integrity. I have offered the construct of the “economic violence—human rights violations” nexus as one way of disciplining and rendering manageable the inquiry.

If rather narrow understandings of liberalism undergirding the “paradigmatic transition” associated with the birth of the field have proven problematic—resulting in some of the blindspots, frictions, and contradictions discussed in Parts I and II—the questions then turns to alternative narratives and groundings for transitional justice going

forward. In recent years, the view of transitional justice as handmaiden to liberal political transitions has begun to give way to a somewhat looser view of transitional justice as a component of post-conflict peacebuilding more generally. The confluence of the frictions and critiques developed in *Parts I and II*, together with the emerging narrative of “transitional justice as peacebuilding” therefore led me to the central research question of this dissertation: *might a (re)conceptualization of the field of transitional justice around frames of peace and peacebuilding help to address longstanding critiques and limitations of the field and, at the same time, serve as useful tool for re-orienting theory and practice in ways more reflective of a genuinely pluralistic and global project?*

Drawing on the work done in *Parts I and II*, I attempted to answer this question in *Part III*. In short, I answered with a very qualified “yes,” but the results cannot be taken for granted.

Indeed, as I argued in *Part III*, there are many reasons to be wary of an increasing association between transitional justice and peacebuilding. These fears are legitimated when we consider the striking parallel critiques that have been leveled against both peacebuilding and transitional justice since the end of the Cold War: that they are too often externally driven, being planned and implemented in a top-down and state-centric manner; that they are biased toward Western approaches, giving too little attention to local or indigenous peace and justice traditions; that they are presented as technocratic, neutral, and apolitical solutions to highly contested or contestable political issues and choices, etc. Thus, as I argue in *Chapter IV*, promotion of synergies between transitional justice and peacebuilding must first begin with a firm understanding of these critiques. Without this, it seems probable that greater coordination between the two will only exacerbate the tendencies that gave rise to the critiques rather than mitigate them. And yet, it might also be possible to coordinate “through the lens” of critique, giving rise to new and innovative transitional justice and peacebuilding programs. To illustrate this point, I explored ways in which DDR and transitional justice programs might be coordinated through the lens of critique.

Second, in considering the ever-closer alignment of peacebuilding and transitional justice, we must be aware that historically, the “peace” associated with international post-conflict peacebuilding efforts spearheaded by the United Nations and major (Western) international donors has typically been conceived of as a narrow liberal peace predicated on free markets and Western-style democracy. Thus, one might well ask whether the “peacebuilding” promoted by the “international community” and the historic goals of transitional justice might not be one and the same. Even with that very significant caveat, I have argued that there are also emancipatory concepts of peace and peacebuilding that carry with them the potential to challenge longstanding blindspots and assumptions and to increase the possibility of a transitional-justice-as-peacebuilding narrative that is true to human rights ideals while becoming more open-textured and attuned to local needs and context. Preventing simple elision of transitional justice and liberal international peacebuilding—and working toward a more emancipatory conception of transitional justice-as-peacebuilding in the process—can be facilitated in part through the use of several constructs from critical peacebuilding theory: positive peace, the everyday, popular peace, and hybridity. While they do not themselves create

a program for action, these constructs, together with an effort to remember that liberalism is indeed a big tent capable of accommodating a great diversity of ideas and approaches, offer a very useful starting point for reimagining transitional justice going forward.

Proposals for Future Consideration

This dissertation has sought to explore but a few of the historic peripheries and dichotomies of the field of transitional justice, and has done so at a fairly high level of generality. That inquiry has at times been broad brush and superficial. More specific and detailed work is needed in the future, and it is hoped that this dissertation provides a number of points of departure in this regard.

First, just as this dissertation has sought to unpack and explore historic peripheries of “the local” and “the economic,” there is a need to interrogate further peripheries and blindspots of both transitional justice and peacebuilding. Referencing the chart above reveals that I have done little to explore, for example, the marginalization of concepts of “the religious” and “the community” in liberal post-conflict governance. These are projects that I or other scholars might find worthwhile in the future.

Second, I have analyzed how we might begin to work through some of the frictions arising out of such historic dichotomies at a time when the field is in a state of normative ferment, when some of its foundational assumptions appear to be in question, and when the historic narratives undergirding the field may be evolving. I have sketched several ideas to help shape an alternative transitional justice narrative, but much more could be done to put flesh on the bones of those ideas. This dissertation has been written largely in a “critical studies” tradition, seeking to explore and understand some of the implications of the implicit and explicit ideologies and politics associated with liberal-post conflict governance, without at the same time providing a blueprint for change. Thus, much can and should be done to help develop these ideas in the direction of concrete policy and action.

Finally, at a time when transitional justice is increasingly seen as a component of peacebuilding in a diverse range of contexts, there is a need for greater critical theoretical and empirical attention to the links between transitional justice, peace, and peacebuilding that take us beyond the “no peace without justice” debates and sloganizing of the past. Greater collaboration by scholars in both areas would be welcome, and thinking in each area could serve as a source of insight and inspiration for the other. To date, peacebuilding and transitional justice scholars have too often worked in “splendid isolation.” It is hoped that this work, together with work other scholars mining similar veins, will be an important step in breaking down those siloes.