MAPPING THE TRANSITIONAL JUSTICE CRUSADE:
GLOBAL DISSEMINATION OF NORMS AND THEIR QUESTIONABLE CLAIMED BENEFITS

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Transitional Justice Crusade through TWAIL

- Documenting Norms Dissemination
  - How the “dominant coalition of social forces and States [...] legitimize their vision of world order” (Chimni 2006, 16) in terms of transitional justice matters?
  - How such hegemonic position of the western world is maintained “through political domination by painting the rest of the world as its inferior ‘other’” (Sripati 2008, 416)?
- Mapping the propagation of TJ mechanisms and their claims in conflict-affected contexts in the global south, as well as the hegemonic and post-colonial tropes being reproduced
- What are the hegemonic functions of TJ norms?
Methodological Note: Mapping Peace Agreements Provisions

- PA-X: 1520 peace agreements across nearly 120 countries from 1990 to 2015
- 760 agreements (50%) address transitional justice matters (81 peace processes)
- A total of 1493 provisions that deal with transitional justice across various categories: reconciliation (22%), prisoners release (17%), amnesty and sanctions relief (14%), victims (13%), reparations (11%), establishment of mechanisms (7%), courts and judicial accountability (6%), general commitments or call to deal with the past (6%), missing people (4%), and vetting (1%).
- Out of these 1493 provisions, only 46 agreements include gender-specific transitional justice provisions (3%)
- Geographical and chronological coding: What type of mechanisms, through what type of actions and for what type of aims?

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CONSOLIDATION OF THE HEGEMONIC PACKAGE
• Understanding how International law sustaining unequal structures and maintaining growing North-South divide (Chimni 2006)

• Historical association of international human rights law with colonial conquest and western domination in Africa (Mutua 2000; 2001)
List of Mechanisms – Institutions provided for

1: Chamber for Amnesty and Pardon
2: Chamber for the Definition of Legal Situations
3: Chamber of Acknowledgment of Truth, Responsibility, and Establishment of Facts and Conducts
4: Claims Commission
5: Commission for the Consolidation of Peace
6: Commission for the analysis of violence
7: Commission for the Elucidation of the Truth, Co-existence and Non-Rep
8: Commission for Truth, Reconciliation and Healing
9: Commission on the Search for the Disappeared
11: Committee on the Nature of the Conflict
12: Compensation and Reparation Authority
13: Compensation Fund
14: Comprehensive process for Reconciliation and Healing
15: Comprehensive System for Truth, Justice, Reparation and Non-Rep
16: Gender Sub-commission
17: Historical Committee of the Conflict and its victims
18: Historical Investigations Unit
20: Independent Commission on Information Retrieval
21: Inquiry Commission
22: International Judicial Fact-Finding Mission
23: Investigation and Indictment Unit
24: Joint Commission to Trace Missing persons and mortal remains
25: Justice, Truth, Reparations, and Reconciliation Commission
26: Minister of Martyrs
27: National Council for National Unity and Reconciliation
28: National Observatory for Genocide prevention
29: National Peace and Rehabilitation Commission
30: National Reconciliation and Justice Commission
31: National Reconciliation Commission
32: National Reconciliation Committee
33: National Unity and Reconciliation Commission
34: Oral History Archive
35: Peace Tribunal
36: Special Jurisdiction for Peace
37: Sub-Commission for Mission People
38: Transitional Justice and Reconciliation Commission
39: Traditional Mediation System
40: Truth and Reconciliation Commission
41: Truth and Reconciliation Committee
42: Truth Commission
43: Truth, Justice, and Reconciliation Commission

Lists of Actions

1: Address - Look into Human Rights Violations
2: Bring the Guilty to Justice
3: Civic, Peace and Reconciliation Education
4: Clarify events
5: Clarify history
6: Cleansing Ritual
7: Compensation for Victims
8: Consultations regarding grievances
9: Consultations for Social Contract
11: Create Archive
12: Determine Reparations and compensation
13: Document and examine crimes
14: Efforts to fights impunity
16: Establish Collective responsibilities
17: Establish Consequences
18: Establish Facts
19: Establish Number of deaths
20: Establish Responsibility for environment damage
21: Explain nature of the conflict
22: Fact Finding in ‘governmental sources’
23: Fight against discrimination
24: Guarantee human rights
25: Hearing victims
26: Identify destroyed sites
27: Identify Responsible for Human rights violations
28: Identify Victims
29: Establish Inter-ethnic front to resist genocide
30: Investigate events, human rights violations, most serious crimes
31: Legislation against genocide
32: Make public apology
33: Perpetrator tell their story
34: Produce report
35: Punish responsible
36: Qualify crimes
37: Qualify crimes for reparation
38: Qualify crimes whose authors must be brought to justice
39: Qualify political crimes
40: Refer case to justice
41: Regional Monitoring for genocide prevention
43: Rehabilitation of Victims of genocide
44: Report Crime Qualification
45: Reports Events
46: Restore Victims’ Dignity
47: Rewrite history
48: Security of witnesses and Victims
49: Travel bans for responsible of human rights violations
50: Treating claims
51: Truth-telling
52: Vetting
53: Victims tell story
54: Work out transition justice programme

List of Functions - Overarching Aims

1: For Accountability
2: For Co-existence
3: For Consolidation of Rule of Law
4: For Forgiveness
5: For Institutional Reforms
6: For Justice
7: For Non-Repetition
8: For Reconciliation
9: For Rehabilitation
10: For Reparation
11: For Truth
12: To End (Fight Against) impunity
13: To Heal
14: To Investigate events
15: To Monitor society (prevention
16: To Repair Harm Caused
17: To Strengthen Democracy
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<td>Truth</td>
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<td>Produce report</td>
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<td>Clarify Events - History</td>
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<td>Address - Look into HRV</td>
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<td>Bring guilty to Justice - Punish</td>
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<td>Work out TJ programme</td>
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<td>Adopt Legislation against genocide</td>
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WHAT DOES THIS ALL SAY?

- Consolidation of package of mechanisms and its associated claims transported around the world
- Ideological adherence to the package
- Norms dissemination ignoring critique that contest these claims (early 2000’s)
- Optimistic and Policy scholars respond with ‘holistic vision’
- TJ crusader bringing TJ hegemonic vision – with the hegemonic claims culminating in the holistic vision
‘Hegemonic package’

A normative guide for action addressed to international and national experts that entails a set of mechanisms to achieve a set of aims to redress a ‘broken’ society seeking truth, justice, reparation and non-repetition

Mostly transported to Africa, but also to Afghanistan or the Philippines.
TRANSITIONAL JUSTICE SAVIOURS
Power at Play: Hierarchy of Saviours

Idealised international and national professionals imply that aid-dependent TJ practitioners ‘know better’, thanks to their expert knowledge of how to fix ‘dysfunctional states’ – reproduction unequal hierarchical social structures

• “The knowledgeable experts and on the other side black victims who need saving – re-enacts and perpetuates the civilizing mission of the past centuries” (Madlingozi, 2010)
Conclusion: What are the effects of TJ normative crusade?

Hegemonic Functions of TJ Norms
Silencing unexpected outcomes

- Hegemonic package: leave limited creativity to tailored to given contexts
- Impunity for global (essentially Western) responsibility in regards with authoritarianism and/or mass violence under scrutiny
- Silence Political Tensions inherent of transitional processes -> Opens the door to political manipulation
- Continues to project a vision of the world where the North are portrayed as international saviours and the Global South depicted as broken societies