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## **Identifying Transitional Justice Processes to Achieve Reconciliation In Venezuela**

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# ABSTRACT

After more than a decade of President Hugo Chavez's continued stay in power in Venezuela, the October 2012 elections presented the opportunity of a government turnover. Due to the president's poor health status, as well as the lack of clarity about a successor, the possibility of an opposition takeover during the presidential elections was more likely than ever before in the Chavez regime. This opportunity in time led to a national discussion about transitional justice and reconciliation strategies should the Chavez regime end. It became evident that policy-makers were not familiar with the field of transitional justice and did not know how to approach it. While a transition in Venezuela did not take place, the circumstances shed light on the need for a tool to help policy makers approach transitional justice. With this in mind, this paper aims to develop a series of suggestions for the creation of a transitional justice agenda to be implemented in post-conflict transitions.

First, the paper establishes a theoretical background on transitional justice and its repertoire of "tools". Then, it identifies a list of indicators critical for the analysis of transitional cases in order to establish which methods are most appropriate to bring transitional justice. Lastly, these indicators will be used to analyze the Venezuelan case and come up with a "toolkit" suggestion that could be implemented in this country should a transition occur.

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## INTRODUCTION

During the Hugo Chavez regime, Venezuela has experienced extreme levels of social conflict due to the polarization between those who support Hugo Chavez and those who do not. Traditional socioeconomic disparities have been highlighted for political gain by the current government. This has created a violent division along social classes. On one hand, “Chavistas” see anyone who disagrees with Chavez as a threat to the Bolivarian Revolution. They fear the opposition and refer to them as “the oligarchy”, emphasizing their former ties to power and their higher socio-economic status. On the other hand, the people who oppose the current regime can be described as the supporters of “Unidad Democratica”, the union of opposition parties created to run against Chavez. This group views Chavistas as corrupt and divisive and as a great threat to democracy and human rights. This conflict, combined with the breakdown of the judiciary, has led to a state of low-level violence conflict, in which impunity has been the norm.<sup>1</sup> It has also resulted in the alienation of the majority of the society from their political leaders. In 2010 a national survey demonstrated that 54% of the country did not agree with the president or the opposition candidates.<sup>2</sup> This group known as the “ni-nis” is composed of people who have expressed discontent not only with the politics, but

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<sup>1</sup> Golbovision, “La Impunidad en Venezuela se Ubica en 91.8% segun cifras presentadas por la Fiscal General,” Golbovision.com (March 30, 2012), Available at: <http://www.golbovision.com/news.php?nid=224454>

<sup>2</sup> Noticia 24, “54% de los venezolanos se consideran dentro del grupo de los ‘ni-ni’” Noticia24.com (October 25, 2009), Available at: <http://www.noticias24.com/actualidad/noticia/105413/54-de-los-venezolanos-se-consideran-dentro-del-grupo-de-los-ni-ni/>

with the current state of the country as a whole. They do not see themselves represented in either group.

The October 2012 presidential elections represented the possibility of a change in government after more than a decade of Chavez's continued stay in power. Unlike in previous elections, the opposition had changed its anti-regime, divisive message against the current administration, to one that aimed to bring all Venezuelans together on a path towards peace. This, combined with news of the president's poor health status, made the possibility of an opposition takeover during the October 2012 presidential elections more likely than ever before.

While a change in power did not take place, this situation generated the first set of serious discussion about what should occur should there be a change in power. For a change in government to be successful the new government would need to keep the country stable and peaceful. If the power turnover took place, it should be seen as an opportunity to promote reconciliation between the highly polarized "Chavista" vs. "Unidad Democratica" supporters. Social reconciliation would have to be of top priority if the country wishes to embark on a track of continued stability and long lasting peace. If there is a power turnover in the future, Venezuela could embark in a new direction that could open opportunities for reconciliation to take place. In order to secure reconciliation, it is important to embark on a transitional justice process that properly addresses the plights for justice on all sides of the political spectrum. The process will need to be based on the unique characteristics of the Venezuelan regime, the conflict, and the country's sociocultural peculiarities.

This paper will explore what policies of transitional justice would be most successful in achieving reconciliation in post- Chavez Venezuela. According to Bar-Tal and Bennik, societies that go through periods of extended continual violence have a harder time recovering and reconciling than societies that go through one episode of violence.<sup>3</sup> This is because the conflict becomes more deeply rooted and a culture of violence is developed. After more than a decade of political confrontations between the government and the opposition, Venezuela has become a country experiencing high levels of violence, including the highest homicide rates in the world<sup>4</sup>. Because of the continued violence, it is critical that close attention is paid to the reconciliation process in Venezuela, and that it is not viewed as a natural consequence of political and economic reforms. As Ruti G. Teitel makes clear in the introduction to her book Transitional Justice, this process plays a critical role in times of political transitions.<sup>5</sup> In places like Spain, Uruguay and Brazil, despite the amount of time passed since the transitions, civil society and victim organizations continue to press for the justice they were denied at the time of their “liberalizing” transitions. Therefore, cognizant of the importance of a transitional justice process to achieve social cohesion and reconciliation, this paper attempts to recommend policies for a transitional justice process that would best fit the Venezuelan case. To achieve this goal, I will first review the theoretical literature on transitional justice and its repertoire of “tools”. In the second

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<sup>3</sup> Bar-Tal, D., & Bennink, G. H. (2004) The nature of reconciliation as an outcome and as a process. In Y. Bar-Simantov (Ed.). From conflict resolution to reconciliation (pp.11-38). Oxford: Oxford University Press (also published in *Politika*, 2002, Issue No 9, pp. 9-34 in Hebrew)

<sup>4</sup> UNdata A World of Information; Intentional Homicides, Rate Per 100,000 population (last updated May, 2011); Can be found at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3A1>

<sup>5</sup> Teitel, Ruti G. (2000) *Transitional Justice* (pp. 4). Oxford: Oxford University Press

part, based on the existing literature on the theory of transitional justice, I will come up with a list of indicators critical to identifying the methods appropriate for specific transitional cases. Finally, in the third part, I will apply these indicators to the Venezuelan case in order to analyze the situation and come up with a “toolkit” suggestion.

## **PART 1: TRANSITIONAL JUSTICE THEORY**

### **1.A) Transitional Justice *Transitions***

The goal of transitional justice is to address harms caused by a previous regime, during a period of political change.<sup>6</sup> The term “transition” per se does not denote any particular direction of change; it simply implies a modification from one condition to another. However, as the field of transitional justice develops, the term ‘transition’ has taken on a new and ever shifting meaning. This has allowed for the field to expand and to include more situations that could benefit from the tools of transitional justice.

Because of the changing nature of the meaning and characteristics of transitional societies, it is necessary to address the nature of transitions here. If a context is not defined transitional, then it is likely that there will be no implementation of a transitional justice process. For instance, if people did not believe the Venezuelan situation to qualify as a transition, it is highly unlikely that anyone follow the recommendations presented in this paper. Therefore, below I have presented the definition of ‘transitional justice’ that I use in this paper, as well as a brief summary of research on transitions and the different ways in which transitions are defined in the field.

#### **1.A.i Transition Within Transitional Justice Literature**

For this particular study I have endorsed the United Nations Governance and Social Development Resource Center’s (UN GSDRC) definition of transitional justice:

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<sup>6</sup> Ruti G. Teitel, “Transitional Justice Genealogy”, Harvard Human rights Journal, Vol. 16 (2003), p.69

The United Nations defines transitional justice as the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation.<sup>7</sup>

This definition provides a broad scope for transitional justice and sees it applicable to a wide variety of situations. Previous definitions, such as that provided by Ruti G. Teitel in her "Transitional Justice Genealogy" were clearly limited to a legal realm and reflect the legal roots of the field.<sup>8</sup> However, since there has been a continuous interest from other study areas for societal transitions<sup>9</sup>, each field has brought its own perspective, expanding the goals and the tools of transitional justice. This transformation has widened the focus of transitional justice scholarship from questions regarding ways to achieve justice, to include questions regarding the manner in which the justice process can be used to promote future respect for human rights and reconciliation.<sup>10</sup> GSDRC accepts this incorporation of new goals and tools by including

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<sup>7</sup> Governance and Social Development Resource Centre, "Transitional Justice", Available at: <http://www.gsdr.org/go/topic-guides/justice/transitional-justice>

<sup>8</sup> "Transitional justice can be defined as the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes." Ruti G. Teitel, p. 69

<sup>9</sup> For examples of this development see David Mendeloff, *Trauma and Vengeance: Assessing the Psychological and Emotional effects of Post-Conflict Justice*; N.T Aiken, *Learning to Live Together: Transitional Justice and Intergroup Reconciliation in Northern Ireland*; Richard Ashby Wilson, *Anthropological Studies of National Reconciliation Processes*; Janos Matyas Kovacs, *Accomplices Without Perpetrators: What Do Economists Have to Do with Transitional Justice in Hungary?*

<sup>10</sup> N.T Aiken, *Learning to Live Together: Transitional Justice and Intergroup Reconciliation in Northern Ireland*

the phrase “full range of processes and mechanisms” as well as “in order to ensure accountability, serve justice and achieve reconciliation”.<sup>11</sup>

The field has also developed to enlarge the scope of situations that transitional justice encompasses. Sipiwe Ignatius Dube points out that a narrow focus on transitions as exclusively relating to situations of new democratic regimes dealing with their violent past shuns efforts of transitional justice in established democracies.<sup>12</sup> Dube even suggests that transitional justice does not require regime change to occur, rather it can happen in situations where formerly human rights abusive regimes turn into respecters of human rights.<sup>13</sup> Therefore, all situations in which violence has occurred in the past and reconciliation is to be achieved in the future can benefit from the tools of transitional justice. The UN GSDRC definition allows for this flexibility by not focusing on the transition itself, but on society’s desire to address a past wrong.

Finally, the GSDRC definition states: “... society’s attempts to come to terms with legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”<sup>14</sup> This section conveys an optimistic limitation in the notion of

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<sup>11</sup> Governance and Social Development Resource Centre, “Transitional Justice”, Available at: <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>

<sup>12</sup> such as the Australian government’s apology to Aborigines or the American government’s efforts at overcoming its tainted past of slavery and racism, most recently with the creation of the National Museum of African American History and Culture.

<sup>13</sup> Sipiwe Ignatius Dube, *Transitional Justice Beyond the Normative: Towards a literary theory of political transitions*, pg. 2

The efforts taken by the Canadian government to repair their past abuses towards first nations, not only through official apologies, but through the inclusion of traditional authorities within the government, as representatives of Canada during the Winter Olympics as well as changes in their land ownership laws are an example of such a change within a continuing regime.

<sup>14</sup> Governance and Social Development Resource Centre, “Transitional Justice”, Available at: <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>

transition within the field. Transitional justice tools can transform communities that have experienced large-scale past abuses by ensuring accountability, serving justice and achieving reconciliation. However, this definition does not identify the source of the past conflict. It focuses on the fact that this is a society's attempt to come to terms with past abuses, without defining the source of the abuses or who/what within society is attempting to address them. This flexibility is particularly useful when dealing with current cases, such as Venezuela, where the sources of conflict and violence are still hotly disputed and the type of transition remains uncertain.

#### 1.A.ii Is Venezuela a transition?

Venezuela is currently in a state of great uncertainty. There are several narratives regarding the current situation. For instance, there are separate and competing narratives with regard to specific events, such as the “coup” or “power vacuum” that occurred on April 11th, 2002.<sup>15</sup> Such competing narratives reflect a great division in the Venezuelan society. Over 70% of the population in Venezuela believes that there is a divisive conflict along ideological lines.<sup>16</sup> Over 60% of the population feels that public security is the number one problem in the country.<sup>17</sup> Over 60% of the population feel they can become victims of a violent crime, and almost 30% of the population have

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<sup>15</sup> See *The Revolution Will Not Be Televised* (<http://video.google.com/videoplay?docid=5832390545689805144>) vs. *The Revolution Will Not Be Televised- Radiography of a lie* (<http://video.google.com/videoplay?docid=-3378761249364089950>)

<sup>16</sup> See *Latinobarometro: Opinion Publica Latinoamericana, Venezuela, 2010* at <http://www.latinobarometro.org/latino/LATAnalyzeQuestion.jsp>

<sup>17</sup> *Ibid.*

been or have had a family member who has been victim of a violent crime<sup>18</sup>. These figures suggest that most of Venezuelans lives in constant fear, and are embroiled in an ideological conflict that has divided the society.

In Venezuela, high levels of impunity and government inaction have resulted in a very violent society. For example, in 2011, an average of 53 people died per day with murder rates of 67 per 100,000 inhabitants. This is the highest murder rate in the entire region, including countries currently facing armed conflicts like Colombia and Mexico,<sup>19</sup> and the US State Department puts this murder rate as one of the top five in the world.<sup>20</sup> International Crisis Group reports that the government has not only been incapable of controlling this violence, but also unwilling. They draw links between government officials and international terrorist groups operating with immunity within the country. Furthermore, they highlight the government's policy of arming civilian groups in defense of the revolution.<sup>21</sup> These statistics in conjunction with the instilled fear in the society, can be considered as a form of large-scale abuse. The existence of political prisoners, illegal detentions, high levels of impunity due to the systematic deterioration of the judiciary, and footage demonstrating the instigation of violence from the president, add up to a case against the current government for mass human rights abuses.<sup>22</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> Read more: <http://latino.foxnews.com/latino/news/2012/01/03/could-venezuelas-record-muder-rate-push-chavez-out-office/#ixzz1nFdifYnl>

<sup>20</sup> Read more: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1059.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1059.html)

<sup>21</sup> International Crisis Group "Violencia y Politica en Venezuela", Informe sobre América Latina N°38, (August 17, 2011), p. i-ii, accessed on April, 20, 2012, available at: [http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt\\_lang=es](http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt_lang=es)

<sup>22</sup> Refer to indicator "Nature of repression" on pg. 60 for further analysis on the current issues of violence and repression in the country.

Thus, overall if a political transition is to take place in Venezuela, considering the state of events in Venezuela with regard to political violence, ideological divisions, and crime, Venezuela would be an appropriate context for utilizing transitional justice tools. If a post-conflict government wishes to mend the divides within the society, reinstate the rule of law, and bring a stop to the cycles of violence, transitional justice mechanisms will be useful tools for this. The aim of this paper is to identify the most appropriate mechanisms with the highest potential of success considering the nature of Venezuelan context transition.

### **1.B) Tools of Transitional Justice**

Transitional justice procedures have been compiled over the years, changing in style to reflect the different scenarios that developed in history. Ruti G. Teitel<sup>23</sup> traces the development of the field, creating a genealogy that explains how different mechanisms became incorporated into the transitional justice toolbox. She divides the field into three major eras and explains how countries responded to transitions depending on the needs of the time.<sup>24</sup> Taking her genealogical perspective, I will establish in which phase each tool developed and therefore illuminate the context, purpose, advantages and shortcomings of each tool. By using this method I hope to stress the importance of background conditions in the development of these methods. A chart of tools has been added on page 32 for easy visualization of the “toolbox.”

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<sup>23</sup> Ruti G. Teitel, “Transitional Justice Genealogy”, (2003), Harvard Human Rights Journal, Volume 16., p. 69-94.

<sup>24</sup> Ibid. p.69

## PHASE 1: The End of World War II

The first phase is most recognized by the international response to the end of WWII. Transitional justice at this point was seen as an extraordinary and international procedure to address heinous war crimes. The establishment of the Nuremberg trials presented the first attempt at forming a process that would instill accountability into the post-conflict transition.<sup>25</sup> At the time, the international consensus was that International criminal accountability could increase deterrence.<sup>26</sup> Because the sanctions in WW1 caused the economic frustrations that helped trigger the rise of the third reich, the world leaders wanted to find a justice mechanism that would not punish an entire society for the crimes of their leaders. This led to a focus on individual judgment and accountability through the use of trials.<sup>27</sup> The Nuremberg trials represented the first great attempt at transitional justice, with an international tribunal bringing Nazi leaders to justice for their crimes.

### ~International Tribunals~

International criminal trials were originally carried out by international tribunals in the form of the Nuremberg trials and later the International Criminal Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda. All of these tribunals were designed as temporary bodies to deal with post-violence situations. While the last two were historically after the start of the second phase, their use was based on the same reasoning for the Nuremberg trials. In both cases the local institutions were

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<sup>25</sup> Ibid. p.70

<sup>26</sup> Ibid. p.72

<sup>27</sup> Ibid. p.73

unwilling or unable to carry out criminal trials against the perpetrators in an impartial form.<sup>28</sup>

Vinjamuri and Snyder's elaborate review of international trials suggests that when trials follow international standards they give victims a sense of justice and honor their suffering which in turn inhibit vengeance. They can also prevent future violations by serving as an example for punishment of other perpetrators of crimes against humanity.<sup>29</sup> In spite of these positive influences, sometimes international tribunals might be inefficient, and even work against reconciliation at the local level. For example, international tribunal for Rwanda was not visible among the local population and therefore had little impact on reconciliation efforts.<sup>30</sup> Even if trials present short-term failures, they still build up towards the development of international humanitarian law. The most useful contribution of ad-hoc trials has been the spread of norms and accountability.<sup>31</sup>

### PHASE 2: The Fall of the Berlin Wall

The second phase in the development of transitional justice starts in 1989 with the end of the Cold War era.<sup>32</sup> The end of the cold war led to a focus on political transitions starting in the southern cone of South America and following through in

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<sup>28</sup> Joanna R. Quinn, "Transitional Justice" (2008), Human Rights: Politics and Practices, p.363-378

<sup>29</sup> Ibid. p. 347

<sup>30</sup> Ibid. p. 351

<sup>31</sup> Ibid. p. 350

<sup>32</sup> Ruti G. Teitel, (2003) p.75

Central America and Eastern Europe.<sup>33</sup> With the end of the Soviet Union, new states developed across Eastern Europe and former authoritarian regimes in other regions crumbled. Considering that the context of these transitions was the fall of authoritarian regimes rather than international war, questions arose about the possibility of accountability through trials in the style of the Nuremberg trials. To reflect this new context, the focus was placed on national trials that follow international criminal and humanitarian law.<sup>34</sup> These trials were used to legitimate the successor regimes by portraying them as justice-driven, while attempting nation-building.<sup>35</sup> This change in context, from complete military defeat in international wars to negotiated transitions from authoritarian governments, made the goals of transitional justice more complex. In addition to retributive justice, scholars and practitioners were interested in using transitional justice to heal an entire society and achieve reconciliation and peace.<sup>36</sup>

To achieve this goal, truth commissions became a staple during this phase, with the first trials implemented in Argentina.<sup>37</sup> The South Africa's truth and reconciliation commission illustrated how this tool could help establish a united historical narrative. In Eastern Europe, historical narratives had been manipulated by former regimes to advance or justify repression of the population. Therefore, transitional justice focused on affording access to historical record through the publication of secret government files.<sup>38</sup>

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<sup>33</sup> Ibid.

<sup>34</sup> Ibid., p.75

<sup>35</sup> Ibid., p.76

<sup>36</sup> Ruti G. Teitel (2003) p.79

<sup>37</sup> Ibid.

<sup>38</sup> Ibid., p.79

The inclusion of non-state actors as vehicles for victim recovery, dialogue between victims and perpetrators, remembering, mourning and recovering was also a key feature of this phase.<sup>39</sup> The goal was to advance reconciliation by allowing victims to heal and forgive, and perpetrators to apologize for their involvement in crimes.

### ~National Trials~

As the main element of retributive justice, trials are based on a traditional tribunal model, in which an accused party and an accusing party are represented, and a judge, and possibly jury, decide whether or not the accused party is guilty, and decide on the punishment. Trials can help bring forth a debate about the former system and its underlying values.<sup>40</sup> National trials provide society greater access to the information being revealed allowing for greater investment in the process. National trials can also help boost confidence in the national justice system, by proving that the institution is capable of carrying out its functions.<sup>41</sup> However, Huntington's research on transitions suggests that only in cases where there is a complete defeat of the previous regime can national trials be held.<sup>42</sup> Because of, the continued power of former rules after a negotiated transition, as well as the debilitation of institutions during conflicts, countries in post-conflict situations are often not equipped to carry out efficient and fair trials. Furthermore, transitional trials need to follow a unique set of guidelines that often are not compatible with those established in regular criminal law, for example dealing with

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<sup>39</sup> Ibid., p.80

<sup>40</sup> Leslie Vinjamuri, Jack Snyder, p.355

<sup>41</sup> Joanna R. Quinn p.365-6

<sup>42</sup> Leslie Vinjamuri, Jack Snyder, p.354

retroactivity and prosecutorial selectivity.<sup>43</sup> Therefore national trials can be a powerful tool for justice, and reconciliation, but are often impracticable right after a transition.

~Trials under international humanitarian law ~

International trials under International Humanitarian law first took place with the indictment of Argentinian military junta leaders by Judge Baltazar Garzon in Spain. They occur when a judge uses International Humanitarian law to prosecute crimes committed in another country. Argentina proved to be the pioneer case for international law. Attempting to bring about some form of justice, at least where their own citizens were concerned, many European countries filed cases against military officers involved in the disappearances of European citizens. This was the first clear example of how international trials could help bring about justice in cases where the national court system was unwilling or unable to do so.<sup>44</sup> This sort of trial is the most effective way of ensuring that perpetrators will be held accountable.<sup>45</sup>

~The International Criminal Court ~

The International Criminal Court was established by parties signatories to the Rome Statute of 1998. It is a permanent court designed to deal with cases that relate to crimes against humanity, war crimes and genocide. According to their own description:

“The ICC is a court of last resort. It will not act if a case is investigated or prosecuted by a national judicial system unless the national proceedings are not genuine, for

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<sup>43</sup> Ruti G. Teitel, p.76

<sup>44</sup> Joanna R. Quinn, p.366

<sup>45</sup> Leslie Vinjamuri, Jack Snyder, p.350

example if formal proceedings were undertaken solely to shield a person from criminal responsibility. In addition, the ICC only tries those accused of the gravest crimes.”<sup>46</sup>

Therefore, the court is seen as a last resort to achieve justice in situations where the national authorities of each country are unable or unwilling to prosecute. So far the court has seen 15 different cases. While most of these cases have been referred to them by the countries themselves, as is the case of Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen of Uganda, other cases have been referred to the court by the UN Security Council. Finally, two investigations, into Kenya and Cote d’Ivoire have been started by *proprio motu*. The year 2012 marked the first completed trial for the ICC, with the conviction of Charles Taylor, former head of state of Liberia, for his involvement in war crimes in Sierra Leone.<sup>47</sup>

The ICC has been praised as a tool of deterrence used to urge countries to pursue their own justice, otherwise they would be faced with the prospect of ICC trial.<sup>48</sup> The establishment of a permanent court is also seen as a great achievement in a process towards universal rights and justice. However the ICC has also been criticized for being vulnerable to political influences, thus becoming a tool of power politics.<sup>49</sup> This becomes apparent with the referencing of cases by the Security Council, despite the

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<sup>46</sup> International Criminal Court, “ICC at a Glance” found at <http://www.icc-cpi.int/Menus/ICC/About+the+Court/ICC+at+a+glance/>

<sup>47</sup> Faith Karimi, “Court Finds Charles Taylor Guilty of Aiding War Crimes”, (April, 26, 2012), CNN, found at: <http://www.cnn.com/2012/04/26/world/africa/netherlands-taylor-sentencing/index.html>

<sup>48</sup> Leslie Vinjamuri, Jack Snyder, “ Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice,” (2004) Annual Reviews Political Science, p. 347

<sup>49</sup> Joanna R. Quinn, “Transitional Justice” (2008), Human Rights: Politics and Practices, p.378

fact that two of its members are not signatories to the Rome Statute.<sup>50</sup> The court has also come under scrutiny due to its involvement in Uganda, where it was perceived that the indictment of the ICC was a roadblock to the peace negotiations with the rebels.<sup>51</sup> In all, the ICC is the newest method of approaching international humanitarian law. Its shortcomings, are a reflection of its pioneering stage and its potential is still being realized.

#### ~Amnesties~

Amnesties are the act of granting immunity from prosecution of past crimes. This tool is seen as a negotiating tool for peace agreements or power turnovers. In cases like Angola and Guatemala, the amnesty part of the agreement was critical for the resolution of the conflict.<sup>52</sup> Amnesties can also serve as a tool for dealing with victim-perpetrator cycles, where victims are also perpetrators, such as in the case of child soldiers.<sup>53</sup> This approach was used in Uganda with an Amnesty act passed in 2000, under great pressure from the leaders in the northern parts of the country.<sup>54</sup> One of the great criticisms to amnesties is their potential to undercut justice by allowing perpetrators to evade any punishment for heinous crimes. In fact, in cases like Chile, the lifetime amnesty law was put into place by the previous regime before them handing over the

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<sup>50</sup> Leslie Vinjamuri, Jack Snyder, *Ibid.* p.349

<sup>51</sup> Joanna R. Quinn, *Ibid.* p.378

<sup>52</sup> Roy Licklider, "Ethical Advice: Conflict Management Vs. Human Rights in Ending Civil Wars," *Journal of Human Right* (2008), Taylor & Francis Group LLC, p.382

<sup>53</sup> Joanna R. Quinn, p.375

<sup>54</sup> *Ibid.*, p.375

power to their successors.<sup>55</sup> However, it is often the case that amnesties are promised to allow for an agreement and then revoked at a later time when the political system is strong enough to allow for trials to take place. This reversible nature of amnesties in turn brings about its own problems, as it makes difficult their future use as a leverage tool.<sup>56</sup>

### ~Truth Commissions ~

Truth commissions, also known as truth and reconciliation commissions are temporary bodies set up to deal with specific periods of human rights violations. These are usually led by the state, often with the help of civil society.<sup>57</sup> An example of a nationally implemented truth commissions is the 1990 Chile *Comision Nacional Para la Verdad y Reconciliacion*.<sup>58</sup> However, there have been cases where they were led by civil society, or by the international community, due to the lack of action from the state.<sup>59</sup> This might be due to lack of monetary resources, because they do not have the necessary infrastructure or because they turn to the international community as a source of expertise and legitimacy.<sup>60</sup> These commissions help integrate different perspectives on the past in order to create one comprehensive narrative. They are

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<sup>55</sup> Ibid.

<sup>56</sup> Roy Licklider, p.383

<sup>57</sup> Joanna R. Quinn, p.368

<sup>58</sup> Ibid. p.369

<sup>59</sup> For examples of civil society truth commissions refer to Bickford, L., 2007, 'Unofficial Truth Projects', *Human Rights Quarterly*, vol. 29, no. 4, pp. 994-1035 available at [http://muse.jhu.edu.ezproxy.lib.umb.edu/journals/human\\_rights\\_quarterly/v029/29.4bickford.html](http://muse.jhu.edu.ezproxy.lib.umb.edu/journals/human_rights_quarterly/v029/29.4bickford.html)

<sup>60</sup> Ibid.

particularly useful in cases where facts are not known and there is no documentation, because they encourage victims and perpetrators to tell the story of their crimes in a public forum. A final report conveys a complete picture of the past, and makes recommendations on appropriate reparation and reconciliation policies.<sup>61</sup> The wide dissemination of a final report, as well as public broadcasting during the proceedings can help disseminate this narrative.<sup>62</sup> However, truth commissions have been criticized for their role in the re-traumatization of victims as they have to retell, and thus re-experience, their stories and open old wounds.<sup>63</sup>

#### ~Declassifications~

Declassifications are a truth revelation procedure in which secret police files are made available to the public. This practice was fairly common in post-communist societies in Eastern Europe, where governments kept a great deal of information about political persecutions secret. Therefore, it was important for society members who had been persecuted in the past to be allowed access to files related to them or their loved ones. In addition, the unavailing of this information also uncovered the perpetrators of the human rights abuses. This process has been criticized as a form of vengeance or “victor’s justice” by former dissidents. However, in many cases throughout Eastern

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<sup>61</sup> gsdrc, <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice#truth>

<sup>62</sup> Leslie Vinjamuri, Jack Snyder, “Advocacy and Scholarship in The Study of International War Crime Tribunals and Transitional Justice”, *Annu. Rev. Polit. Sci.* (2004), p.345-362

<sup>63</sup> David Mendeloff “Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice”, *Human Rights Quarterly*, Volume 31, Number 3, (August 2009), pp. 592-623

Europe the publishing of such information was regulated by the government that included members of the former regimes.<sup>64</sup>

~Vetting/Lustration ~

Vetting and lustration are the process of screening politicians and government personnel to determine if they collaborated in any form of human rights abuses in the past. This process is seen as a way to establish strong institutions by removing personnel that “lacks integrity.” It was particularly popular in post-communist regimes in Eastern-Europe.<sup>65</sup> Strong institutions can help make the processes of transitional justice more locally driven. Strong institutions are also essential for the preservation of human rights in the long run.<sup>66</sup> Within this context vetting is a particularly important step of institution reform because “the principal constituents of public institutions are its employees.”<sup>67</sup> Vetting can also be seen as a legal punishment for perpetrators of human rights abuses. Finally, the process can help build standards of behavior for the hiring of future public employees.<sup>68</sup>

Appropriate vetting evaluates personnel along two standards, capacity and integrity. Capacity refers to the technical ability of a person to fulfill a task. Integrity refers to the quality of character that enables persons to complete tasks in a manner

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<sup>64</sup> Marek M. Kaminski and Monica Nalepa, “Judging Transitional Justice: A New Criterion For Evaluation Revelation Procedures”, *Journal of Conflict Resolution* (2006) p. 402

<sup>65</sup> *Ibid.* 385

<sup>66</sup> OHCHR, 2006, 'Rule-of-Law Tools for Post-Conflict States: Vetting - An Operational Framework', Office of the United Nations High Commissioner for Human Rights (OHCHR), New York, p.1

<sup>67</sup> OHCHR, p.4

<sup>68</sup> OHCHR, p.4

that respects human rights and rule of law. It is important that vetting should not be done according to group affiliation.<sup>69</sup> For example, in Poland, every politician who attempts for public office is vetted independently of their known affiliations to the former communist regime.<sup>70</sup> If vetting were to occur according to group identification, people could be vetted that should not have been. By the same token personnel that should be vetted could be overlooked because of their non-affiliation to a group.

### ~Reparations~

According to the GSDRC reparations “refer to various measures that aim to redress past wrongs and provide compensation, rehabilitation and satisfaction for victims.”<sup>71</sup> The most common method includes monetary restitutions, which are a sum of money given as a payment to repair the losses incurred during the conflict. Along financial restitutions other more symbolic restitutions can be made through apologies, memorials and declassification of materials. Reparation programs aim to be comprehensive, and to address the needs of all victims that were affected violations.<sup>72</sup> Excluding some groups that were affected by violence while including others can create more conflict because of a perceived lack of justice.<sup>73</sup> However, because of the wide scope of human rights violations, the redress of all past crimes is often not possible.

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<sup>69</sup> OHCHR, p.15

<sup>70</sup> Marek M. Kaminski and Monica Nalepa, p. 384

<sup>71</sup> “Reparations, Memorializations, Vetting and Amnesty,” GSDRC, can be found at <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>

<sup>72</sup> “Rule of Law Tools for Post Conflict States, Reparation Programmes”, United Nations, New York and Geneva (2008) p.18, Available at <http://www.gsdrc.org/go/display&type=Document&id=3159>

<sup>73</sup> Ibid. p.22

Therefore, it is important to establish from the beginning the parameters of restitution. In other words, what crimes are being addressed by the policy, and what will be the form of reparations.<sup>74</sup>

### ~Apology~

Apology is an official, political act in which the wrong to the victim is acknowledged by the perpetrator, or, in their absence, by someone that represents them. For example the government of Australia offered an official apology to the aborigine community for the wrongs committed against them between 1915 and 1969. While none of the current members of government were present during that period, they took on the role as representatives of the state to issue the apology.<sup>75</sup> Apologies allow victims to heal by lessening bitter feelings and making their suffering be recognized. They are an acceptance of responsibility for the wrongful acts on the part of perpetrators. Apologies can help stop vindictive behavior and therefore move the society toward reconciliation, by diminishing the trauma surrounding the events.<sup>76</sup> However, apologies are often used as a way of evading further action. For example, in the case of Australia, the official apology was issued in the place of reparations.<sup>77</sup>

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<sup>74</sup> "Rule of Law Tools for Post Conflict States, Reparation Programmes", United Nations, New York and Geneva (2008) p.18, Available at <http://www.gsdr.org/go/display&type=Document&id=3159>

<sup>75</sup> Joanna R. Quinn, p.372

<sup>76</sup> Ibid., p.371

<sup>77</sup> Ibid., 372

### ~Memorialization Projects~

Memorialization projects are public works (such as statues, museums, or memorials) that confront people with past events. They are important to maintain and honor the memory of the victims. They are considered an important step towards the healing of victims but also important for the deterrence of future crimes.<sup>78</sup> A comparative study on youth programs at memorial sites found that the memorialization changed young people's opinions about past human rights violations, raised awareness, and improved relationships among formerly opposing groups. They help young people understand the human consequences of atrocity.<sup>79</sup> Hamber, Ševčenko and Naidu point out that memorials can be used to stimulate debate or to promote a single narrative of past events.<sup>80</sup> Its purpose depends on the needs of the society that is employing them. The authors make clear however, that the effect of memorials has not been completely tested and they often raise controversy over the narrative of events.<sup>81</sup>

### ~Traditional Grassroots Methods~

Traditional grassroots methods are tools of justice and reconciliation that are already in place within a society. The importance of including society and culture within transitional justice, made the use of traditional justice methods more appealing. These

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<sup>78</sup> "Reparations, Memorializations, Vetting and Amnesty," GSDRC, can be found at <http://www.gsdr.org/go/topic-guides/justice/transitional-justice>

<sup>79</sup> Hamber, B., Ševčenko, L., and Naidu, E., 2010, 'Utopian Dreams or Practical Possibilities? The Challenges of Evaluating the Impact of Memorialisation in Societies in Transition', *International Journal of Transitional Justice*, vol. 4, no. 3, p. 397

<sup>80</sup> *Ibid.* 413

<sup>81</sup> *Ibid.* 413

methods vary and they tend to be used in combination with other tools. The most prominent example can be seen with the use of “gacaca” courts in Rwanda. Gacaca courts were a traditional mechanism employed in pre-colonial Rwanda to settle community disputes.<sup>82</sup> At the end of the Tutsi genocide 120,000 Rwandans were accused of carrying it through. The national court system was completely overwhelmed and unable to deal with all of the cases. Therefore, alongside an international tribunal and international trials under universal jurisdiction, gacaca courts were put in place to deal with justice and bring about reconciliation, particularly in the most rural areas of the country.<sup>83</sup> However these institutions are originally designed to deal with family conflicts and small crimes and might not be effective at dealing with crimes at the scale of genocide. Furthermore, when enacted by the government, these methods might lose their sense of local ownership.<sup>84</sup>

### PHASE 3: The work of the International Criminal Court

The third and current phase is based on persistent conflict and the foundation of a “normalized law of violence”<sup>85</sup> which results in a steady state of transitional justice.<sup>86</sup> The establishment of the International Criminal court as a permanent international tribunal appointed to prosecute war crimes, genocide and crimes against humanity as a routine matter under international law points to this pattern. With the current state of

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<sup>82</sup> Kora Andrieu, “Civilizing Peacebuilding: Transitional Justice, Civil Society and the Liberal Paradigm,” *Security Dialogue* (2010), p.546

<sup>83</sup> Joanna R. Quinn, p. 367-8

<sup>84</sup> Kora Andrieu p.546

<sup>85</sup> Ruti G. Teitel, p.70

<sup>86</sup> Ruti G. Teitel, p.89

affairs, where most conflicts are within states and globalization is the trend, the focus is back on creating an international human rights regime, with normalized war processes. According to Teitel this is problematic because it involves attempting to generalize law which is specific to transitional contexts and retroactive in nature to address non-transitional situations to guarantee prospective security.

*“To some extent, the dilemmas of transitional justice in its contemporary phases raise issues that resonate more generally with the efforts to establish rule of law in a globalizing world. These include how to shape law reform and justice projects in light of growing global interdependence, and to what extent to accommodate local structures to outside forces.”<sup>87</sup>*

Within this most recent stage we witnessed the first referral of a perpetrator, Mummar Ghaddafi, by the security council to the ICC.<sup>88</sup> We have also witnessed the first conviction by the ICC, which was against Thomas Lubanga, a former Congolese Warlord.<sup>89</sup> At the same time, Ecuador, Venezuela, Bolivia, Nicaragua, Peru and Brazil have all threatened to leave the Inter-American Court for Human Rights if their is no reform. In all cases this is linked to recent court decisions that have gone against the actions of each state.<sup>90</sup> Furthermore, while the world’s leading countries have all

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<sup>87</sup> Ruti G. Teitel , p.93

<sup>88</sup> “UNL Security Council Refers Libya to ICC - Resolution Aimed at Stemming Violence and Bringing Justice”, (February 27, 2011), Human Rights Watch, found at: <http://www.hrw.org/news/2011/02/27/un-security-council-refers-libya-icc>

<sup>89</sup> “Justice in Congo: A Victory for Congo’s Children”, (March, 13, 2012), Human Rights Watch, found at: <http://www.hrw.org/news/2012/03/15/justice-congo>

<sup>90</sup> “Chipping at the foundations: The regional justice system comes under attack from the countries whose citizens need it most,” (June 9, 2012), The Economist, Found at: <http://www.economist.com/node/21556599>

engaged further with the ICC, only two out of the five permanent members of the security council, France and the United Kingdom, have ratified the Rome Statute.

#### ~Combination Approach~

In addition to Teitel's observations, this phase also seems to be characterized by an increase in the study of the combination of transitional justice methods. Quinn identifies three different types of justice that are important to differentiate for the purpose of transitional justice tools. Retributive justice is based on the idea of punishment for perpetrators and is represented by trials and tribunals. Restorative justice is based on the idea of regaining balance and reestablishing relationships within a community and is represented by truth commissions. And, lastly, reparative justice aims to repair the victims' suffering through apologies, restitutions and/or reparations.<sup>91</sup> Based on this typology Aiken suggests that sustainable peace requires three types of reconciliation.<sup>92</sup> Distributive reconciliation is about reducing the structural and material inequalities between antagonist groups. Instrumental reconciliation requires that the conflicting parties are engaged in combined projects in order to rebuild a relationship around a positive effort. And socio-emotional reconciliation focuses on confronting the past legacy and giving the victims a sense of justice.<sup>93</sup> A combination of these approaches can help address not only the needs of the victims for justice, but also the reintegration of perpetrators in the community, and the institutional reforms necessary to change the

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<sup>91</sup> Joanna R. Quinn, "Transitional Justice" (2008), *Human Rights: Politics and Practices*, p.363-378

<sup>92</sup> N.T Aiken, " Learning to Live Together: Transitional Justice and Intergroup Reconciliation in Northern Ireland", (2010), *International Journal of Transitional Justice*, Volume: 4, Issue: 2, Pages: 166-188

<sup>93</sup> Ibid.

dynamics in society that led to the conflict.<sup>94</sup> However, it is important to ensure that the mechanisms employed do not conflict with one another. As Huma Haider points out, in Sierra Leone, some perpetrators did not tell the Truth and Reconciliation Commission their stories in fear that their statements would be used against them at the Special Court for Sierra Leone.<sup>95</sup>

Teitel's genealogy helps visualize how each phase of transitional justice builds on each former phase and responds to the current context. Thus, different contexts and conflict might require different tools of transitional justice. Some methods of transitional justice are more or less appropriate depending on the context of conflict. Therefore, in the next sections I will develop a list of indicators that help analyze the specific conflict to be addressed in order to make decisions about the transitional justice tools appropriate in the particular context.

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<sup>94</sup> Ibid. p.373

<sup>95</sup> Huma Haider, "Factors Contributing to Transitional Justice Effectiveness", Governance and Social Development Research Center, (15.04.2011), p. 8

## **PART 2: INDICATORS**

### **2A.) Overview**

As detailed in the previous section, each transitional justice tool was designed to address specific needs of a post-conflict setting. Thus, my goal in this section is to establish indicators that can help create a case profile of countries that have or can use transitional justice. In this way we can identify which elements of the conflict are important when deciding which transitional justice tools should be used. Therefore, it is important to assess the relevant characteristics of a case in order to decide which transitional justice tool is appropriate in that setting. For example, the first trials of military members after the fall of the junta in Argentina were not successful due to the continued strength of the military. Argentina had a negotiated transition and the new government was not in a position to antagonize the military, which then threatened to overtake the government once again. This suggests that trials might not be the best tool for national transitions from authoritarian regimes that result from a negotiated agreement with the former rulers. When considering the use of trials it is important to consider the type conflict, the type of transition, as well as the timing of the transitional process after the transition. By identifying indicators to assess these crucial elements we can evaluate whether trials are an appropriate strategy in a particular case.

Most of transitional justice scholars are country specialists, focusing on analyzing and understanding one specific context. However, a few scholars have attempted to come up with comprehensive indicators of transitional justice processes that could be used to compare different settings. For instance, Fletcher, Weinstein and Rowen

attempt to find “what is most beneficial to the people whose lives have been disrupted or even destroyed by the perpetrators of violence?”<sup>96</sup> by comparing the effects of the methods used in several cases. However, there is no consensus on the literature on which indicators are important for transitional justice. This is in part due to the lack of an overarching theoretical framework for effectiveness of transitional justice.

In order to come up with key indicators to be considered in the implementation of transitional justice, I have reviewed the literature<sup>97</sup>, and chosen 59 theoretical papers that elaborate on various aspects of transitional justice. My analyses of these articles revealed 12 main themes, pointed out by at least 10 scholars each, that can influence the use and effectiveness of transitional justice tools. These include causes of conflict, types of conflict, political commitment to addressing the past, levels of economic development, nature of repression, historical narratives, status of state institutions, civil society status, international interventions, nature of transition, local context, and timing. Each theme can be assessed via several indicators which I have shown in Table 1 and further discussed below.<sup>98</sup>

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<sup>96</sup> Laurel E. Fletcher, Harvery M. Weinstein, Jamie Rowen, “Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective”, *Human Rights Quarterly*, Volume 31, Number 1, February 2009, p. 163-220

<sup>97</sup> See appendix A

<sup>98</sup> Refer to “Measurement of Indicators” table, p.20

<b>Table 1: INDICATORS OF TRANSITIONAL JUSTICE</b>	
<b>Theme</b>	<b>Indicators</b>
Causes of Conflict	<ul style="list-style-type: none"> <li>- Ideological</li> <li>- Identity-based</li> <li>- Socio-economic</li> <li>- Independence struggle</li> </ul>
Type of Conflict Settings	<ul style="list-style-type: none"> <li>- post-communist</li> <li>- post-apartheid regimes</li> <li>- post-genocide</li> <li>- post-coup</li> <li>- post-civil wars</li> <li>- established democracies addressing past wrongs against minorities</li> </ul>
Levels of Economic Development	<ul style="list-style-type: none"> <li>- GDP</li> <li>- Inequality indicators (GINI Coefficient)</li> <li>- Human Development Index</li> </ul>
Nature of repression	<ul style="list-style-type: none"> <li>- open</li> <li>- closed</li> <li>- centralized</li> <li>- decentralized</li> </ul>
Historical Narratives	- Occurrence of disputed events? (Yes) (No)
State Institutions	<ul style="list-style-type: none"> <li>- non-existent vs. existing</li> <li>- centralized vs. independent</li> <li>- reputable, non-reputable</li> </ul>
Civil Society Status	<ul style="list-style-type: none"> <li>- Strong vs. Weak</li> <li>- reconciling or destructive?</li> <li>a. church</li> <li>b. NGOs</li> <li>c. students</li> </ul>
International intervention	<ul style="list-style-type: none"> <li>- Presence or absence during conflict</li> <li>- during transition</li> <li>type of intervention?</li> <li>a. use of international institutions such as the International Criminal Court</li> <li>b. sources of funding</li> <li>c. direct involvement</li> <li>d. indirect influence</li> </ul>
Political commitment to addressing the past	- plans, statements put out by new government

<b>Table 1: INDICATORS OF TRANSITIONAL JUSTICE</b>	
<b>Theme</b>	<b>Indicators</b>
Nature of transition	- negotiated vs. complete defeat  Typology of transition a. post-conflict transition b. pre-transition c. non-transition
Local Context	- current policies - programs already in place?
Timing	- Time lapsed after conflict

## 2.B) Theory Based Indicator Themes

### ~Causes of Conflict<sup>99</sup>~

The causes of the conflict tend to be one of the main indicators used by researchers in their attempts to understand the effects of transitional justice, particularly in its relation to reconciliation. In his study of the reconciliation process in Northern Ireland, N.T Aiken points to the lack of consensus about the causes of the conflict as an inhibiting factor in the process. He claims this can be a problem in any post-conflict society where there is no agreement on how the conflict started. Therefore, it is important to understand the underlying reasons for a conflict, in order to address opposing narratives of the conflict which might undermine the transitional process.

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<sup>99</sup> For a greater discussion on the effects of “causes of conflicts” and examples of their use as an indicator read Lorna McGregor p.169, James D. Mernik, Angela Nichols & Kimi L. King p.315, Derek Powell p. 250, Robert K. Ame & Seidu M. Alidu p.264, Christine Bell, Fionnuala Ni Aolain & Colm Campbell p.310,311, Rama Mani p. 254

Fletcher et. al.<sup>100</sup> presents a useful framework by identifying indicators of the causes of conflict, by listing the main causes in four broad categories: Ideological, Identity-based, Socio-economic and Independence struggles. The authors admit that in most cases conflicts surge from multiple causes.<sup>101</sup> Within this framework ideological conflicts are seen as those struggles in which the believed doctrines drive the fight. Examples of this are the Korean, the Cuban Revolution and many of the other previous “hot” centers of the Cold War. Identity-based conflicts result from a clash between two groups that consider their identities to be threatened by the opposing group and perceive the goals of the other a threat to their existence.<sup>102</sup> Socio-economic conflicts are those that stem from perceived inequality in access to opportunity by a group, who also sees this problem as the result of the actions of an opposing, and often ruling, group.<sup>103</sup> Finally, independence struggles are those that seek separation from an existing state or country.

#### ~Type of Conflict Settings<sup>104</sup>~

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<sup>100</sup> Laurel E. Fletcher, Harvery M. Weinstein, Jamie Rowen, “Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective”, Human Rights Quarterly, Volume 31, Number 1, February 2009, p. 171, footnote 18

<sup>101</sup> for example, while the conflict in El Salvador was framed as an ideological conflict to serve the international interests at the time, it was more deeply rooted in an identity-based and socio-economic struggle between the poor, and mostly native sectors of society and the rich and european-descendant ruling strata.

<sup>102</sup> The Arab-Israeli Conflict can be seen as a commonly known example of such conflicts.

<sup>103</sup> The struggle against apartheid in South Africa stemmed from these perceived inequalities

<sup>104</sup> For a greater discussion on the effects of “Type of Conflict” and examples of its use as an indicator refer to Fletcher Weinstein and Rowen p.171, 207, Joanna R. Quinn p. 364 item 20.1, Paige Arthur, p. 42, Thoms, Ron & Paris p.17, Fionnuala Ni Aolain & Colm Campbell p.175-9, Chandra Lekha Sriram p., 512521-2, Ruti G. Teitel p.92

“Types of conflict settings” refer to the situation that the country is transitioning from. Modern transitional justice traces its roots to post intra-state wars, with the Nuremberg trials after WW2. The field then blossomed in the 1980 and nineties in Latin America to deal with human rights violations committed by authoritarian regimes. The field has continued to expand its focus loci to include post-communist, post-apartheid regimes<sup>105</sup>, post-genocide, post-coup, civil wars, and even situations where established democracies attempted to address wrongs done in the past.<sup>106</sup> Therefore, different tools were designed to address the specific needs of different types of conflict. Furthermore, different types of conflict can have different effects on the transitional process, the state of institutions, the nature of repression and other aspects that transitional justice tools seek to address. For example, in a comparison of the Latin-American authoritarian regimes, Eastern European communist regimes and African neopatrimonial regimes, Paige Arthur points out that the status of state institutions is so different in each of these regimes, it is ineffective to apply tools created for one type of regime to another (e.g., from the post- authoritarian scenarios, where state institutions were strengthened in order to expand coercive power, to post-neopatrimonial scenarios where institutions were dismantled under the stress of a clientelistic system).<sup>107</sup>

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<sup>105</sup> The South African Truth and Reconciliation Commission

<sup>106</sup> Apologies by the Australian Government to the Aborigines community. In “Transitional Justice” Joann R. Quinn list several scenarios that can benefit from transitional justice mechanisms and includes Genocide, Civil conflict, Racism, Forced slavery, Community violence, Man-made famine, Gross violations of human rights. (p.364)

<sup>107</sup> Paige Arthur, p. 361, How “Transitions” Reshaped Human Rights: A Conceptual History of Transitional Justice, Human Rights Quarterly, Volume 31, Number 2, May 2009, pp. 321-367, Published by The Johns Hopkins University Press

The different types of conflict that have been addressed by transitional justice include post-communist, post-apartheid regimes, post-genocide, post-coup, civil wars and established democracies addressing past wrongs against minorities.

#### ~Levels of Economic Development<sup>108</sup>~

The level of economic development refers to the economic wealth of a country in a post-conflict scenario. Economic wealth affects the process of transitional justice at multiple levels. To begin, the implementation of any measure of transition will be affected by the amount of funding available. In her book, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, Priscilla Hayner argues that the ability to establish a successful and fully running truth commission is correlated to the budget given to such a commission. Countries with more economic security can better provide for these procedures, and those countries that cannot fund these process depend on foreign donors. This dependency on foreign funds can have serious consequences on the types of procedures that are adopted and therefore on the involvement of locals.<sup>109</sup> The levels of economic development is also important because transitional justice tools can be used as a mechanism that dismantles structural economic exclusion entrenched in the previous regime.<sup>110</sup> Within the field of

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<sup>108</sup> For a greater discussion on the effects of “Level of Economic Development” and examples of its use as an indicator read Fletcher Weinstein and Rowen p.207, Joanna R. Quinn p.374, Boris Drozdek, p. 11, UN GSDRC Main page <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice> , Jane L. Curry p. 4,10-11, Luc. Huyse p.63, N.T Aiken p. 171, 173-5, Thoms, Ron & Paris p.8, 20, 21, James D. Mernik, Angela Nichols & Kimi L. King p.318, 325, 330, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.994, 1002 (footnote), Derek Powell p.232, , Ruti G. Teitel p.73

<sup>109</sup> Mark Arenhovel p.584, Rama Mani p. 256-7

<sup>110</sup> Rama Mani p. 254-6

development, there is a recent movement towards a human-focused approach where the idea is to create an environment that allows for individuals to develop their full potential. Transitional justice can create this environment for human development in post-conflict conditions by establishing justice, continued peace and greater measures of freedom.<sup>111</sup> This is particularly relevant in cases where social-inequality is one of the main causes of conflict. The main indicators of economic development are GDP, Inequality indicators (GINI Coefficient) and the Human Development Index.

#### ~Nature of Repression<sup>112</sup>~

The “nature of repression” indicator draws from the goal of transitional justice to address past human rights violations. The form, extent and severity of repression can vary greatly and this has a direct effect on the type of transitional methods used. The number of individuals involved in repression is also an important factor to consider, when thinking about the feasibility of a method.<sup>113</sup> For example, in former communist states the repressive apparatus used a system of civil monitoring as a way of instilling fear and control in the population. This system made the whole society an accomplice to the crimes committed by the state. This situation is in contrast to right-wing Latin American Authoritarian regimes where the repression was clearly carried forth by a

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<sup>111</sup> Robert K. Ame & Seidu M. Alidu p.254-6, 262-3

<sup>112</sup> For a greater discussion on the effects of “Nature of Repression” and examples of its use as an indicator refer to Boris Drozdek, p. 11, ANATOLY M. KHAZANOV and STANLEY G. PAYNE, p. 1, 10, Jane L. Curry p. 3, 5, Lorna McGregor p.163, Thoms, Ron & Paris p.13, 19, James D. Mernik, Angela Nichols & Kimi L. King p.317, Bronwyn Anne Leebaw p.105, Fionnuala Ni Aolain & Colm Campbell p.211-212, Robert K. Ame & Seidu M. Alidu p.259

<sup>113</sup> Leslie Vinjamuri and Jack Snyder p. 349

state-military apparatus against a civilian population.<sup>114</sup> The style of repression, open or secretive, will also have an effect on the choice of mechanisms. For example, in Poland, the lack of clarity over what had been done, due to the secretive nature of the repression, led the country towards a path of truth seeking.<sup>115</sup> Therefore, whether repression is centralized or decentralized and whether it was open or secret are seen as important indicators in transitional justice literature. For instance, Tricia D. Olsen and colleagues have effectively used The Physical Integrity Rights Index (PHYSINT) and the Political Terror Scale (PTS) in order to track the effects of transitional justice measure on a human rights record in countries that have undergone transitional justice processes.<sup>116</sup> In this study, I will focus on the effects of the types of repression on transitional justice mechanisms, with particular emphasis on whether the repression was open or secretive, and whether it was centralized or decentralized.

#### ~Historical Narratives<sup>117</sup>~

In most conflicts each side develops a version of “history” identified as collective memory focusing on facts that make their case, and undermine the validity of the other

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<sup>114</sup> Mark Arenhovel quote Havel p.580

<sup>115</sup> Luc. Huyse p.73

<sup>116</sup> Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.994

<sup>117</sup> For a greater discussion on the effects of “Historical Narratives” and examples of its use as an indicator refer to Fletcher Weinstein and Rowen p.171, 207, Mark Arenhovel p.574, ANATOLY M. KHAZANOV and STANLEY G. PAYNE p.11-16, Luc. Huyse p.73, Christine Bell, Fionnuala Ni Aolain & Colm Campbell p.313, 316, 317-20, N.T Aiken p. 168-9, 171 177, Brian Grodsky, p.820, Lorna McGregor p.162, James D. Mernik, Angela Nichols & Kimi L. King p.12, Bronwyn, Anne Leebaw p. 108, Ruti G. Teitel p. 78,79,86-87, Robert K. Ame & Seidu M. Alidu p.256-7

side's claims.<sup>118</sup> This process can greatly affect the road towards reconciliation because each side has a "truth" that contradicts the other's version of events. Addressing this divide has been a focus of the latest wave of transitional justice tools. In his examination of "political forgiveness" as a state led tool towards reconciliation, John D. Inazu points to the importance of a shared narrative framework in establishing reconciliation. Using South African TRC, he considers the role of conflicting narratives as the main concern of transitional justice methods that attempt reconciliation.<sup>119</sup> Jane L. Curry adds to this notion of addressing conflicting narratives, stating that "Indeed, whatever the history of social and political repression, dealing with these scars—the collective memory of aggressors and victims—is far more difficult for states in transition than any aspect of institution building."<sup>120</sup> Conflict narratives can be used to justify repression as a form of retaliation for past harms. They can also continue to affect democratic states, as collective memory allows for the lessons of repression to last longer than repression itself.<sup>121</sup> When choosing transitional justice mechanisms, it is important to understand the narratives of the conflict in order to limit their destabilizing effects during the transition.

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<sup>118</sup> For more on collective memories and their effect on conflicts please read Sociopsychological Foundations of Intractable Conflicts, Daniel Bar-Tal, American Behavioral Scientist, Volume 50 Number 11, July 2007 1430-1453, © 2007 Sage Publications, <http://abs.sagepub.com> hosted at <http://online.sagepub.com>

<sup>119</sup> John D. Inazu p. 311,321

<sup>120</sup> Jane L. Curry p. 2

<sup>121</sup> Ibid.

~Status of State Institutions<sup>122</sup>~

The status of state institutions has been considered a key aspect in transitional justice throughout its history. Transitional justice methods have the ability to balance out the power structure. For example, in his study of transitional justice effects on human rights and democratization, Eric Wiebelhaus-Brahm finds that truth commissions can serve to discredit institutions that have been previously unaccountable, such as the military.<sup>123</sup> In order for this to happen though, it is first necessary to understand the history of the state institutions and how it has played into the conflict.

The state of legal institutions is particularly important for retributive aspects of transitional justice. If the legal institutions are not in a position to guarantee a fair trial, the advantages of trials, in particular its deterrence value, will be negatively affected.<sup>124</sup>

The state of institutions impacts the feasibility and process of transitional justice. Fletcher et. al have found that the ability of a government to establish the rule of law is dependent on its ability to set an independent, autonomous and self-decided path of transition.<sup>125</sup> Strong institutions ensure that the country does not become overly reliant on international intervention. At a more basic level, this indicator highlights the country's

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<sup>122</sup> For a greater discussion on the effects of "Status of State Institutions" and examples of its use as an indicator refer to Huma Haider, pg. 6 "capacity building and rule of law", Fletcher Weinstein and Rowen p.196-8, 208, 584, Leslie Vinjamuri and Jack Snyder p. 349, Mark Arenhovel p.584, Renu Mandhane p.167, Kaminsky,, Nalepa, p. 388-8, UN GSDRC Main page <http://www.gsdr.org/go/topic-guides/justice/transitional-justice>, Christine Bell, Fionnuala Ni Aolain & Colm Campbell p.323, N.T Aiken p. 179, John D. Inazu p. 311, 322, James D. Mernik, Angela Nichols & Kimi, L. King p.312-13, Bronwyn Anne Leebaw p.101, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.985, Fionnuala Ni Aolain & Colm Campbell p.187, Ruti G. Teitel p.84

<sup>123</sup> Thoms, Ron & Paris p.13

<sup>124</sup> Thoms, Ron & Paris p.5-6

<sup>125</sup> Fletcher et. al., 2009, p.212

ability to promote any form of transitional justice at all. Even in cases where international methods might be used, such as the International Criminal Court, the stability of the state institutions determines how these international tools are used and who sets the blueprint for transitional justice. For example, in Uganda, the court has indicted five members of the Lord's Resistance Army (LRA) and none of the members of the United People's Defense Force (UPDF). The Chief Prosecutor says this is because the scope of the crimes committed by the LRA were of a much greater scale than those committed by the UPDF. However, this decision to only indict members of the LRA has been seen as a clear imposition from the national Ugandan government.<sup>126</sup> Therefore, the state of the institutions (i.e., their reputation, degree of autonomy) is key to the implementation of transitional justice processes.

#### ~Civil Society Status<sup>127</sup>~

In recent years there has been a shift within the international community, from focusing on government-led development, to growing civil society organizations. The idea of a strong civil society that can hold the government accountable is seen as critically important for a democratic society to prosper. Within transitional justice this role is particularly important, as NGOs are often the source of pressure for accountability, the voice of victims and the advocates for human rights.<sup>128</sup> NGOs are seen as the main

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<sup>126</sup> Janine Natalya Clark p.4-5

<sup>127</sup> For a greater discussion on the effects of "Civil Society Status" and examples of its use as an indicator refer to Kora Andrieu p.540, 545, 549, Renu Mandhane p.167, Joanna R. Quinn p.375, UN GSDRC Main page <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>, James D. Mernik, Angela Nichols & Kimi L. King p.316, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.989, 1004, David A. Crocker p.500-8, Ruti G. Teitel p.83, 88

<sup>128</sup> Huma Haider, p. 3-4

source of expertise on human rights during a transition. Their closer link to communities and in particular victims, allows them to have a greater understanding of what these groups want. This credibility can also lend itself to the government's transitional justice initiatives. The involvement of NGOs might lead to higher involvement of the civilian population in the transitional justice process.

Civil society can supplement the transitional justice process by carrying out their own "bottom-up" initiatives towards reconciliation. This is particularly important in societies where the government is unwilling or unable to address the justice needs of a population. For example, in Northern Ireland, due to the lack of a government-led transitional justice process, NGOs have utilized alternative dispute resolution strategies to address the rifts in society.<sup>129</sup> Taking this into consideration, when looking at civil society I will address whether it is strong or weak and whether there are attempts within civil society to do reconciliatory or destructive efforts. I will focus on the actions of churches, NGO's, student groups as the major representatives of civil society.

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<sup>129</sup> N.T Aiken p. 176, 180,183, 187

~International Intervention<sup>130</sup>~

Fetcher Weinstein and Rowen<sup>131</sup> view the level and type of international intervention as one of the main indicators determining the appropriate method of transitional justice in a particular context. The recent move for international involvement in national transition processes redefines the lines of national sovereignty. There are two stages in which the international community tends to get involved: during a period of conflict to forcibly end it, and during the post-conflict stages in order to assist with the installation of transitional justice, state-building and development. Even in cases where the international community has not had direct intervention, such as in Argentina and South Africa, the influence of international organizations, laws and politics will play a role. For example, the decision of the Spanish judge Baltazar Garzón to prosecute members of the Argentinian military junta instigated the Argentinian government to establish trials at home. However, the positive and negative effects of international transitional justice are most obvious in cases where the international community has an active role. While strong states have been able to design their own transitional justice approaches, weaker, foreign dependent states, tend to respond to international pressures. For example, in Cambodia, despite low buy-in from the national government

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<sup>130</sup> For a greater discussion on the effects of “International Intervention” and examples of its use as an indicator refer to Mark Arenhovel p. 572, 577, 584, ANATOLY M. KHAZANOV and STANLEY G. PAYNE p.11, UN GSDRC Main page <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>, Luc. Huyse p.54, 74, Chandra Lekha Sriram p. 588-591, 581, Christine Bell, Fionnuala Ni Aolain & Colm Campbell p.323, Marek M. KAMINSKI, Monika, NALEPA & Barry O’NEILL p.296, Janine Natalya Clark p.3, 11-13, Brian Grodsky p. 826, Lorna McGregor p.168, Thoms, Ron & Paris p.20, 5,6, 9-10, James D. Mernik, Angela Nichols & Kimi L. King p.316, 318 , Bronwyn Anne Leebaw p. 102, 104, 111, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.983-85, David A. Crocker p.508-13, Ruti G. Teitel p. 76

<sup>131</sup> Fetcher et. al., 2009

and population, a truth commission was established to investigate the crimes of the Khmer-Rouge.<sup>132</sup>

International intervention can be helpful in establishing strong legal institutions, such as in the form of mixed courts (e.g. the International Criminal Court) and other organisms dedicated to human rights issues. The international community is also a strong source of knowledge and funding for countries that are devastated by the past conflict. However, international intervention can also have a negative effect if it attempts to establish a one size-fits-all model that limits the input of local populations and alienates the very same people it is trying to help. To define the presence and effect of the international community, we will look at their presence during the conflict and during transition and establish if their intervention was through the use of international institutions such as the International Criminal Court, as a source of funding, through indirect influence or with on the ground involvement.

### ~Political Commitment to Addressing The Past<sup>133</sup>~

Transitions are affected greatly by the politics before, during and after the change.<sup>134</sup> Independently of the sources of conflict, the commitment of a government to create a stable and democratic state is crucial to sustainable peace. As Fletcher Weinstein and Rowen point out

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<sup>132</sup> Fletcher Weinstein and Rowen p.201-203

<sup>133</sup> For a greater discussion on the effects of "Political Commitment to Addressing the Past" and examples of its use as an indicator refer to David Backer p.301, Mark Arenhovel p.573, Joanna R. Quinn p.375, N.T Aiken p.183, Janine Natalya Clark p.4, Brian Grodsky p.821, Lorna McGregor p.157, Thoms, Ron & Paris p. 17, Bronwyn Anne Leebaw p.117, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.992, 987

<sup>134</sup> Leslie Vinjamuri and Jack Snyder p. 354

“Political commitment to addressing mass violence emerged as a factor that influences the timing, sequencing, content, and strength of measures to promote social reconstruction. The degree of support offered by political parties towards creating a functioning state with adherence to democratic principles and the rule of law contributes to the success of any state-sponsored response to violence.”<sup>135</sup>

This stems from a simple logic of compliance. Independently of what tool of transition a country decides to embark in, the process will only be effective if its implementation is carried out carefully. For example, truth commissions are only effective if the government is willing to open up a dialogue about the official account on the conflict and if they are willing to implement the recommendations that the commission comes up with.<sup>136</sup> In the case of trials, the legitimacy of such mechanism depends on an independent and strong judiciary that can carry the trials forth without any political inclinations.<sup>137</sup>

Political commitment can be restricted by many factors, such as military threat, amnesty peace agreements, fear of reprisal against those in the current government and international pressures. All these restrictions can be related to the issue of state stability during times of transition. With time, as the countries become more stable and the political leadership changes, political views about addressing the past through the use of transitional justice can strengthen.<sup>138</sup>

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<sup>135</sup> Fletcher Weinstein and Rowen p. 201-2

<sup>136</sup> Huma Haider, p. 3

<sup>137</sup> Renu Mandhane p.167

<sup>138</sup> Fletcher Weinstein and Rowen p.203

~Nature of Transition<sup>139</sup>~

Joanna R. Quinn typifies transitions into three categories, post-conflict transitions, pre-transitions and non-transitions. Post- conflict transitions are most commonly addressed in transitional justice theory. These are the countries that are going through a period of recovery after periods of mass violence, civil conflicts, authoritarian regimes etc. Pre-transitions are those cases in which there is continued conflict and there has been no move towards peace, but transitional justice methods are used in an ad-hoc basis to gain momentum towards peace. Finally non-transitions are those situations in which peaceful democratic states use transitional justice mechanisms to address their controversial pasts.<sup>140</sup> While transitional justice was originated to deal with post-conflict societies, the evolution of the field has expanded its use to these other two situations.

Within post-conflict transitions, the nature of the change itself can have a big influence on the type of transitional justice to follow. Fletcher Weinstein and Rowen's research suggested that the nature of a transition had an effect on the types of mechanisms used when it was related to other factors, such as conflicts ending by external intervention.<sup>141</sup> In a transition period, a government has to work within the restraints of continuing stability. Therefore, in a country where a transition had been

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<sup>139</sup> For a greater discussion on the effects of "Nature of Transition" and examples of its use as an indicator refer to Mark Arenhovel p.573, conclusion p. 21, Marek M. KAMINSKI, Monika NALEPA & Barry O'NEILL p.296, Brian Grodsky p.821, Thoms, Ron & Paris p.15, 20, James D. Mernik, Angela Nichols & Kimi L. King p.318, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p.1001, Fionnuala Ni Aolain & Colm Campbell p.184, Chandra Lekha Sriram p.520, Ruti G. Teitel p.93

<sup>140</sup> Joanna R. Quinn "wither the transition. of Transitional Justice" p.9-16

<sup>141</sup> Fletcher Weinstein and Rowen p.188-9 (chart)

negotiated and members of the former regime have kept power after the change, the new government often has to deal with a pre-instated amnesty law that bans prosecutions. Only in situations of complete military victory can governments act with freedom to prosecute.<sup>142</sup> Negotiated transitions vs. regime collapse can also have an effect on the sequencing of transitional justice methods, particularly when looking at amnesties and trials. As Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter argue, in negotiated transitions, amnesties tend to precede trials, while in situations where the regime has collapsed, amnesties and trials tend to be carried forth simultaneously.<sup>143</sup> Therefore I will look to see if a transition is the result of a negotiation, and whether its a post-conflict transition, a pre-transition or a non-transition.

#### ~Local Context<sup>144</sup>~

Addressing the local preferences for transitional justice is critical to a successful process. Only by addressing the community needs will reconciliation efforts have the desired effect. During the first two phases of transitional justice, the international development of norms and regulations to address past human rights violations sought

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<sup>142</sup> Leslie Vinjamuri and Jack Snyder p. 354

<sup>143</sup> Tricia D. Olsen, Leigh A. Payne, Andrew G. Reiter, "The Justice Balance: When Transitional Justice Improves Human Rights and Democracy", *Human Rights Quarterly*, Volume 32, Number 4, (November 2010), p. 980

<sup>144</sup> For a greater discussion on the effects of "local preferences and perceptions of transitional justice" and examples of its use as an indicator refer to Huma Haider, p. 3, Fletcher Weinstein and Rowen p.207, Kora Andrieu p.555, Renu Mandhane p.167, Boris Drozdek, p. 12-13, UN GSDRC Main page <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>, Patricia Lundy & Mark McGovern p. 10, 12, Chandra Lekha Sriram p.590-591, Marek M. KAMINSKI, Monika NALEPA & Barry O'NEILL p.301, Janine Natalya Clark p.11, Thoms, Ron & Paris p.10, 21-22, James D. Mernik, Angela Nichols & Kimi L. King p.328, Bronwyn Anne Leebaw p.115, David A. Crocker p. 499-500, Wendy Lambourne p.31, 33 35, David Mendeloff p.613 (footnote 84)

to set a standard by which all future conflicts could be addressed.<sup>145</sup> However, as more and more situations came to fall under the realm of transitional justice, it became clear that no one-size solution could address the nuances of each situation. Local participation in the planning and implementation of transitional justice and development efforts has been identified as the key factor for successful interventions. Luc Huyse points out two general aspects of the local context that have a clear effect on the methodology used: the length of conflict narratives and the origin of human rights abuses. These two aspects, reflected in the indicators “historical narratives” and “nature of repression” respectively, are found to be similar within cases that are in the same region. For example, European populations affected by conflict, in general, have a longer length of memory than Latin Americans.<sup>146</sup> Local practices of reconciliation that are currently taking place, can be looked at for clues of methods that might better resonate with society.

P.Pham and P. Vinck suggest empirical research methods to figure out the needs and opinions of the local population towards transitional justice. Due to the limitations of this study, local perceptions of transitional justice will be based on expert interviews as well as previous studies carried out by social scientists.<sup>147</sup>

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<sup>145</sup> Ruti G. Teitel p.71,78,80

<sup>146</sup> Luc. Huyse p.54 p.71 footnote 76

<sup>147</sup> P. Pham and P. Vinck, “Empirical Research and the Development and Assessment of Transitional Justice Mechanisms” *The International Journal of Transitional Justice*, Vol. 1, (2007), p. 231–248

~Timing<sup>148</sup>~

The issue of timing simply refers to the time that has lapsed after a conflict ends. Historical distance can affect the ability of a country to deal with its past. For example, in Germany, the community did not wish to address the happenings of WW2 because it was a scenario in which most members of society were considered accomplices. It was not until the 1970's that the Germans were able to construct a narrative of the past that was critical of society's inaction during that time. However historical distance can also allow for greater amnesia about the past and can lead to the resurgence of violence.<sup>149</sup>

### 2.C) Venezuela Specific Indicators

<b>Table 2: INDICATORS DRAWN FROM VENEZUELAN SITUATION</b>	
Levels of corruption	Transparency International Corruption perception index
Societal Ideology	"Diagram of Ideological Identities" Roberto DeVries
Role of the Military	"Diagram of Military Scenarios" Carlos Blanco

In order to create a tool that could be applied to all the varying scenarios addressed within transitional justice, I found it critical to allow flexibility in the evaluation of the "local context". To do so, I decided to leave space for context-specific indicators; characteristics within the local scenario that could have a direct effect on the transitional justice process. These aspects do not contradict the theoretical frameworks found in the

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<sup>148</sup> For a greater discussion on the effects of "Timing" and examples of its use as an indicator refer to David P. Forsythe p.8, UN GSDRC Main page <http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>, Chandra Lekha Sriram p.591, Thoms, Ron & Paris p.15, 25, James D. Mernik, Angela Nichols & Kimi L. King p.317, Bronwyn Anne Leebaw p.114, Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter p. 998-999, Derek Powell p.250

<sup>149</sup> ANATOLY M. KHAZANOV and STANLEY G. PAYNE p. 415, Luc. Huyse p.64

literature review and in fact can be seen as a more specific focus on some of the general theme of local context. This part of the process was important to ensure that every aspect of this research was tailored to the specific needs of the Venezuelan case.<sup>150</sup>

To identify these characteristics in Venezuela, I conducted seven semi-structured personal interviews with key Venezuelan intellectual leaders, in which I asked them what they believed were important aspects to keep in mind when thinking of a transitional plan. These aspects do not contradict the theoretical frameworks found in the literature review and in fact can be seen as a more specific focus on some of the general indicators. This part of the process was important to ensure that every aspect of this research was tailored to the specific needs of the Venezuelan case.<sup>151</sup>

The people whom I interviewed ranged in their professional and political backgrounds. Three were directly related with the opposition campaign, as a business advisor, a politician and a policy coordinator. The other four were independent sources including two respected scholars, a social-psychologist and a prominent business leader. Each person was asked what they saw as the greatest challenges for a transition, and what aspects of the current situation were important to take into

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<sup>150</sup> The opinion that there is no way of coming up with a holistic approach to Transitional Justice that does not have to be illuminated by local context is shared by most theoretical works as one of the key criticisms to the current approach by the international community. see Laurel E. Fletcher, Harvery M. Weinstein, Jamie Rowen, "Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective"; Huma Haider, Factors Contributing to Transitional Justice Effectiveness.

<sup>151</sup> The opinion that there is no way of coming up with a holistic approach to Transitional Justice that does not have to be illuminated by local context is shared by most theoretical works as one of the key criticisms to the current approach by the international community. see Laurel E. Fletcher, Harvery M. Weinstein, Jamie Rowen, "Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective"; Huma Haider, Factors Contributing to Transitional Justice Effectiveness.

consideration when thinking of a transitional justice strategy. Based on these interviews there were 3 indicators that came up as important to consider in the Venezuelan case, levels of corruption, societal ideology, and the role of the military. All of these were brought up as issues that could not only impede the transition, but also create insurmountable challenges for a transitional justice process.

#### ~Levels of Corruption~

The use of transitional justice to deal with economic crimes is one that has recently surfaced within the literature. Researchers have attempted to tailor transitional justice strategies to deal with the issue of corruption. Ruben Carranza points to the intersection between human rights violations and economic crimes as “mutually reinforcing forms of abuse.”<sup>152</sup> Rama Mani writes about the importance of using transitional justice to address corrupt war economies, noting how it is often the case that these types of exploitative economies lead to the violation of human rights through the use of child labor and prison labor. He suggests that truth commissions and trials can be used to establish the truth about corruption and punish those who have committed the crimes. Furthermore he suggests that all those who have profited from corruption should repay their illegal profits. Finally, and most relevant to the Venezuelan case he notes that the international community should ensure all international agreements for the exploitation of resources entered into by corrupt political leaders should be

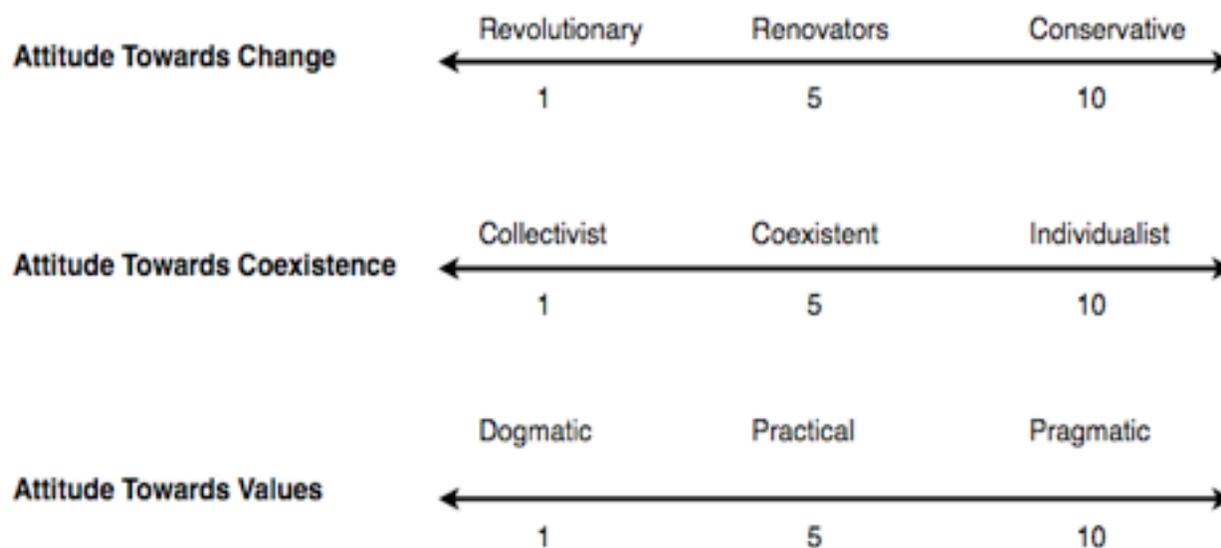
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<sup>152</sup> Ruben Carranza, “Plunder and Pain: Should Transitional Justice Engage with Corruption and Economic Crimes?,” *The International Journal of Transitional Justice*, Volume 2, p.310-330

cancelled.<sup>153</sup> <sup>154</sup> Since corruption is part of a toxic environment that limits the capabilities of individual potential within a state, the levels of corruption can be seen as an extension on the “levels of economic development” indicator.<sup>155</sup> To measure I will use the corruption perception index which will allow for an easy comparison with other cases.

~Societal Ideology~

### **Ideological Identity Chart**<sup>156</sup>



<sup>153</sup> Rama Mani, “Editorial: Dilemmas of Expanding Transitional Justice, or Forging the Nexus Between Transitional Justice and Development”, *The International Journal of Transitional Justice*, Volume 2 (2008) p.257-259

<sup>154</sup> For another example on how to use transitional justice to address corruption and economic crimes look at *Transitions to Clean Government: Amnesty as an Anticorruption Measure*, ROMAN DAVID, *Australian Journal of Political Science*, Vol. 45, No. 3, September 2010, pp. 391–406

<sup>155</sup> Ibid. Rama Mani, p. 257-259

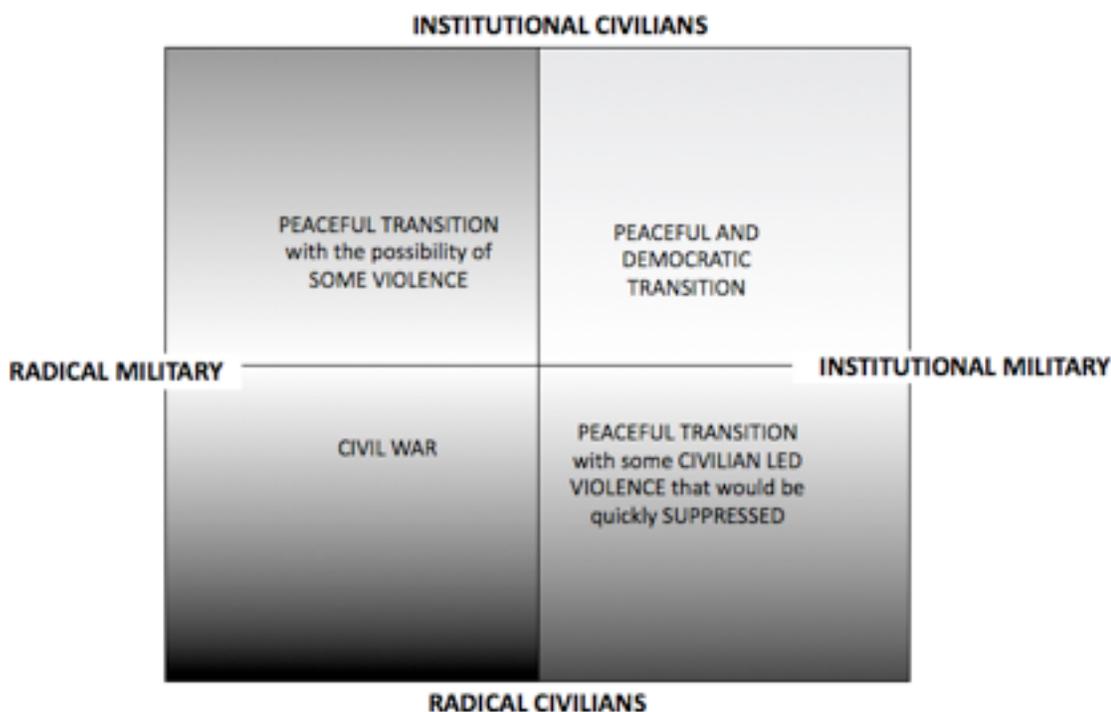
<sup>156</sup> Unpublished. For permission to use contact Dr. Roberto DeVries, <http://www.robortodevries.com/>

Societal Ideology can help explain what vision of society people are hoping to achieve. It is helpful to establish societal ideology because it can show what a society believes and therefore how these beliefs should be reflected in the transitional justice policy. Within this model DeVries creates an outline where all ideologies can be identified based on three criteria; the attitude towards change, attitude towards coexistence, and attitude towards values. Attitudes towards change refers to people's opinions regarding the acceptable type of political change. Within this model, revolutionaries believe in great change during short periods of time; conservatives wish to maintain the status quo; whereas renovators appreciate change but believe it should be a gradual process. Attitudes towards co-existence have to do with whether a person is more focused on the importance of individuals vs. the importance of groups. Individualists pose individuals rights as the most important aspect of society whereas collectivists view the advancement of the group as more important. These values affect how citizens view the role of the state, as either a guarantor of individual rights or vehicle for the betterment of society as a group. The middle stage of coexistence represents the belief that individuals rights should be taken into account while attempting for the advancement of the group. Finally, attitudes towards values looks at the importance of values have in the decisions a person might take. Dogmatics base all of their decisions on their values, even if these might have impractical consequences. Pragmatics base their decisions on whatever is most convenient and have little regard for values; and finally practical thinkers will try to represent their values in all of their decisions but in a way that is not inconvenient. These three elements combined can explain the basic pillars of any ideology. For example, an ideology that is dogmatic,

collectivist and revolutionary is utopian socialism. On the other hand, an ideology that is pragmatic, collectivist and conservative is authoritarianism.

~Role of the Military ~

### The Military Dynamics Diagram <sup>157</sup>



During the transition the effect of the military on how events evolve will be key. Huyse points out the effects that a strong military can have on the transition. He highlights how, in cases where there was not a complete military defeat, the new government has to be very careful of the power dynamics.<sup>158</sup> Mark Arenhovel also presents this idea, noting that most transitional cases are in a grey area where the new government can exert some levels of control but not complete discretion over the

<sup>157</sup> Unpublished. For permission to use contact Prof. Carlos Blanco, Boston University.

<sup>158</sup> Huyse, p.71-73. For more exam

decisions that might trigger a response from the military.<sup>159</sup> According to Carlos Blanco, the interrelationship between the military and civilian forces could define whether the country falls into a civil war, or whether the elections occur peacefully. Using this model of civic-military relations, we can account for all possible scenarios.

Each one of these indicators, including those that were taken from the Venezuela-specific context, will help provide us with a picture of the current pre-transition situation. By establishing this picture, we can make policy recommendations that are more on target with the needs of the local population.

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<sup>159</sup> Mark Arenhovel, p. 582

## **PART 3: THE VENEZUELAN CASE**

In order to illustrate the applicability of these indicators, I have completed a preliminary analysis of the Venezuelan case. What is presented here is not a detailed or in-depth review of the situation, but rather the section is designed to demonstrate how the tools discussed can be applied to promote policy recommendations. Each of the indicators presented previously, has been applied to the Venezuelan case, and a brief explanation is presented. Finally a table with a summary of the findings is available at the end of the section.

### **3.A) Theory Based Indicators**

#### **~Causes of Conflict ~**

A significant cause of polarization in Venezuela stems from the “Chavista” government ideology that was developed around socio-economic struggles. The “Chavista” ideology, a phrase coined by the president himself and representative of 21<sup>st</sup> century socialism can also be seen as a major objective of the Bolivarian Revolution. This ideology was initially created at the beginning of the Chavez government in opposition to the previous regime. It identifies all individuals and parties who oppose it as loyal members of the old, corrupt system. However, for these opposing groups, the Chavista ideology is simply an extension of the previous corrupt regimes that sought to gain power for themselves.<sup>160</sup>

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<sup>160</sup> “Para Comprender La Revolucion Bolivariana”, Edictions of the presidency of the republic, (2004), Available at: [www.presidencia.gob.ve/.../comprender\\_revolucion\\_bolivariana.pdf](http://www.presidencia.gob.ve/.../comprender_revolucion_bolivariana.pdf)

The conflict that has emerged as a result of a clash between the government and opposition groups is fairly recent; created during the regime of Hugo Chavez. Despite this recent emergence, the underlying social cleavages have a longer history in Venezuela. The Chavista regime has presented itself as representative of the poor and disenfranchised. By the same token it has labeled all those who disagree with its policies as “enemies of the revolution.” More recently, the president claimed that, those who are not “Chavistas” are not Venezuelan.<sup>161</sup> Therefore, while the causes of the conflict can be considered socio-economic, it has been the politicization of these social cleavages that has created the polarization.

#### ~Type of Conflict~

The type of conflict in Venezuela does not easily fit one of the previously established categories. The Bolivarian Revolution has leftist influences, and critics of the regime claim that Chavez is looking to convert the country into a communist state similar to Cuba.<sup>162</sup> Despite these views, this opinion is not representative of the entire population of Venezuela. In fact, communist parties have actually stood against the current government, accusing the president of using neo-liberal policies.<sup>163</sup> Venezuela is also in an incredibly violent state, with an average of ten homicides per day in the

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<sup>161</sup> EFE “Rechazo Contra Frase ‘Quien no es Chavista no es Venezolano’”, El Nuevo Herald,(June 27, 2012)  
Available at: <http://www.elnuevoherald.com/2012/06/27/1239344/rechazo-contra-frase-quien-no.html>

<sup>162</sup> BBC, “Venezuela Country Profile”, BBC News (last updated June 12, 2012), Available at: last updated at 11:11 GMT, Tuesday, 12 June 2012

<sup>163</sup> Chesa Boudin, Gabriel Gonzalez, Wilmer Rumbos, The Venezuelan Revolution: 100 Questions - 100 Answers, Thunder’s Mouth Press, (2000), New York, p. 9

capital city alone. Although extremely violent, Venezuela is not currently in civil war.<sup>164</sup> Finally, Chavez has also been blamed for being an authoritarian leader and for centralizing power.<sup>165</sup> As his supporters indicate, he has gained and maintained power through multiple elections, all of which have been victories.<sup>166</sup> In conclusion, it would appear that this conflict is quite complex and does not easily fit into any of the pre-determined categories.<sup>167</sup> It not only demonstrates the presence of multiple conflicting narratives but also demonstrates the very limited agreement between the concerned parties. The only agreement reached by all parties involved in this conflict is that this is a fragile situation of grave violence and polarization along political lines.

#### ~Levels of Economic Development~

Venezuela's GDP per capita is \$12,400 (2011 est.) ranking it 96th in the world. While it had recorded revenue of \$90.67 billion in 2011, its expenditures were approximately \$106.1 billion, creating a -5.2% national budget deficit. The country also

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<sup>164</sup> International Crisis Group "Violencia y Política en Venezuela", Informe sobre América Latina N°38, (August 17, 2011), p. i-ii, accessed on April, 20, 2012, available at: [http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt\\_lang=es](http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt_lang=es)

<sup>165</sup> See Allan R. Brower-Carias, *Dismantling Democracy in Venezuela: The Chávez Authoritarian Experiment*, Cambridge University Press (2010), New York

<sup>166</sup> Chesa Boudin, Gabriel Gonzalez, Wilmer Rumbos, *The Venezuelan Revolution: 100 Questions - 100 Answers*, Thunder's Mouth Press, (2000), New York, p. 3

<sup>167</sup> The pre-determined categories for "types of conflict" were:

- post-communist
- post-apartheid regimes
- post-genocide
- post-coup
- post-civil wars
- established democracies addressing past wrongs against minorities

has an inflation rate of 27.60% deeming it third to last in the world, only above Ethiopia and Belarus.

The distribution of family income Gini index for Venezuela in 2011 is 39. This rate places it at the median of world nations.<sup>168</sup> However 27.4% of the population lives below the poverty line, while some of its wealthiest members situate within the Forbes 500 list.<sup>169</sup> It also takes second place in the Misery index, following Macedonia.<sup>170</sup>

The Human Development Index for Venezuela in 2011 was 0.742, however when adjusted to address inequality, it drops to 0.547. According to the index, when adjusting for inequality, the average rating fall is about .23%. It is also important to note that, countries with less human development have greater inequality.<sup>171</sup> Venezuela is ranked number 73 in the world, suggesting high human development. Countries with a comparable number include #69 Costa Rica, #80 Peru and #84 Brazil. However, Venezuela's ratings are above the average for the South America continent.<sup>172</sup>

#### ~Nature of repression~

Violence in Venezuela has taken a disorganized and endemic form. While there are many cases of political prisoners, the majority of society has been faced with high

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<sup>168</sup> Central Intelligence Agency, "The World Factbook: Venezuela" CIA, (June 28,2012) available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ve.html>

<sup>169</sup> Search Lorenzo Mendoza or Gustavo Cisneros at <http://www.forbes.com/>

<sup>170</sup> The Economist Online "Feeling Gloomy: More Bad News for Europe's Troubled Economies" The Economist (January 9th 2012), Available at: <http://www.economist.com/blogs/graphicdetail/2012/01/daily-chart-0>

<sup>171</sup> International Human Development Indicators, "Inequality -adjusted Human Development Index (IHDl)," United Nations Development Program (2011), Available at: <http://hdr.undp.org/en/statistics/ihdi/>

<sup>172</sup> International Human Development Indicators, "Venezuela (Bolivarian Republic of)," United Nations Development Program (2011), Available at: <http://hdrstats.undp.org/en/countries/profiles/VEN.html>

criminality rates as a result of a continued culture of impunity.<sup>173</sup> A blind eye and compliance from the government with armed civilian organizations are in part to blame. Called “urban collectives,” the government aligns itself with armed civilian groups that claim to defend the revolution against its enemies. Examples of such defense include the planting of a bomb at the headquarters of FEDECAMARAS, the national private business organization.<sup>174</sup>

Violent rhetoric on behalf of the government has also instigated violence. For example, in 2009, when the bombings of Gaza occurred, president Chavez condemned the attack and called Israel a “murderous state”. He also called out the Venezuelan Jewish society as supporters of the murderous state. The tension rose between the two countries and soon after, the main synagogue in Caracas was vandalized with swastikas and hate messages towards Jews.<sup>175</sup>

The existence of political prisoners are also a major source of violations against civil rights. Three of the candidates running in the primaries, Henrique Capriles

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<sup>173</sup> International Crisis Group “Violencia y Política en Venezuela”, Informe sobre América Latina N°38, (August 17, 2011), p. i-ii, accessed on April, 20, 2012, available at: [http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt\\_lang=es](http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt_lang=es)

<sup>174</sup> Ibid.p.19

<sup>175</sup> BBC “Synagogue desecrated in Venezuela” BBC News, (February 1, 2009), Available at: <http://news.bbc.co.uk/2/hi/americas/7863356.stm>

Radonsky<sup>176</sup>, Maria Corina Machado<sup>177</sup>, and Leopoldo Lopez<sup>178</sup>, were targets of sanctions and imprisonment under political pretexts. The most iconic case internationally has been that of the former Judge Maria Lourdez Afiuni, who was put in jail after releasing a prisoner who had been in prison for almost three years without a trial-- this was a violation of the prisoner's rights under both national and international law. The judge made her decision following a recommendation made by the United Nations Working Group in Arbitrary Detentions and was soon imprisoned for her actions. Judge Maria Lourdez Afiuni's imprisonment has not only been condemned by the United Nations, but also by Amnesty International, Human Rights Watch and many other key groups. Afiuni remains imprisoned today.<sup>179</sup>

Violence in Venezuela takes multiple forms. Most Venezuelans are affected by violent crimes that are widespread as a result of an ineffective judicial system. These crimes can be considered collateral damage of the deterioration of institutions. A more specific group of Venezuelans has been openly targeted by the government, with former Judge Maria Lourdes Afiuni being the most internationally recognized case. It is also significant to note the emerging effects that violence has on the population as a result of

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<sup>176</sup> Pilar Diaz, "Henrique Capriles Radonski esta Libre", El Universal, (March 16, 2009), Available at: [http://www.eluniversal.com/2004/09/07/ccs\\_art\\_07280EE.shtml](http://www.eluniversal.com/2004/09/07/ccs_art_07280EE.shtml)

<sup>177</sup> Agencia Bolivariana de Noticias, "Fiscalia solicito medida privativa de libertad para directores de Sumate", Aporrea.com (July 2, 2012), Available at: <http://www.aporrea.org/ddhh/n72889.html>

<sup>178</sup> Juan Francisco Alonso, "Corte Interamericana ordena habilitación de Leopoldo López" El Universal (September 16, 2012), Available at: <http://www.eluniversal.com/2011/09/16/corte-interamericana-ordena-habilitacion-de-leopoldo-lopez.shtml>

<sup>179</sup> Juan Paullier, "¿Hay presos políticos en Venezuela?", BBC Mundo, (February 1, 2012), Available at: [http://www.bbc.co.uk/mundo/noticias/2012/02/111230\\_venezuela\\_justicia\\_liberacion\\_presos\\_politicos\\_jp.shtml](http://www.bbc.co.uk/mundo/noticias/2012/02/111230_venezuela_justicia_liberacion_presos_politicos_jp.shtml)

aggressive rhetoric from public officials. Therefore violence in this conflict adopts a mixed form, varying between centralized and decentralized, as well as open and closed.

#### ~Historical Narratives~

The most prominent example of an event with contested narrative is that of “El Once de Abril”. On this historic day, there was a sizable demonstration, in which violence broke out in Venezuela. Immediately following the event, president Chavez was removed from power. Almost every aspect of the event that occurred over these two days is contested by an involved party. The government claims it was a coup, while the opposition claims it was vacuum of power. The government claims that the coup was planned with the CIA while the opposition insists that it was a spontaneous uprising.<sup>180</sup> One particular way in which this difference in narratives has had an important repercussion has been on the question of who initiated the violence against civilians. For example, in two different books written about the events the disputed narratives are easily visible:

“The situation exploded with the gunshots of sharpshooters hidden in the buildings near Miraflores...These sharpshooters, working with the metropolitan police in support of the coup, were attempting to draw fire from those carrying guns in the pro-Chavez march in order to manipulate the images in the media”<sup>181</sup>

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<sup>180</sup> Brian A. Nelson, *The Silence of the Scorpion: The Coup Against Chavez and the Making of Modern Venezuela*, Nation Books, (2009), New York.

<sup>181</sup> Chesa Boudin, Gabriel Gonzalez, Wilmer Rumbos, *The Venezuelan Revolution: 100 Questions - 100 Answers*, Thunder’s Mouth Press, (2000), New York, p. 80

“The third zone, in front of Miraflores, presents the biggest riddle. The government insists that three people were killed here...What is strange is that there was no confrontation in this location, it was hundreds of yards from the other centers of violence on Eight Street and Baralt Avenues and full of Chavez supporters exclusively...What is more likely is that these people were shot in other zones, then carried to the hospital tents in front of the palace and the government later insisted they were shot here to strengthen its story - that there were “coupsters’ instigation violence to spark a coup.”<sup>182</sup>

While in The Venezuelan Revolution: 110 Questions, 100 Answers Chesa Boudin et al. tell the official government version of events, Brian Nelson presents a more skeptical point of view which validates the claims of the opposition that the government initiated the violence. The repercussions of these different narratives have been extensive, as individuals of the metropolitan police have been imprisoned based on the government’s perspective in this example. While the government claims these individuals were to blame for the instigation of violence during the events on the eleventh of April, these former police officers see themselves as political prisoners.<sup>183</sup>

#### ~State Institutions~

While state institutions in Venezuela do exist, they are highly centralized and lack legitimacy (see corruption indicator). According to the international crisis group, the government of Hugo Chavez has made it a key part of his governmental plan to

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<sup>182</sup> Ibid Brian A. Nelson, p.292

<sup>183</sup> For more information on the accused of the Once de Abril case and their claims to be political prisoners visit <http://www.liberenlosya.com/>

centralize power in the national executive. The decision of the opposition candidates to boycott the 2005 legislative elections aided in these attempts, for supporters of the government gained almost complete control of the assembly. Opposition candidates also point out that complete control over the judiciary has allowed the executive to be in control of all major appointments in other government branches, including the Supreme Court and the National Electoral Council. This means that these government branches have fallen under the control of the president and do not have the autonomy necessary to maintain a balance of powers.<sup>184</sup> In their August 2011 report on Venezuela, the Organization of American States expressed particular concern for the state of the judiciary. The high number of provisional appointees, coupled with the lack of regard for proper constitutional procedures for appointing and removing judges and prosecutors, are key signs of a weakened judiciary.<sup>185</sup>

As for the credibility of state institutions, according to a survey conducted by Latinobarometro, only 16.3% of the population has maintained trust in state institutions. Furthermore only 7.7% say they maintain trust in the judiciary and only 5% have maintained trust in the police.<sup>186</sup>

#### ~Civil Society Status~

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<sup>184</sup> International Crisis Group “Violencia y Política en Venezuela”, Informe sobre América Latina N°38, (August 17, 2011), p. 21, accessed on April, 20, 2012, available at: [http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt\\_lang=es](http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx?alt_lang=es)

<sup>185</sup> IACHR, “IACHR Presents its 2011 Annual Report”, Organization of American States, (April 9, 2012), Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2012/037.asp](http://www.oas.org/en/iachr/media_center/PReleases/2012/037.asp)

<sup>186</sup> See Latinobarometro: Opinión Pública Latinoamericana, Venezuela, 2010 at <http://www.latinobarometro.org/latino/LATANalyzeQuestion.jsp>

Currently, civil society has taken a strong role in promoting a message of reconciliation. The political conflict has given way to a cleavage in society, in which government and opposition supporters tend to isolate themselves from the other group. While a great sector of the society, known as the “ni-nis” stand ambivalent, the groups who strongly support the government and the opposition do not relate. Furthermore, the degree of violence that has resulted from this situation has create a climate of distrust among all citizens.<sup>187</sup> Within civil society there are a myriad of groups that promote different causes such as, defense of political prisoners, freedom of expression, and vote motivation, there seems to be a common thread in the rhetoric promoting unity. The message is one of peace and reconciliation.

- ▶ Representatives of the Catholic Church together with eighteen other religious groups have created the initiative “Venesanapaz.” This dialogue group has been created to help promote a message of peace and reconciliation among the population. The group hopes to prevent violence through prayer and by presenting a united front for peace. They also see justice as a critical step for long-standing peace.<sup>188</sup>
- ▶ In April of 2012, Venezuelan NGO “Sin Mordaza” held a concert in the name of peace at one of the main plazas in Caracas. The NGO, which usually focuses on

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<sup>187</sup> Michael Shifter, “Venezuela's Next Inning”, The Inter-American Dialogue, (October 8, 2012, Available at: <http://www.thedialogue.org/page.cfm?pagelD=32&publD=3107>)

<sup>188</sup> Nelson Bocaranda, “Vensanapaz” Inicia dialogo por la reconciliacion del pais junto al nuncio y 22 espiritualidades”, Runrunes.com, (June 19, 2012), Available at: <http://runrun.es/runrunes/46907/'vensanapaz'-inicia-dialogo-por-la-reconciliacion-del-pais-junto-al-nuncio-y-22-espiritualidades.html>

issues of freedom of expression, joined forces with Venezuelan bands to put together this event.<sup>189</sup>

- ▶ The film “From a Whisper to a Roar” documents the development of the student movement in Venezuela. Started in 2007, this movement is dedicated to the promotion of peace and democracy in the country. The film shows how this movement is looking to lead civil society in a direction towards active democratic engagement and non-violent protests against the current situation of impunity and violence.<sup>190</sup>

#### ~International intervention~

Members of the international community have a limited presence in Venezuela as well.

- ▶ The Inter-American Court for Human Rights’s decision indicating that, Venezuela needed to allow Leopoldo Lopez to run for the presidency was a prime example of the use of international institutions to address justice within the country. Sr. Lopez had been banned from running for political posts under allegations of misuse of funds.<sup>191</sup> The Inter-American Commission submitted the case to the Inter-American Court, citing that:

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<sup>189</sup> Prensa Sin Mordaza “ Fotos: Asi fue el concierto por la paz en la Sadel”, Ultimas Noticias, (April 25, 2012), Available at: <http://www.ultimasnoticias.com.ve/noticias/chevere/espectaculos/fotos--asi-fue-el-concierto-por-la-paz-en-la-sadel.aspx>

<sup>190</sup> Ben Moses, Film: From A whisper to A Roar, The Moulay Hicham Foundation & Appleseed Entertainment Production, (2012), Available at: <http://awhispertoar.com/>

<sup>191</sup> “Democracy and Human Rights In Venezuela”, Inter-American Commission of Human Rights, Chapter 2, Article 72, (December 30, 2009), Available at: <http://cidh.org/countryrep/Venezuela2009eng/VE09CHAPIIENG.htm#A>.

*“the disqualification of Mr. López Mendoza from public service in violation of the standards established by the Convention, and the prohibition of his candidacy in the regional elections in 2008. The case also relates to the lack of judicial guarantees and appropriate judicial protection and adequate reparations.”*

The ruling led to the government blaming the OAS for interference in government issues as well as several threats to leave the court have been issued by different members of the government.<sup>192</sup>

- ▶ Venezuela’s economy is completely dependent on oil exports, for they represent 95% of the country’s export earnings.<sup>193</sup> This makes the country particularly economically dependent of the United States, since 43% of all oil exports are to the United States.<sup>194</sup>
- ▶ Throughout Chavez’s presidency, he has developed a very strong relationship with the leader of Cuba, Fidel Castro. This relationship has led to the inclusion of Cuban doctors within the social mission “Mission Barrio Adentro”<sup>195</sup>. It has also led to claims of Cuban infiltration of the Venezuelan military and the intelligence agency.<sup>196</sup>

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<sup>192</sup> EFE, “Venezuela se va a retirar de la Corte Interamericana de Derechos Humanos”, EIDia.es, (July 26, 2012), Available at: <http://eldia.es/2012-07-26/VENEZUELA/3-Venezuela-va-retirar-Corte-Interamericana-Derechos-Humanos.htm>

<sup>193</sup> CIA, “Venezuela”, CIA World Factbook, (July 17, 2012), Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/ve.html>

<sup>194</sup> eia “Country Analysis Briefs: Venezuela” US Energy Information Administration, (March 2001), Available at: <http://www.eia.gov/cabs/venezuela/oil.html>

<sup>195</sup> MPPRE, “Mission Barrio Adentro, uno de los logros de la revolucion de abril”, Ministerio del Poder Populare para Relaciones Exteriores, (April 16, 2012), Available at: [http://www.mppre.gob.ve/index.php?option=com\\_content&view=article&id=20455:mision-barrio-adentro-uno-de-los-logros-de-la-revolucion-de-abril&catid=2:actualidad&Itemid=325](http://www.mppre.gob.ve/index.php?option=com_content&view=article&id=20455:mision-barrio-adentro-uno-de-los-logros-de-la-revolucion-de-abril&catid=2:actualidad&Itemid=325)

<sup>196</sup> “La tenaza Cubana” Semana.com, (February 13, 2010), Available at: <http://www.semana.com/mundo/tenaza-cubana/134903-3.aspx>

- ▶ The international Criminal Court has also had a presence in the Venezuela case, due to the multiple lawsuits, presented to the prosecutor, against president Chavez and other high officials which accuse them of crimes against humanity.<sup>197</sup>

Therefore the interventions by the international community that are relevant to the transition have taken several different forms. The use of international institutions to judge crimes has commenced, with the cases of high officials being presented to the ICC. While direct funding for transitional activities has been banned, Venezuela is highly dependent on oil revenues from sales to the United States. There has also been direct involvement from the Cuban government, due to the president's close relationship with Fidel Castro. Finally, there has been indirect influence through the economic consequences of the high dependency on oil revenues as the main source of income.

~Political commitment to addressing the past~

On January 23, 2012 the Mesa de la Unidad released a document titled "Lineamientos para el Programa de Gobierno de Unidad Nacional (2013-2019)". This document outlines the general principles and strategies that the new government would follow if they were victorious in the upcoming elections. Henrique Capriles Radonsky as well as his vice-presidential candidate both signed the document, agreeing to make a governmental plan that follows the principals presented in the document. Among the main areas of interest, they highlight the importance of reconciliation between whom

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<sup>197</sup> Ireliis Durand, "Diego Arria Introduce Demanda Contra Chavez en el Tribunal de la Haya", El Nacional, (November 21, 2011), Available at: <http://www.el-nacional.com/noticia/10691/16/Diego-Arria-introduce-demanda-contra-Chavez-en-Tribunal-de-La-Haya.html>

and an inclusive government, as well as addressing structural inequality and politically instigated crimes of the past.<sup>198</sup>

There seems to be a clear message by the opposition leaders of righting past wrongs but a general sense on not knowing what and how much to do in terms of justice. There is a commitment to addressing the issue of political prisoners, as well as to dealing with structural inequalities. However, there is no mention on what to do with perpetrators, signaling hesitation towards the use of retributive justice.

#### ~Nature of transition~

A transition would ideally take place after an electoral victory by the opposition. However, like these elections illustrated, a change in power through electoral means does not ensure a complete turnover. Even if the opposition wins a presidential election, other state institutions including congress and the military would remain under the control of members of the previous regime.<sup>199</sup> For this reason every aspect of this transition must be negotiated, as the power balance would remain leaning towards the former regime. This transitional justice process would be considered a post conflict transition, with a definite changing point marked by elections. It should be noted that, while a transition of power does not guarantee a transition towards addressing human

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<sup>198</sup> MUD, “Lineamientos para el Programa de Gobierno de Unidad Nacional” Mesa de La Unidad Democrática, (January, 23, 2012), p.11, Available at: <http://www.unidadvenezuela.org/>

<sup>199</sup> Elecciones Venezuela, “Cual es el Cronograma Electoral Para Las Elecciones Presidenciales?”, Elecciones Venezuela (2012), Available at: <http://www.eleccionesvenezuela.com/informacion-calendario-electoral-presidencial-venezuela-8.html>

rights violation, the government plan put forth by the opposition signaled a positive change in this direction.<sup>200</sup>

#### ~Local Context~

Key themes within the local context are addressed under the “Venezuelan Based Indicators” section below. However, some facts to keep in mind include:

- ▶ The poor health of the current president could have great consequences on the type of transition that is to take place. It is unclear what the president suffers from and his actual state of health, despite speculations that the president claims to be healthy. Whether or not he is involved in the elections could directly affect the results of transition.<sup>201</sup> By the same token, his status during a transition would affect every aspect of a transitional justice process. Because the Chavista group identity is so tied to his persona, any change in his status could affect the group and their actions during a transition.
- ▶ The movements that have already taken place within the government may affect any potential transition. The reorganization of top appointed officials as well as the move by other key officials such as Eladio Aponte Aponte to abandon government positions make it unclear where the Chavista government stands and what they are planning.<sup>202</sup>

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<sup>200</sup> See “Political commitment to addressing the past” indicator pg.68-9

<sup>201</sup> Editor YU “ Chavez con Ventaja en Sondeos, pero la brecha no es irreductible”, Informe 21, (19/07/2012), available at: <http://informe21.com/henrique-capriles/12/07/19/chavez-con-solida-ventaja-en-sondeos-pero-la-brecha-no-es-irreductible>

<sup>202</sup> Catherine E. Shoichet, “Venezuela Official: Ex-Judge ‘Sold His Soul’ to DEA”, CNN, April 19 2012, Available at <http://www.cnn.com/2012/04/19/world/americas/venezuela-ex-judge/index.html>

- ▶ The variety of opinions presented by the candidates during the primaries show the range of voices on what should be done. The results of the primaries, with over 60% of the vote going towards Henrique Capriles Radonski and vice-presidential candidate Leopoldo Lopez, demonstrated strong support for their message towards the future and a reconciled society.<sup>203</sup>

All these factors point to the high degree of uncertainty surrounding a transition. Whether or not a change occurs, how it occurs and which direction it will take in are all unknown. This lack of clarity is reflected in the opinions of the population which auto-identifies as “ni-ni”.<sup>204</sup> This group is composed of people who do not consider themselves government or opposition supporters due to lack of trust on either side. They do not know what political changes will occur and hence do not trust to weigh in on either side at the expense of ending up with the losing time. While they currently compose a quarter of the population, in 2010 they were the majority of the population, reflecting a lack of trust in all leadership.<sup>205</sup>

### ~Timing~

For this particular transition a change of government could take place after an electoral defeat of President Chavez. The opposition coalition, Unidad Democratica, has

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<sup>203</sup> Juan Paullier, “ Capriles Radonski: el Nuevo Rival de Hugo Chavez”, BBC Mundo (February 13, 2012), Available at: [http://www.bbc.co.uk/mundo/noticias/2012/02/120212\\_venezuela\\_capriles\\_triunfo\\_cch.shtml](http://www.bbc.co.uk/mundo/noticias/2012/02/120212_venezuela_capriles_triunfo_cch.shtml)

<sup>204</sup> Noticia 24, “54% de los venezolanos se consideran dentro del grupo de los ‘ni-ni’” Noticia24.com (October 25, 2009), Available at: <http://www.noticias24.com/actualidad/noticia/105413/54-de-los-venezolanos-se-consideran-dentro-del-grupo-de-los-ni-ni/>

<sup>205</sup> Charlie Devreux “Chavez Maintains Lead Over Rival Datanalisis Poll”, Bloomberg Businessweek (June 19, 2012), Available at: <http://www.businessweek.com/news/2012-06-19/chavez-maintains-lead-over-rival-in-datanalisis-poll>

expressed interest in reconciling society through a more inclusive government. It was included as one of their main goals for the new government in their governance plan:

*“13. To reconcile the country and strengthen the institutional democracy. For this, the Government of National Unity will vindicate the 1999 constitution, as well as the commitment to unrestrictedly defend human rights and constitutional guarantees. We aspire to strengthen and promote spaces for the concentration, participation and social dialogue, as well as guarantee the access to justice for everyone. We commit to the promotion of amnesty for those who have been detained or exiled for political reasons as well as to the amplification of democracy in the parties and political associations.”<sup>206</sup>*

Based on the information presented in this document as well as a victory for Unidad Democratica, the transitional justice process could commence immediately after a change in power.

### 3.C) Venezuela-based Indicators

~Levels of corruption~

The corruption perception index for Venezuela is a 1.9 on a scale of 0-10, where ten means “very clean” and 0 means “highly corrupt”. Its status is second only to Haiti in the region. It is also comparable also to Afghanistan, Sudan, Somalia and Burma.<sup>207</sup> This points to a clear fault in the state institutions that would need to be addressed in order to gain the confidence of the Venezuelan society. Only strong institutions that

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<sup>206</sup> MUD, “Lineamientos para el Programa de Gobierno de Unidad Nacional” Mesa de La Unidad Democratica, (January, 23, 2012), p.11, Available at: <http://www.unidadvenezuela.org/>

<sup>207</sup> Transparency International “Corruption Perception Index 2011”, accessed July 6, 2012, available at <http://cpi.transparency.org/cpi2011/results/>

Venezuelans respect can lead a transitional justice process that society will be willing to put their faith in.

### ~Societal Ideology~

Currently the Venezuelan population can be stratified by ideology between those who are social democrats and those who are liberals. When looking at attitude towards change, all Venezuelans can be found to be renovators, not towards the extremes of conservatism or revolution.<sup>208</sup> This means that they are looking for change, but not in a radical or fast manner. In terms of attitude towards values, they are pragmatic as opposed to dogmatic. This means their behaviors are not tied to an ideology but simply to what is most effective at the time.<sup>209</sup> Finally, with regard to coexistence within society, they differ. One group varies more towards individualism, while the other group varies more towards collectivism.<sup>210</sup> These positions are not extreme in either case and are what distinguishes between social democrats that lie closer to collectivism from liberals that lie closer to individualism. This approximation to the middle reflects a new pattern of societal ideology that DeVries labels as it as “5-5-5” of “sustainability”.<sup>211</sup> These measures suggest that Venezuelans as a whole would like to see positive change that is not explosive but incremental and that they would like to uphold values but understand the difficulties of applying them in all scenarios. Finally, it shows that there are two visions of what should be the main role of the government, while one group

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<sup>208</sup> Roberto DeVries, “El Venezolano Actual”, Roberto DeVries, Imagen y Poder en la Noticia, available at [http://www.robertodevries.com/index.php?accion=ver\\_articulo&arti\\_id=1110&articulo=el-venezolano-actual.-](http://www.robertodevries.com/index.php?accion=ver_articulo&arti_id=1110&articulo=el-venezolano-actual.-)

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

sees it as an assurer of individual rights, the other sees it as a promotor of the collective good. This analysis provides a start into deciphering what type of transitional justice process, one that is gradual, accepts compromises, and deals with the differing views on government, will be well received by Venezuelan society.

### ~Role of the Military~

*“President Chavez is interested in education and in economic development, yet he is first and foremost a soldier...One of his most controversial ambitions is to integrate the armed forces into the life of civil society.”<sup>212</sup>*

Currently in Venezuela the military is playing an increasingly relevant role within the government.<sup>213</sup> This is in large part due to President Chavez’s own military background. In 2000 members of the military were first allowed to vote in presidential elections. At that time, when both presidential candidates, Hugo Chavez and Francisco Arias Cardenas came from the military ranks, the growth of the military influence on politics became clear. The creation of the “Comando General de la Milicia Bolivarian”, the Bolivarian Militia, in 2005 also points towards an increase of militarism in the country. This militia answers directly to the president and is considered to be a separate entity within the armed forces. Their purpose is to create a space for all Venezuelans to become involved in the defense of the nation, as is required by the 1999 Constitution.

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<sup>212</sup> Richard Gott, “In the Shadow of The Liberator: Hugo Chavez and the Transformation of Venezuela” (2000)Verso, London, p.223

<sup>213</sup> For review of the role of the military during the Chavez regime refer to Barbara Bastidas “The Militarization of The Venezuelan Politics Under Hugo Chavez’s Government 1999-2003”, Prepared for Delivery at the 2004 Meeting of the Latin American Studies Association, Las Vegas, Nevada October 7-9, 2004., Available at [lasa.international.pitt.edu/members/.../files/BastidasBarbra\\_xCD.pdf](http://lasa.international.pitt.edu/members/.../files/BastidasBarbra_xCD.pdf)

Rafael Uzcategui, “Juventud, Militarizacion y DDHH”, (June 11, 2012), PROVEA, Available at <http://www.derechos.org.ve/2012/06/11/rafael-uzcategui-juventud-militarizacion-y-ddhh/>

<sup>214</sup> Finally the current rumors of divisions in the Chavista ranks have fueled doubts about the role of the military in a post-Chavez scenario.<sup>215</sup>

Some key events can help demonstrate the state of the military as well as their stance during crucial moments in the country's past:

- “Plan Avila” is a secret military operation which used to gain control of the streets in situations of great social unrest. It was utilized during the 1989 “Caracazo”.<sup>216</sup> It is not a tool the military frequently utilizes because it involves turning arms against civilians in a way that could be hazardous and possibly fatal for civilians. On April 11, 2002 the Army got instructions from President Chavez to utilize Plan Avila in order to stop the public unrest in Caracas. According to the 1999 constitution this plan could only be carried through by the National Guard because they were the only group that could deal with civilians. Unlike the National Guard, the army was not equipped for crowd control. However the president was asking the army to do so, breaking a pre-established law he had already set in place. For the army, it is their constitutional duty to disobey any order that violates the constitution, no matter whom it comes

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<sup>214</sup> “Comando General de la Milicia Bolivariana”, Gobierno Bolivariano de Venezuela, Ministerio del Poder Para la Defensa, can be found at [http://www.milicia.mil.ve/sitio/web/index.php?option=com\\_content&view=article&id=44&Itemid=57](http://www.milicia.mil.ve/sitio/web/index.php?option=com_content&view=article&id=44&Itemid=57)

<sup>215</sup> “En el Chavismo Siguen Enfrentados Militares y Civiles, Radicales y Moderados”, ABC de La Semana (May 10, 2012) can be found at <http://www.abcdelasemana.com/2012/05/10/en-el-chavismo-siguen-enfrentados-militares-y-civiles-radicales-y-moderados/>

Nelson Bocaranda, “Que Esta Pasando Dentro Del Regimen Para Que Cabello y Los Militares Ganen Mas Poder?” RunRunes (January 5, 2012) can be found at <http://runrun.es/runrunes/32789/%C2%BFque-esta-pasando-dentro-del-regimen-para-que-cabello-y-los-militares-ganen-mas-poder.html>

<sup>216</sup> For information on el Caracazo please read “Causas E Interpretaciones Del Caracazo” by Jose Honorio Martinez, HAOL, Num 16, (Spring 2008), p.85-92, Available at <http://www.historia-actual.org/Publicaciones/index.php/haol/article/view/253/241>

from. Therefore, despite the chaotic situation around April 11 when the president ordered the plan Avila to come into action, the military did not respond.<sup>217</sup>

- ▶ In March 2012, a former Supreme Court Justice, Eladio Aponte Aponte made a deal with the DEA for asylum in the United States, after being accused of links to drug trafficking by the Venezuelan government. Aponte Aponte gave a “tell all” interview with SOiTV in which he admitted to looking the other way on drug charges against military lieutenants, but said he did so at the order of President Chavez as well as other high officials. This information further corroborates information that the DEA had on key Venezuelan officials, including defense minister Henry Rangel Silva. The information Aponte Aponte stated was damaging to several state institutions, particularly the judiciary. It also provided valuable information about the state of deterioration within the military.<sup>218</sup>
- ▶ The recent appointment of new military leaders, all of close affiliation to Chavez, has raised some alarms about the actions of the military if there is a Chavez defeat. In particular, comments made by Defense Minister, Henry Rangel Silva, claiming the armed forces would see an opposition government as an affront to the revolutionary project and therefore would not tolerate it. Other recent appointments include head of aviation, Jose Gregorio Escalona, one of the men that participated in the 1992 coup attempt; head of the National Guard, Juan Francisco Romero Figueroa, a general in charge of the repression of some of the most recent violent protests. The

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<sup>217</sup> Brian A. Nelson, “The Silence and the scorpion: The Coup Against Chavez and the Making of Modern Venezuela”, Nation Books (2009), p.21-25

<sup>218</sup> Catherine E. Shoichet, “Venezuela Official: Ex-Judge ‘Sold His Soul’ to DEA”, CNN, April 19 2012, Available at <http://www.cnn.com/2012/04/19/world/americas/venezuela-ex-judge/index.html>

National Assembly has also seen new appointments as well, with the recent election of Diosdado Cabello, also a 1992 coup member, as the head of the assembly.<sup>219</sup>

Taking past actions of the military into consideration, it appears that the scenarios that involve a radical military response seem unlikely for a future transition. While some of the key leaders are clear Chavez-supporters, their incendiary statements may not be representative of the entire Venezuelan military. While the role of the military has changed radically throughout the Chavez regime, they have yet to raise their arms against civilian populations.

### Summary of Findings

<b>Table 3: SUMMARY OF VENEZUELAN INDICATORS OF TRANSITIONAL JUSTICE</b>		
<b>Theme</b>	<b>Indicators</b>	<b>Venezuela</b>
Causes of Conflict	<ul style="list-style-type: none"> <li>- Ideological</li> <li>- Identity-based</li> <li>- Socio-economic</li> <li>- Independence struggle</li> </ul>	Venezuela does not easily fit into any of the pre-established categories. While the cleavages among the society are along socio-economic lines, it is the politicization of the cleavages that has caused the polarization.

<sup>219</sup> AP, "Chavez se Aferra a Militares Leales para Buscar La Reeleccion", Associate Press, (January 27, 2012), available at <http://www.lapatilla.com/site/2012/01/27/ap-chavez-se-aferra-a-militares-leales-para-buscar-la-reeleccion/>

<b>Table 3: SUMMARY OF VENEZUELAN INDICATORS OF TRANSITIONAL JUSTICE</b>		
<b>Theme</b>	<b>Indicators</b>	<b>Venezuela</b>
Type of Conflict Settings	<ul style="list-style-type: none"> <li>- post-communist</li> <li>- post-apartheid regimes</li> <li>- post-genocide</li> <li>- post-coup</li> <li>- post-civil wars</li> <li>- established democracies addressing past wrongs against minorities</li> </ul>	Again Venezuela is not set easily into one of these segments. Because both sides of the conflict see the regime of Hugo Chavez differently, with the opposition seeing it as authoritarian and the Chavistas viewing it as a democratic revolution, the one thing that can be agreed upon by all parties is that this is a fragile situation of grave violence and polarization along political lines.
Levels of Economic Development	<ul style="list-style-type: none"> <li>- GDP</li> <li>- Inequality indicators (GINI Coefficient)</li> <li>- Human Development Index</li> </ul>	<ul style="list-style-type: none"> <li>- GDP per capita is \$12,400 (2011 est.) ranking it 96th in the world</li> <li>- Gini index for Venezuela in 2011 is 39</li> <li>- Human Development Index for Venezuela in 2011 was 0.742, however when adjusted to address inequality, it drops to 0.547</li> </ul>
Nature of repression	<ul style="list-style-type: none"> <li>- open</li> <li>- closed</li> <li>- centralized</li> <li>- decentralized</li> </ul>	<p>violence in this conflict adopts a mixed form, varying between centralized and decentralized, as well as open and closed.</p> <ul style="list-style-type: none"> <li>- Targeted individuals in arbitrary detention</li> <li>- Political Prisoners</li> <li>- Violent rhetoric instigating violence against opposition groups</li> <li>- impunity and as a result a high degree of violent crimes</li> </ul>
Historical Narratives	<ul style="list-style-type: none"> <li>- Occurrence of disputed events? (Yes) (No)</li> </ul>	The existence of key disputed events, in particular El 11 de Abril.
State Institutions	<ul style="list-style-type: none"> <li>- non-existent vs. existing</li> <li>- centralized vs. independent</li> <li>- reputable, non-reputable</li> </ul>	<ul style="list-style-type: none"> <li>- In existence</li> <li>- highly centralized</li> <li>- Non-reputable, not trusted by the population</li> </ul>

<b>Table 3: SUMMARY OF VENEZUELAN INDICATORS OF TRANSITIONAL JUSTICE</b>		
<b>Theme</b>	<b>Indicators</b>	<b>Venezuela</b>
Civil Society Status	<ul style="list-style-type: none"> <li>- Strong vs. Weak</li> <li>- reconciling or destructive?</li> <li>a. church</li> <li>b. NGOs</li> <li>c. students</li> </ul>	<ul style="list-style-type: none"> <li>- Strong civil society</li> <li>- present a message of human rights, justice and reconciliation</li> <li>- All of the mayor groups are involved, including the faith community (Ex. Venesanapaz), student movements and NGO's (Ex. Sin Mordaza)</li> </ul>
International intervention	<ul style="list-style-type: none"> <li>- Presence or absence during conflict</li> <li>- during transition</li> <li>type of intervention?</li> <li>a. use of international institutions such as the International Criminal Court</li> <li>b. sources of funding</li> <li>c. direct involvement</li> <li>d. indirect influence</li> </ul>	<p>Presence during transition to be determined.</p> <p>During conflict there has been:</p> <ul style="list-style-type: none"> <li>- Use of international institutions such as the Inter American Court for Human Rights as well as the International Criminal Court</li> <li>- Dependency on oil exports creates complete dependency on foreign markets</li> <li>- Close involvement between President Chavez and Cuban leader Fidel Castro.</li> <li>- The dependency on oil markets is also an indirect form of influence by the international buyers, most notably USA.</li> </ul>
Political commitment to addressing the past	<ul style="list-style-type: none"> <li>- plans, statements put out by new government</li> </ul>	<ul style="list-style-type: none"> <li>- The opposition team put forth a "post-transition" plan that focused on the reconciliation of society, the improvement of state institutions and the righting of past human rights violations</li> </ul>
Nature of transition	<ul style="list-style-type: none"> <li>- negotiated vs. complete defeat</li> <li>Typology of transition</li> <li>a. post-conflict transition</li> <li>b. pre-transition</li> <li>c. non-transition</li> </ul>	<p>Not yet a transition but expected to be:</p> <ul style="list-style-type: none"> <li>- negotiated transition as a result of an electoral defeat</li> <li>- a post- conflict transition</li> </ul>

<b>Table 3: SUMMARY OF VENEZUELAN INDICATORS OF TRANSITIONAL JUSTICE</b>		
<b>Theme</b>	<b>Indicators</b>	<b>Venezuela</b>
Local Context	- current policies - programs already in place?	Issues to keep in mind: - President's poor health - Reorganization of top appointed officials within the government - The range of opinions on what a transitional strategy should be, as represented by the differing stances of the candidates in the opposition primaries - The high degree of uncertainty as well as the overall lack of trust in all leadership, as represented by the Ni-Ni population.
Timing	- Time lapsed after conflict	Transitional justice process could begin immediately after a transition in power.

<b>Table 4: INDICATORS DRAWN FROM VENEZUELAN SITUATION</b>		
<b>Theme</b>	<b>Indicators</b>	<b>Venezuela</b>
Levels of corruption	Transparency International Corruption perception index	corruption perception index for Venezuela is a 1.9 on a scale of 0-10
Societal Ideology	"Diagram of Ideological Identities" Roberto DeVries	Ideology of sustainability, which implies a society that believes in gradual change, with a practical approach towards values. Slightly differing views on coexistence, some lean more towards a collectivist style of society while others more towards and individualist style of society.
Role of the Military	"Diagram of Military Scenarios" Carlos Blanco	scenarios that involve a radical military response seem unlikely for a future transition.

## **PART 4: ANALYSIS**

When looking at all the indicators of the Venezuelan situation, there are some key trends that show up. The presence of conflicting narratives are a monumental challenge for post conflict societies. They affect every aspect of transitional justice, since the narrative is used by either side to justify their actions by placing greater blame on the other. In the Venezuelan case the narratives also help create group identities that are antithesis of each other, in which a main part of what the group has in common is its opposition to the other group. A truth and reconciliation commission could be used to address these issues. The claims that much of the documentation surrounding the events of El 11 de Abril, has been destroyed, makes a truth commission a better option than declassifications. Furthermore amnesties could be used as a tool to encourage perpetrators to tell their stories. Finally, if a truth and reconciliation commission is led by the government, its final report could be used as a teaching tool in classrooms, a standard for what history will be taught.

The lack of institutional integrity will also need to be addressed in order to have a successful transitional justice process. Because of the lack of credibility in the judicial system, any justice processes that take place can be tainted. The high Perception of Corruption Index is the clearest sign of this lack of trust. No matter the actions that the new government takes, they run the risk of having a great majority of the population view them as politically driven. However, since the MUD party has agreed to uphold the 1999 constitution if they win, this presents a strong blueprint for the renovation and legitimization of the entire state apparatus that is easily accessible to the entire society.

While a vetting process could help give a sense of transparency, the tendency of vetting to turn political in nature could actually harm the transitional justice process. I would therefore suggest that vetting only be done in cases of high-ranking personnel first. All information about the process be made available to the press in order to ensure that the society are aware of the procedure and do not believe it is begin done in a political nature. Despite these concerns the use of vetting, with the use of proper procedures could help build up the integrity and respect for Venezuelan institutions.

This renovation could also address the final challenge, removing structural inequality from the governing system. As of now, parties and party affiliates that are supporters of the president get more favorable treatment than people who are not. Changing the system to make it equally accessible and transparent for anyone and removing party politics from the administration will be important to ensure new found trust in governmental institutions. This issue is probably the most difficult to address because the socio-economic cleavages have existed long before the Chavez regime. Therefore, some restitution of private property can be achieved, and reparations for those who were directly targeted by the Chavez government can be done. However, because of the decentralized nature of the violence the majority of the victims of this will not benefit from these methods. While other methods such as memorialization project could help address more of the community, I would suggest that the improvement of access to state institutions for all is the critical element to change the underlying socio-economic causes of the conflict.

On a more positive note, Venezuela's economic and political independence, strong civil society, and the MUD candidate's commitment to reconciliation are all

aspects that are critical for a successful change. While Venezuela has disturbing misery index numbers caused by incredibly high inflation rates, it still presents a strong position in the world GDP index. This suggests that, due to substantial oil revenues, Venezuela has the possibility of funding a transitional justice process for itself, without depending on foreign funds that come with strings. In terms of foreign intervention, while there is a current concern about Cuban intervention in government affairs, it appears that their relationship with Venezuela is based on president Chavez's admiration of Fidel Castro. If there is a change in regime their presence would probably be reduced automatically, with the main concern being their knowledge of internal affairs. The case presented to the ICC against president Chavez and other high officials should be kept under consideration but will present no immediate concern as the prosecutor has made no indication that the cases will be picked up soon. National civil society will have a more prominent role for the transition, with powerful voices from the religious, human rights, civil rights, student groups and other parts of society all voicing the same message of reconciliation and peace. This, combined with the clear commitment presented by the MUD party to reconciliation and justice for the victims of political attacks, shows that there is the will for a transitional justice process. Finally, the fact that the military has stood on the side of institutionalism and has refused to use violence against the civilian population gives hope that the greatest threat to a transition, is not likely to happen.

## PART 5: RECOMMENDATIONS

Based on a preliminary analysis of the transitional situation of Venezuela:

1. I urge the transitional government to consider a truth and reconciliation commission to address the conflicting narratives, particularly around the events on the 11 of April and the surrounding dates. This model could borrow some elements from the South African Truth and reconciliation commission,<sup>220</sup> such as the granting of amnesty as a way of getting people to step forward and tell the truth. This is important considering the allegations of destruction of evidence by the government. Cases of political prisoners should be a priority to the commission because these prisoners are already under the impression that the justice system has been manipulated against them and this could be seen as an opportunity for true justice. Furthermore, this entire process should be televised and open to the public, in order for the entire society to feel invested in the process and in the narrative that results from it. The commission should release a final report, stating the official version of the events that took place, as well as recommendations of what should be the way forward. The commission should have the flexibility to allow for multiple points of view, particularly in contentious events to try and create a comprehensive picture and not discriminate against any groups. Finally, the commission should be comprised of key Venezuelan leaders with varied political and professional backgrounds. Their election should be done in a transparent manner that leaves no doubt to the public as to why they were the best candidates to lead the process. These commission members could benefit

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<sup>220</sup> Refer to South African Truth and Reconciliation commission web page at <http://www.justice.gov.za/trc/>

from a training with truth and reconciliation commission experts, that could be done in conjunction with the United Nations.

2. I recommend trials to deal with the issues of corruption, drug trafficking and abuse of power by high ranking officials. These trials could be carried out with the help of international advisors but should be held by local institutions. This will give the process more legitimacy amongst the local population and rebuild trust in the judicial system. However, it is first key to ensure that there is a proper institution in place that will follow due process and will not be influenced by politics. For this reason each accusation has to be addressed individually, taking into consideration not only the facts of the case, but also its ability to cause instability. What is most important is that these trials help develop a new culture of justice, that is not perceived by the Venezuelan society as a continuation of the politicization of the judiciary.

The current cases that are considered political in nature should be the first priority. These cases should be addressed immediately to determine their validity and asses whether or not they are political in nature. It is in this particular aspect that the coordination between a truth and reconciliation commission and the judicial system is key.

3. I call upon the transitional government to support the current processes for reconciliation that are being carried forth by civil society. The involvement of civil society can help reach more of the population without draining government resources. Also, if the message of peace and reconciliation is coming from sources outside the

government it will add to their validity. This is particularly true of the efforts coming from the religious community, considering Venezuelan society's religiosity.<sup>221</sup> Efforts by NGO's to spread the message of peace are also critical as each can target different sectors of society which my otherwise go underrepresented. For example, the peace concerts hosted by Sin Mordaza are a good way of targeting a young audience that might otherwise be disconnected to the greater struggle of the country. Civil society is also important to carry across messages that the government is not able to address themselves. For example, in Argentina, where governments were restrained by the amnesty laws, groups like Madres de La Plaza de Mayo kept the plea of the victims alive. NGO's, the religious community and civil society in general should be seen as allies that can make the process more representative of society and more extensive in reach.

4. I point out the critical role that the press will play in this transition. As the main conduit of information the press will be the essential piece in spreading a message of reconciliation and peace. Currently, the press plays a big role in instigating segregation among government and opposition supporters. However, within the transition they can help create a sense of transparency in the process. They can serve as an example of unification by engaging in programing that involves prominent figures from both Chavista and Opposition backgrounds. This would involve having people who are willing to engage with the other side, while at the same time

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<sup>221</sup> Central Intelligence Agency, "People and Society: Religion" The World Factbook, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ve.html>

alienating extremist narratives. It is important to start considering the part the press can play and work in unison with them, not leaving it as an afterthought.

5. I recommend they involve the international community in an advisory role to help establish the legitimacy of the process in the world. The involvement should be through international governance organizations, such as the Organization of American States, the United Nations and even other regional organizations that have more extensive experience with transitional processes, such as the African Union. This as opposed to the involvement of individual countries in order to prevent the imposition of other countries' agendas on the process. This strategy would also afford access to expertise from across the globe and would allow for faster dissemination of information about the process. The idea would be to gain from the positive aspects of outside involvement, which would be the sense of neutrality and expertise, while protecting the transitional process from being "taken-over" by international actors at a loss of local ownership and participation.
  
6. I adjure the transitional government to visualize the transition not as a single event, but as a continued process that will need to be reexamined and evaluated. By seeing it as a process the issues of timing and sequencing can be more readily addressed. A process suggests something that has multiple steps and requires time. The idea of a "one-time, all-in-one" solution will be dissuaded and the postponement of some methods for others will be expected.

This will most likely be a negotiated transition, where the new government will not have complete free will over justice against perpetrators. The role of the military as well as the health of the president are two situations which are still uncertain. Therefore, the new government should strive for social reconciliation and peace. While a sense of justice is critical for both of these in the long term, too much retribution against perpetrators in the short term can revert the transition. It can also make the new government seem vindictive.

7. I suggest focusing most of the initial efforts on rebuilding institutions and breaking down the mechanisms of institutionalized inequality. This means creating branches of government that do their job independently of who needs it done. By dealing with this underlying factor of polarization, the Chavista vs. opposition identities will become less relevant, as they will no longer fit the reality of the new government. Strong institutions are also critical for the pursuit of justice. The desire for justice does not wane with the passage of time, and it is best for trials to occur at a point where there is a consolidated juridical apparatus.

## PART 6: CONCLUSION

The world of transitional justice is little known outside of the countries where it has been practiced. The field has expanded widely throughout its history, adding more tools to its repertoire and addressing an increasingly varied pool of cases. Its tools can be helpful in situations where governments become conscious of human rights. However, the field has yet to develop a comprehensive theoretical framework to help policy-makers navigate its methods. In Venezuela there is but a general sense of what transitional justice truly is. This sense is drawn from some of its most prominent cases like Chile and Argentina. It is for this reason that I created a framework to analyze post-transition scenarios from a transitional justice perspective. A comprehensive analysis of transitional justice material first allowed me to establish the Venezuelan case as low-intensity conflict worthy of a transitional justice strategy.

I then developed a list of indicators, drawn from theory writings of the field that outline particular elements of a transitional situation which can help decide which tools should be used. This model of indicators could be applied to any case that is considering transitional justice as an option towards peace and reconciliation. While there is a clear consensus in the field that there is no one-size-fits-all solution to the complex scenarios of transition, my attempt is not to fit all scenarios into one box, but to create an analysis tool that helps define a situation in a format that draws the most relevant information to the field and that allows for it to be compared to other cases. The tool is also flexible, including a section dedicated specifically to the local context and locally developed indicator themes.

Applying this analysis to the Venezuelan scenario demonstrated that Venezuela's case is a complex one, but one which is already heading in a positive direction. The initiatives towards social reconciliation from different civil society groups, as well as the opposition candidate's message of peace, gives hope that the country is ready to embark on a path of healing. The main focus in this case should be on using transitional justice as a way of legitimizing the role of state institutions and creating a space for truth finding and narrative building.

My hope is that I have presented different models and approaches of transitional justice in a manner that is approachable to those who will be in charge of effecting those policies. However, this paper is limited in its analysis of the Venezuelan situation. As a biased party, my access to information as well as my understanding of the situation is skewed. Furthermore, the involvement of local institutions, civilians, and organizations is critical in the development of the policy in order to ensure buy-in from all parts and to ensure a true adaptation to the local scenario. Therefore, it is my hope that this paper can be seen as an introduction to a discussion of transitional justice and a tool for policy development. I hope that it widens the scope of the debate past the recognition of a few iconic cases. I encourage further study of the particular Venezuelan context, and present the analysis here provided as starting point for such a discussion.

## **Acknowledgments**

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## Appendix A

# SEARCH METHODS

## Key Words & Databases of Transitional Justice Theory Search

KEY WORDS For all Search Engines:

Transitional Justice + Theory

Methods

Tools

Techniques

Frameworks

Strategies

Approaches

Main search engines: (Through Umass Boston system)

EBSCO Host

Sage (Title, Key Words, Abstract, First page only)

Project Muse (Everything except text for “transitional justice”, other words everything including text)

Key Words (Transitional Justice + )	EBSCO	Sage	Project Muse
Theory	X	X	X
Methods	X	X	X
Tools	X	X	X
Techniques	X	X	X
Frameworks	X	X	X
Strategies	X	X	X

Key Words (Transitional Justice + )	EBSCO	Sage	Project Muse
Approaches	X	X	X

Other data bases to look at:

[http://www.idea.int/publications/traditional\\_justice/index.cfm](http://www.idea.int/publications/traditional_justice/index.cfm)

<http://www.peacemakers.ca/bibliography/bib26reconciliation.html>

<http://www.laits.utexas.edu/lawdem/unit05/index.html>

<http://sites.google.com/site/transitionaljusticedatabase/transitional-justice-bibliography>

<http://www.gsdrc.org/go/topic-guides/justice/transitional-justice>

#### KEY MENTION OF OTHER RESOURCES:

Transitional Justice on Trial: Evaluating Its Impact 2010

Ruti Teitel 'transitional justice as a liberal narrative in Experiments with truth: transitional justice and the process of truth and reconciliation

Joanna Quinn reconciliation(s): transitional justice in post conflict societies

**Transitional Justice** in Balance: Comparing Processes, Weighing Efficacy," by Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter.

## Appendix B

<b>TRANSITIONAL JUSTICE SELECTED READINGS</b>				
<b>Readings</b>	<b>Author</b>	<b>Overall Effectiveness Indicators</b>	<b>Mechanisms Addressed</b>	<b>Relevance</b>
<b>Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice</b>	Leslie Vinjamuri & Jack Snyder	addressing society at all levels p. 14	International war crime tribunals, trials in general, truth commissions	
<b>Anthropological Studies of National Reconciliation Processes</b>	Richard Ashby Wilson		Truth commissions, Trials	
<b>Burying the Past: Making Peace and Doing Justice After Civil Conflict</b>	David J. Scheffer, United States Institute of Peace, Edited by Richard B. Bilder			
<b>Captured Commitments: An Analytic Narrative of Transitions With Transitional Justice</b>	Monika Nalepa			
<b>Civil Society and Transitional Justice: Possibilities, Patterns and Prospects</b>	David Blacker	involvement of civil society		

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<b>Civilizing Peacebuilding: Transitional Justice, Civil Society and the Liberal Paradigm</b>	Kora Andrieu	involvement of civil society , transitional justice as a process (540, 544), inclusion of structural violations, local ownership	Truth commissions, Trials, alternative methods from bottom up approaches (dialogues, traditional methods,	
<b>Context, Timing and Dynamic of Transitional Justice: A Historical Perspective</b>	Laurel E. Fletcher, Harvey M. Weinstein & Jamie Rowen	general section 204-6 “timing”, combination of methods	General suggestions truth commission or truth and reconciliation commission, amnesties, or domestic trials.	
<b>Democratization and Transitional Justice</b>	Mark Arenhovel	Timing, local ownership, space of distinctive narratives	Truth commissions, Trials and International Tribunals	
<b>Dilemmas of Expanding Transitional Justice: or Forging the Link between Transitional Justice and Development</b>	Rama Mani	More expansive definition of justice “ social, economic, cultural, legal”		
<b>Empirical Research and The Development and Assessment of Transitional Justice Mechanisms</b>	Phuong Pham & Patrick Vinck	importance of measuring effectiveness of intervention at all stages		
<b>Ending Impunity: Critical Reflections on the Prosecution of Heads of State</b>	Renu Mandhane		Trials	
<b>Enter Ghost: Haunted Courts and Haunting Judgements in Transitional Justice</b>	Christiane Wike		Trials	

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<b>Ethical Advice: Conflict Management Vs. Human Rights in Ending Civil Wars</b>	Roy Licklider		Amnesty, truth Commissions,	
<b>Expanding the Scope of Post-Conflict Justice: Individual, State and Societal Responsibilities for Mass Atrocity</b>	Jelena Subotic			
<b>Factors Contributing to Transitional Justice Effectiveness</b>	Huma Haider	Factors contributing to efficiency: legitimacy and local ownership; government commitment; involvement of civil society; outreach; capacity building; appropriate timing; the use of a combination of mechanisms; and empirical research.	General Suggestions	Interesting for general description of transitional justice look at section on “empirical research” p. 8

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<b>Getting Even or Getting Equal? Retributive Desires and Transitional Justice</b>	Roman David & Suzanne Y. P. Choi	restoring the balance between victims and perpetrators	financial compensation, truth telling, social acknowledgment, punishment, interpersonal gestures of reconciliation, apology, and forgiveness	Good framework if looking to analyze a case by looking at retributive, reparative and reconciliatory policies of one country “These findings have theoretical implications for transitional justice, policy implications for transitional countries in general, and the Czech Republic in particular. Theoretically, justice in times of political flux requires changing the perspective from commutative to distributive justice: it does not only compensate debts but it also redresses social inequalities caused by political crime. Based on this “distributive theory of transitional justice,” in order to be successful, it requires going beyond retributive justice towards reparatory and reconciliatory interventions. In other words, policy interventions require going from the narrow perpetrator-centered approach to the models of social reconstruction. <sup>26</sup> ”
<b>How “Transitions” Reshaped Human Rights: A Conceptual History of Transitional Justice</b>	Paige Arthur	Has always been a comparative field, knowledge-base developed internationally	prosecutions, truth commissions, transformation of the state security apparatus, rehabilitation and compensation	

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<b>How Do We Salvage Our Wounds? Intercultural Perspectives on Individual and Collective Strategies of Making Peace With Own Past</b>	Boris Droždek		critique of reconciliation approaches vs. retributive approaches, truth commissions	
<b>How to Deal With The Past?</b>	ANATOLY M. KHAZANOV and STANLEY G. PAYNE		Trials, lustrations, institution building	Gives an idea of the different approaches available for transition and some of the challenges for each one “number of victims of modern repressive regimes is unique in human history, and that they have managed to implicate whole societies in the repressive process.”
<b>Human Rights and Mass Atrocities: Revisiting Transitional Justice</b>	David P. Forsythe		criminal justice, truth commissions	
<b>Human Rights, Politics and Injustice: Transitional Justice in Argentina &amp; South Africa</b>	Michael Humphrey & Estela Valverde	structural inequalities post-transition due to neo-liberal policies and non addressing of economic violence	trials, truth commissions, case specific SA and Argentina	

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<b>Judging Transitional Justice: A New Criterion For Evaluating Truth Revelation Procedures</b>	Marek M. Kaminski & Monika Nalepa	mechanisms, *****GOOD APPENDIX TO FIND COMPARISON CASES	lustrations, truth commissions and declassification,	Incentive-based Revelation procedures are more effective after regimes that employed evidence destruction before leaving power. Shows different approaches done in the past, Denazification, Lustration, Decommunization, grass-roots truth revelation procedures, truth commissions “This line of reasoning must be modified before we can apply it to the TJ context. First, instead of being a deterrent, harsh punishment may create the opposite incentive, as the expectation of harsh TJ may actually prevent dictators holding power from stepping down and making the transition to democracy possible.”
<b>Justice after Transition: On the Choices Successor Elites Make in Dealing with the Past</b>	Luc. Huyse	Procedure, combination of tools	criminal prosecutions, lustrations, amnesty, truth and reconciliation commissions	Uses traditional definition of transitional justice. “All policy choices involve answers to two key questions: whether to remember or forget the abuses-the issue of acknowledgment- and whether to impose sanctions on the individuals who are co-responsible for these abuses-the issue of accountability.”
<b>Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice</b>	Chandra Lekha Sriram	Seeing transitional justice as a process, needs to be self-led not outside imposed	Trials	
<b>Justice Discourses in Transitions</b>	Christine Bell, Fionnuala Ni Aolain & Colm Campbell	Northern Ireland case study, role of law		

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<p><b>Learning to Live Together: Transitional Justice and Intergroup Reconciliation in Northern Ireland</b></p>	<p>N.T Aiken</p>	<p>A successful transitional process must include instrumental, socioemotional and distributive forms of “social learning” in order to be successful</p> <ul style="list-style-type: none"> <li>- Distributive Reconciliation: sustained attempts to reduce structural and material inequalities, limit perceptions of inequitable power relations between former antagonists (Staub, Bar-Tal, social learning demands real change in socioeconomic conditions)</li> <li>- Instrumental Reconciliation: engage former antagonists in sustained cooperative efforts</li> <li>- Socioemotional Reconciliation: interventions to confront past legacy by changing existing feelings of victimization, guilt and distrust. critical to this is justice, fighting impunity</li> <li>- Sequencing of transitional justice, distributive and instrumental reconciliation should have progress before accountability is set forth.</li> </ul>	<p>piecemeal approach, non-gov actions</p>	<p>“insights from social psychology suggest that asking whether one kind of transitional justice strategy is intrinsically ‘better’ than another is promoting postconflict reconciliation is less important than asking whether the processes employed by each strategy serve to impede or impel the social learning and transformation of relationships ultimately required for”</p>

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<b>No Future Without Personal Forgiveness: Reexamining the Role of Forgiveness in Transitional Justice</b>	John D. Inazu	The role of personal forgiveness, the importance of one agreed upon narrative	truth commissions	
<b>Normative and Strategic Aspects of Transitional Justice</b>	Marek M. KAMINSKI, Monika NALEPA & Barry O'NEILL	mechanisms		Endogenous and exogenous methods of transitional justice, overview of the different dilemmas of transitional justice, good for getting resources Kimberly Theidon's book "nationally imposed institutions may not only be less effective but can sometimes also indeed interfere with local norms and reconciliation procedures."
<b>Peace, Justice and the International Criminal Court: Limitations and Possibilities</b>	Janine Natalya Clark	In support of a combined approach	ICC	
<b>Plunder and Pain: Should Transitional Justice Engage with Corruption and Economic Crimes?</b>	Ruben Carranza	Dealing with corruption, structural injustice	Truth commissions, reparations, amnesties, trials (international courts)	

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<b>Re-ordering Justice: Towards a New Methodological Approach To Studying Transitional Justice</b>	Brian Grodsky	Transitional justice spectrums based on hierarchy of accountability	cessation and codification of human rights violations; condemnation of the old system; rehabilitation and compensation for victims; creation of a truth commission; purging human rights abusers from public function; criminal prosecution of 'executors' (those lower on the chain-of-command); criminal prosecution of commanders (those higher on the chain-of-command).	
<b>Reason, Peace, Transitional Justice &amp; Punishment</b>	Charles V. Blatz	Argument against retributive justice and use of punishment in move towards peaceful society		
<b>Rebuilding an Inclusive Political Community after War</b>	Rama Mani			
<b>Reconciliation: I Know it When I see it</b>	Lorna McGregor	multiple approach system, several options for victims	TRC, Sri-lanka case study	

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<b>Social Repair in Divided Societies: Integrating a Coexistence Lens into Transitional Justice</b>	Huma Haider	getting to reconciliation through transitional justice	Media, trials and truth commissions, shared initiatives & cross, cutting networks	
<b>State-level Effects of Transitional Justice: What Do We Know?</b>	Thoms, Ron & Paris	Post-conflict conditions aka democratic regime? as an important indicator . Good article for findings which conditions (indicators) affect what	trials, truth commissions, case specific SA and Argentina	- Provides wealth of sources, overall suggests that there is not enough study out there to link transitional justice processes of trials and truth commissions with the establishment of a democratic regime or a new found respect for human rights. There are not many cross case comparisons out there so I can add to the field in that way. Suggest innovative project INDICATORS: Per capita GDP, level of state institutionalization, peace and democratization, state-level human rights performance PTS CIRI "Most TJ in Latin America took place in countries undergoing transitions from authoritarianism to democracy. as a result, studies of these countries may tell us little about TJ in societies transitioning away from, or still mired in, internal armed conflict such as Uganda, Sierra Leone and Afghanistan."
<b>The Impact of International Tribunals and Domestic Trials on Peace and Human Rights After Civil War</b>	James D. Mernik, Angela Nichols & Kimi L. King	There is still not enough evidence to suggest that trials and international tribunals are good/bad for future conflict prevention	Trials , International tribunals	

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<b>The Irreconcilable Goals of Transitional Justice</b>	Bronwyn Anne Leebaw		Truth commissions, Tribunals	
<b>The Justice Balance: When Transitional Justice Improves Human Rights and Democracy</b>	Tricia D. Olsen, Leigh A. Payne & Andrew G. Reiter	Appendix list of cases good to find comparisons, promotes combination of mechanisms GOOD FOR SAYING WHAT METHOD WORKS FOR WHAT	Truth commissions, Trials, Amnesties	
<b>The Paradox of Transition in Conflicted Democracies</b>	Fionnuala Ni Aolain & Colm Campbell	Issue of conflicted democracies KEY for Venezuela , process of reform rather than transform state institutions READ ALL OF IT for general theory section*****		
<b>The Role of Constitution Making and Institution Building in Furthering Peace, Justice and Development: South Africa's Democratic Transition</b>	Derek Powell	definition and mechanisms, use of transitional justice to address structural violence, economic inequalities	truth commission,	Uses South Africa as a case study but draws on it to build lessons in a wider scale. States to make the case also presented in the article by Aitken, that distributive just has to be a process that includes different forms of justice, not limited to the original understanding of jsut addressing past HR violations and humanitarian law. ex. economic justice at the center of the apartheid regime "South Africa today continues to be one of the most unequal countries in the world. These inequalities have fuelled political divisions within the ruling elite and racial and class divisions in society."

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<b>Transitional Justice</b>	Joanna R. Quinn	Model for understanding different types of justice retributive, restorative, reparative	Trials, truth commissions, Apology, Restitution, Amnesty	
<b>Transitional Justice and International Civil Society: Towards a Normative Framework</b>	David A. Crocker	Good list of “goals of transitional justice” , multi-tool approach		
<b>Transitional Justice and Peacebuilding after Mass Violence</b>	Wendy Lambourne	concept of transition vs. transformation , look at model as for general TJ model table 1	local methods, gacaca etc.	
<b>Transitional Justice and Reconciliation</b>	SANAM NARAGHI ANDERLINI, CAMILLE PAMPELL CONAWAY AND LISA KAYS			
<b>Transitional Justice Beyond the Normative: Towards a literary theory of political transitions</b>	Siphiwe Ignatius Dube	Effects		The positive over-signification of transitional justice as a concept “In some circumstances, the preservation of outrage or resentment and the refusal to forgive and reconcile can be the reflex of a moral protest and ambition that might be as permissible and admirable as the posture of forgiveness”
<b>Transitional Justice Comes of Ages: Enduring Lessons and Challenges</b>	Chandra Lekha Sriram			
<b>Transitional Justice Genealogy</b>	Ruti G. Teitel	good for historic overview, follow model	trials, truth commissions, amnesty	

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<p><b>Transitional Justice: The Issue That Won't Go Away</b></p>	<p>A. James McAdams</p>	<p>Process not goal</p>		<p>Transitional Justice as a process not a goal            Factors that affect every attempt at retrospective justice:</p> <ol style="list-style-type: none"> <li>1. the power of precedent: our hands are tied before we start</li> <li>2. the illusion of resolution: we are unlikely to complete all aspirations</li> <li>3. the possibility of a continuous return: the ghosts of the past may return to haunt us</li> </ol> <p>process is valuable in itself for the growth of the society (pg. 10) - this process of dialogue, even if there is never any agreement, improves democracy. Issues (like the stasi files) must be brought to light and discussed, if they are not they become "irresoluble source of tension" "Those actors who regard collaboration as a result of a clear-cut decision to engage in wrongdoing will be continually disappointed by their leaders' seeming inability or disinclination to penalize the guilty. Conversely, those who believe that the boundary between good and bad was never clear will find it unjust to punish anyone who was forced to make tough choices in a world of moral ambiguity." (related to the idea of Aiken of transitional justice sequencing)</p>

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<b>Transitions To Clean Government: Amnesty as an Anti-Corruption Measure</b>	Roman David	what makes a state democratic and what keeps a state democratic are different things	Amnesty as a tool for clean government creation	
<b>Trauma and Vengeance: Assessing the Psychological and Emotional effects of Post-Conflict Justice</b>	David Mendeloff	interesting chart on truth telling positives and negatives	truth seeking methods, truth commissions, trials	
<b>Truth and Reconciliation Commissions, Restorative Justice, Peace-Making Criminology and Development</b>	Robert K. Ame & Seidu M. Alidu	Nature of repression Ghana might be good comparative case	truth and reconciliation commissions , peacemaking criminology (explained p.6) and restorative justice practices	
<b>UN GSDRC Main page <a href="http://www.gsdrc.org/go/topic-guides/justice/transitional-justice">http://www.gsdrc.org/go/topic-guides/justice/transitional-justice</a></b>	UN	Successful transitional justice includes: Local ownership must be assured. Needs assessments must be conducted prior to establishing or recommending the types of mechanisms “Efforts should be made to devise a comprehensive strategy that incorporates various mechanisms and approaches that can complement one another – and that can provide the greatest voice to survivors and deliver the greatest impact to local communities”	all procedures	general instructions on how to go about choosing procedures

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<b>Varieties of Reconciliation</b>	Jens Meierhenrich	interplay of variety of reconciliation and transitional justice mechanisms	Truth commissions, apologies	
<b>When an Authoritarian State Victimizes the Nation Transitional Justice, Collective Memory, and Political Divides</b>	JANE L. CURRY	mechanisms in relation to collective memory & transitional justice		The basic goals set out by proponents of “transitional justice,” in addition to the punishment of wrongdoers, are as follows: (1) to “teach lessons” about the past; (2) to reassure the public that the past will not be repeated; and (3) to remove those implicated in the abuses of the old system from the new. “whatever the history of social and political repression, dealing with these scars—the collective memory of aggressors and victims—is far more difficult for states in transition than any aspect of institution building.”
<b>Whose Justice? Rethinking Transitional Justice From the Bottom Up</b>	Patricia Lundy & Mark McGovern	general assumption of inclusion of participatory approaches in all methods	non-state-led truth project,	
<b>Wither the transition of transitional justice</b>	Joanna R. Quinn	Overall understanding of transitions, and case studies outlining each type, mentions the issue of restoring equality as well (p.19) in non-transitioning societies	based more on country cases and the combinations they used	
<b>Writing the Past Out of the Present: History and the Politics of Time in Transitional Justice</b>	Berber Bevernage		Truth commissions	