

## Editorial

# Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development

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It is timely that in just its second year of publication, the *International Journal of Transitional Justice* (IJTJ) has chosen to focus this special issue on the nexus between transitional justice and development. This is an indication of the salience of the issues of development generally and social justice specifically to the process of seeking transitional justice in societies moving out of conflict or other forms of crisis and repression. The number of articles received for consideration in this special issue and the range of seminal topics they raise serve to underline the pressing need to consider concerns of development and social justice as experienced and expressed by both scholars and practitioners.

In introducing this special issue, I want to highlight four areas of inquiry that scholars, advocates and practitioners of both transitional justice and development must consider if either field is to achieve its intended goals. The articles in this issue explore many of these four areas in greater depth, with potent illustrative examples that draw on a range of cases, as outlined below.

The first thorny question is: Can transitional justice (TJ) today afford not to concern itself directly with social injustice and patterns of inequality, discrimination and marginalization that were underlying causes of a conflict and that inflicted major suffering and victimization on vast swathes of a population? How can (or should) TJ have a more direct impact on reducing social and economic inequality?

Second, should TJ measures cost less and deliver more? For impoverished countries, TJ often represents a costly luxury in a highly resource-constrained environment where all aspects of social, economic and political life need to be rebuilt and development is a priority. In this context, TJ often comes to represent a trade-off of sorts between justice *or* development, rather than promoting development *with* justice.

Third, should TJ concern itself directly with war economies and corruption, particularly the exploitation of natural and mineral resources, as these are often perpetrated by the same war criminals – and with the same abusive, violent and exploitative means and devastating effect on victims – as the war crimes that historically fall within the purview of TJ?

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Fourth, how can TJ effectively address the spiraling levels of criminal and social violence that may occur in postconflict societies? Such violence often arises alongside and, ironically, apace with both TJ measures seeking to redress past violence and postconflict development programs seeking to undo the damage of war. It stands as an obstacle to both human security and sustainable development. How can TJ deliver on its objective of deterrence and create the space for delivery of substantive development to victims of past and present violence?

Each of these four issues are interrelated, and I strongly believe that TJ will lose credibility in the predominantly impoverished and devastated societies where it operates if these questions are not urgently and meaningfully addressed by practitioners and scholars. Conversely, efforts to find appropriate responses to these challenges could contribute greatly to the positive impact TJ mechanisms have on the lives of survivors and on the chances for a stable transition from conflict to peace.

This editorial seeks to open up some of these quandaries for inquiry, and the deeply reflective articles included in this special issue explore these complex questions in depth, expanding and creating new links within existing theories and providing illustrative examples of real-life experiences from around the world.

## **Four Dilemmas Concerning the Nexus between TJ and ‘Development’**

For some years, advocates, scholars and practitioners of TJ have been troubled by the nettlesome nexus between this field and development, where issues of social justice seem to lie just beyond the traditional frontiers of transitional justice, and, yet, cannot be ignored by those committed to postconflict justice. In particular, four dilemmas have emerged that both underscore and confound this nexus. I call them dilemmas because they have no neat answers, no formulaic solutions; each must be addressed through authentic efforts to unravel them in practice in the rough terrain of postconflict/traumatized societies.

### **Social Injustices as Underlying Causes of Conflict**

As societies engage in the transition from war to peace, what should the attitude of TJ practitioners be toward the social injustices and patterns of structural violence that may have been the underlying causes of conflict? These include practices of discrimination, exclusion and marginalization targeting certain groups or communities identified along the lines of ethnicity, race, class, caste, gender, religion or other perceived differences.<sup>1</sup> These practices are systematic, deliberate and may be intended to pauperize, exploit or deliberately destroy a group. Dating back to the virtual ‘genocide’ of First Nations groups in North and South America and of Indigenous people in Australia, and through to the multidimensional humiliating

<sup>1</sup> See, for example, Frances Stewart, ‘Root Causes of Violent Conflict in Developing Countries,’ *British Medical Journal* 324(7333) (2002): 342–345; E. Wayne Nafziger, ‘Development, Inequality, and War in Africa,’ *Economics of Peace and Security Journal* 1(1) (2006): 14–19.

practices of apartheid, these practices are still alive and, sadly, thriving today. Such practices have been confronted in many of the places where TJ mechanisms have operated in recent years or are about to be established: the systematic political and economic policies underpinning genocide in Burundi and Rwanda; the decimation of the Guatemalan Maya; the systematic ethnicized rape of women in Ituri, Democratic Republic of Congo (DRC); and the domination of Hindu upper castes over lower castes and Buddhists in Nepal.

The prevalence of such practices poses a dilemma for TJ because the patterns of social injustice are so wide, their victims so many, their impact and consequences so far ranging for the individuals and communities that it is difficult at first glance to envisage how to encompass them within the finite range of the targeted measures of transitional justice, be they trials, truth commissions or institutional reforms. Perhaps, as well, the 'agents' of these practices appear on the surface more amorphous – more faceless and nameless – than the perpetrators of legally defined and proscribed violations. Hence, it may appear more difficult and arbitrary to assign exact responsibility and determine culpability for such practices through fair legal process or public enquiry. It also may seem more complicated to measure the appropriate reparations and compensation necessary to address the damage done to generations of victims of systematic structural violence.

In some instances, partial solutions have been found. Sierra Leone's Truth and Reconciliation Commission, for example, extensively analyzed the causes of conflict and patterns of social injustice, and recommended a series of measures to provide redress and prevent the recurrence of such abuses. In some cases, reparations that include societal or community reparations have been mooted, as in Peru.

Yet, in each case, from South Africa and Rwanda to Sierra Leone and Burundi, the experience has been that the wider community of survivors – and, indeed, several advocates of TJ themselves – report a perception of hollowness when measures of TJ are divorced from some measure of social justice. This is discussed by several of the contributors to this special issue. Even in the best of circumstances, the impact of even the fairest trial or the most judicious truth commission remains narrow and limited if the mechanism does not go beyond the handful of individual perpetrators prosecuted and if the victims are not acknowledged and vindicated.<sup>2</sup>

This is the first dilemma that TJ can no longer overlook. How can it be resolved, when it is well known that the mandates of existing TJ mechanisms are already overcharged, their responsibilities too heavy, public expectations too unrealistic and finances already too lean? We must strive to find workable, cost-effective ways to answer this question and be accountable to the broader communities of people who have suffered terrible social injustice during, and often decades or centuries before, violent conflict, and who will continue to suffer if nothing is done at the opportune moment of transition.

<sup>2</sup> South Africa is a case in point, despite the widespread popularity of its Truth and Reconciliation Commission process. For a discussion, see, for example, Rama Mani, 'Distributive Justice,' *Beyond Retribution: Seeking Justice in the Shadows of War* (Malden, MA: Polity Press, 2002).

The articles in this issue go a long way in examining this dilemma and offer several specific recommendations. For my part, I offer two starting suggestions while welcoming deeper debate and engagement between development and TJ advocates on this important topic. First, I would recommend that truth commissions include in their mandates the responsibility to identify underlying practices of social injustice, marginalization and exploitation that were responsible either directly or indirectly for the violent conflict or crisis or that could weaken the ability of the society to resist further conflict in the future if not redressed. Truth commissions should go further than analysis of causes and should propose workable solutions for these injustices that would be acceptable to the population and actionable by the government.

Second, the fulfillment of the right to reparations must be made systematic practice in all TJ processes. The right also should be enlarged to include reparations for practices of social injustice. Reparations programs could be modest, but not negligible, and combine individual with community reparations in order to be affordable. They also should be included in development packages for donors to fund. In just a short period of time, since the mid-1990s, advocates of TJ have succeeded in convincing donors of the importance of TJ in building a just peace (though certainly not in all cases). Now, it would be important for development and TJ advocates to join voices and convince donors both of the imperative need to restore social justice and to finance this need adequately through reparations packages as a prerequisite for sustainable peace.

### The Cost of TJ

Another irksome question that is of particular relevance to development is the cost of TJ measures. Given the enormity of atrocities committed during conflict, it is perhaps understandable that the cost of remedying them through formal mechanisms is extremely high. Even in the best of circumstances, and despite considerable efforts, it has not been possible to do transitional justice 'on the cheap' without the risk of seriously undermining the quality of justice delivered. What can we do, then, about the perception of populations on the ground, who see the enormous cost of TJ measures and feel that they are of no tangible benefit to them? Accountability and deterrence seem distant and lofty concepts to people who are struggling to survive after the privations of war or repression. Often, as the same donors provide funding for development and TJ measures, populations may fear that justice measures are a trade-off for development and that they are forced to trade concrete economic benefits for a more nebulous justice. They may feel 'justice is a luxury.'<sup>3</sup>

<sup>3</sup> This view was cited by the International Centre for Transitional Justice in its press article, 'The Price of Healing,' *All Africa*, 4 August 2006, addressing the public perception that the cost of TJ is high. This perception has been noted in most countries where expensive TJ mechanisms have been implemented. I documented it among Haitians in discussions of the trade-off between poverty reduction and international intervention for peace building or justice. Rama Mani, 'Déjà Vu or Something New? Lessons for Future Peacebuilding from Haiti,' *Sicherheit und Frieden, Security and Peace* 1 (January 2006): 11–15.

This question points to a dual responsibility on the part of both advocates/practitioners and donors of TJ. First, it is imperative to clarify in clear, simple and transparent language, from the beginning and throughout TJ processes, the exact costs of these measures, as well to provide local stakeholders and the general public with cogent explanations of why the costs are incurred. All attempts at cost saving, as well as comparative statistics to provide some kind of perspective and avoid the manipulation of cost figures by critics and spoilers, must be provided to the local public. In recent years, considerable efforts have been deployed by UN peace-keeping and peace-building missions and by TJ mechanisms such as truth commissions to enhance public communication and to reach out to the public to better explain their missions and mandates.<sup>4</sup> Yet, despite, for example, the increased use of radio to reach illiterate populations and other such means, people on the ground often remain largely uninformed of the mandate, approach and costs of TJ specifically and of international peace building generally. As a result, rumors often have greater currency than facts. Lack of knowledge and information has allowed space for fears and for rumors to spread, and it has reduced the legitimacy of these initiatives for local communities.

Some attempts have been made over the past decade to find ways to reduce the astronomical cost of TJ measures. For example, hybrid trials conducted within or close to the home country offer a substantial reduction in the cost of international trials. So far, however, no miracle solution has been found, and TJ measures remain expensive in comparison to the resources available in affected countries. Populations and governments should not be forced to make a trade-off between development and justice. It is unacceptable for survivors to think they face a choice between food on their plates and justice for crimes suffered.

### **Exploitative and Corrupt War Economies**

A third troubling dilemma relevant to development is what TJ can and should do about war economies. It has become impossible today to overlook the reality that in an increasing number of conflicts, alongside atrocities perpetrated on civilians – the traditional subject of TJ – a pattern of war economies has emerged, particularly around the exploitation of natural and mineral resources. War economies strip a country of the very resources that are fundamental for postconflict development. The country then is obliged to indebt itself or seek foreign aid, which is replete with heavy conditionalities. Despite the consequences, development experts, international financial institutions and donors, I argue, have paid scant attention to this issue, and have not sought sufficiently to rectify war economies and redeem lost resources to pay for the cost of equitable development in postconflict societies.

War economies are of direct concern to TJ because they are conducted using exploitive and violent practices, including forced child, slave or prison labor. Furthermore, they often are controlled and run by the same perpetrators targeted by

<sup>4</sup> See, for example, Susan Manuel, 'UN Media and Post Conflict Peace-keeping' (paper presented at the UN Educational, Scientific and Cultural Organization seminar, 'Support to Media in Violent Conflict and in Countries in Transition,' Paris, France, 3 May 2004).

traditional TJ mechanisms. So far, however, war economies are seldom systematically addressed either in postconflict development policies or within measures of TJ, despite the violent means deployed to sustain them and their direct relationship to wartime rights violations and their perpetrators.

How can TJ measures include in their purview not only the acts perpetrated against individuals but also the parallel exploitations that rob populations of the resources required to fulfill their right to development? Sierra Leone has established a precedent, declaring that earnings from the diamonds that fuelled the war should be directed to paying a part of the reparations required to alleviate the impact of war on victims. This recommendation must be followed up closely to ensure that the revenues from precious resources indeed are used, at least in part, for reparations, and that the government does not evade this responsibility.

Additional measures for addressing war economies could be considered in future TJ mechanisms. First, truth commissions could be mandated to investigate war economies directly related to the exploitation and atrocities committed during conflict, as well as to report on them. Second, trials could take into account the war economies conducted by perpetrators and seek to establish accountability for them. Third, all individuals, including state officials, found to have profited from such economies should be forced to repay their illegal profits to state treasuries and to pay due compensation. Fourth, the human rights and development communities should come together with one voice to pressure the international financial community to ensure that unaccountable and unethical agreements that grant resource exploitation rights – usually in exchange for military support, as in the DRC – entered into by corrupt political leaders or government officials should not be honored but rather canceled. They also should insist that new ethical and legal agreements be concluded that enhance social justice.

To its credit, the UN Security Council for the first time has paid consistent attention to the issue of illegal resource exploitation in the case of the DRC.<sup>5</sup> Yet, this initiative has had a limited effect thus far in bringing about accountability for the gross exploitation in which multiple countries and corporations were involved. The focus of international financial institutions like the World Bank and the International Monetary Fund in postconflict countries is on securing foreign investments. They are unwilling to review and renegotiate contracts in the DRC, despite evidence of unaccountability, for fear of scaring off western investors.<sup>6</sup> To change this trend of continued impunity for war economies in the DRC and

<sup>5</sup> The Security Council first established the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (see their final report UN Doc. S/2002/1146 (October 2002)), followed by the Group of Experts on the Democratic Republic of Congo (see their interim report, S/2007/40). See also, UN Security Council Resolution 1804 (2008) and UN Security Council Resolution 1653 (2006).

<sup>6</sup> 'Donors supporting Congo are most reluctant to have the whole issue of how the mining contracts are allocated reopened and properly scrutinized . . . The World Bank has shown loss of nerve. We have noticed a desire to protect Western companies that have acquired some of these assets.' Comments by Patricia Feeney, executive director of Rights and Accountability in Development, cited in 'Congo's Kabila Faces Unruly, Corrupt Mining Sector,' *Voice of America News*, 15 December 2006.

elsewhere, the World Bank, as well as the international banking, transport and corporate world, all of which are implicated in such economies, would need to be lobbied to cooperate.

It is important for the fields of TJ and development to join forces here to establish a new standard. Just as presidents, dictators and warlords have been forcibly made accountable for their war crimes, they also should be made accountable for the economic crimes and corruption that facilitated their perpetration of war crimes. While such accountability is the exception today, and only possible through the dogged determination of civil and criminal lawyers at great cost, it should become the norm.

### Postconflict Criminal and Societal Violence

The fourth question is what we can say about what we have despairingly come to accept as the ‘inevitable’ rise in criminal and societal/family violence that accompanies a transition, indeed often in parallel with enacted measures of TJ.<sup>7</sup> This violence appears to be primarily of two kinds: criminal violence related to drugs or other organized crime and gangs, and violence against vulnerable groups, including women, children and marginalized or ‘deviant’ groups, such as foreigners, sexual minorities or street children. Domestic violence rises dramatically in the aftermath of war. This violence is symptomatic of societies that have become inured to violence as a result of war. It also occurs when no alternative and attractive means of livelihood is provided to men who may feel emasculated by the end of war and the loss of their only source of identity and meaning.<sup>8</sup> The trends are now well documented: in South Africa, Guatemala, Haiti or Kosovo, levels of criminal violence and consequent homicide after the purported transition to peace exceed those during the violent conflict, meaning before ‘peace agreements’ were concluded or transitions occurred. Although this violence is a direct continuity of the violence perpetrated during the conflict, which is the subject matter of TJ, it tends to fall outside TJ’s purview. A major failing of international peace building has been its inability to grapple with criminal violence after transition.

We cannot divorce criminal violence from social injustice, from the rising inequality, discrimination and economic stagnation that breed despair on one side and stoke intolerance on the other. We must be deeply concerned with how the patterns of violence that emerge during conflict rapidly become endemic and normalized in a postconflict society. Would the level of child rape and abuse in South Africa today be possible without the entrenched violence of the apartheid era? Would lynching and gang rape be as rancidly prevalent in Haiti today if decades of violence and abuse did not precede them? TJ must speak not only to past patterns

<sup>7</sup> See, for example, Bronwyn Harris, *Between a Rock and a Hard Place: Violence, Transition and Democratisation* (Johannesburg: Centre for the Study of Violence and Reconciliation, 2006); Colette Rausch, ed., *Combating Serious Crimes In Postconflict Societies: A Handbook for Policymakers and Practitioners* (Washington, DC: United States Institute of Peace, 2006).

<sup>8</sup> Elisabeth Rehn and Ellen Johnson-Sirleaf, *Women, War, Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building* (New York: UN Development Fund for Women, 2002).

of unacceptable abuse and violation, which call for accountability, but also to the continuation of these violent patterns, which have to be curtailed immediately if they are not to become entrenched.

As it has become accepted that institutional reforms and community-based reparation are intrinsic forms of TJ, we could explore how we might address criminal and societal violence through such means. Based on our understanding of cycles of violence and the psychology of perpetrators and victims, we might advise transitional governments and police forces on how to deal rapidly and effectively with violence before it becomes endemic and impossible to eradicate. This would mean not simply stamping out such violence by brute police force or by imposing harsh penalties, but rather combining effective community policing with social justice measures that address the underlying causes of postconflict criminal and social violence. It also would mean introducing development measures, such as the creation of attractive alternative employment, particularly for disenfranchised youth. Culture could play a key role in these efforts. Local communities and groups might be supported, for example, in their efforts to devise ceremonies in accordance with traditional cultures and rituals that allow violence to be symbolically weeded out and eradicated, or relegated to the past, and that encourage a new commitment to nonviolent behavior.

The prevalence of violence against women (and children) in postconflict contexts is particularly perturbing as it bodes ill for the future health of societies. It is necessary to give maximum coverage and priority to violence against women both in TJ mechanisms and in the daily functioning of criminal justice in order to send a clear signal that such crimes are severely proscribed nationally and internationally. The society must know that the continuation of violence against women within the household will be dealt with seriously under the new dispensation. TJ actors also must help transitional governments review their laws and, where necessary, change those that are lax on violence against women. It is incongruent, for example, for TJ trials strongly to condemn rape when national laws are silent or, in effect, condone such crimes by treating them as lesser offences.

In short, we no longer can ignore criminal and social violence in transitional societies, reinforcing a false barrier between political and criminal violence, with TJ seeking to address only one – the political.<sup>9</sup> If TJ is to achieve accountability, deterrence and redress to victims and end the cycle of violence, it needs to address the violent present.

Development theory and practice have been just as reluctant to engage with societal and criminal violence as has TJ, and for much longer. Can development programs realistically be considered successes if economic indicators show improvement and if bridges, markets, schools and hospitals have been rebuilt but a climate of terror prevails because of criminal and gender-based violence? While the labels 'safety and security' and 'access to justice' have entered development

<sup>9</sup> Graeme Simpson, 'A Snake Gives Birth to a Snake: Politics and Crime in the Transition to Democracy in South Africa,' in *Justice Gained? Crime and Crime Control in South Africa's Transition*, ed. Bill Dixon and Elrena van der Spuy (Cape Town: University of Cape Town Press, 2004).

parlance, the field in practice has had a negligible effect on the reduction of criminal and social violence. Incipient initiatives by the international community to remedy this negligence, such as the Geneva Declaration on Armed Violence and Development, signed by 90 countries, must be multiplied, and TJ practitioners have a role to play in this regard.

## Unraveling the Knots: The Contributions in This Special Issue

The thought-provoking articles in this issue of IJTJ take us a long way toward weaving together the hitherto unwoven nexus between TJ and development. They simultaneously help us to unravel the tight knots of the dilemmas I have identified.

This volume is divided into three sections. The first, theoretical and comparative, argues through its four articles for an expansion of the TJ field. The second is a case study section in which we focus on the new and emerging transitional justice and state-building processes in Nepal. The third section is ‘Notes from the Field,’ which presents two fascinating vignettes, including a reflection on a TJ and development conference and a field survey on the intersection of the same two fields.

### Expanding TJ Theory and Practice

The first section of this special issue considers how both the theory and practice of TJ might be expanded. The four articles included here examine traditional TJ and its evolution, and provide a range of arguments as to why the frontiers of TJ need to be stretched to cover issues of development, social justice, war economies and corruption. The articles explore the theories of TJ and the relevant fields of peace building and development in depth, drawing on a range of illustrative experiences from around the world to provide compelling arguments.

In ‘Effects of Invisibility: In Search of the “Economic” in Transitional Justice,’ Zinaida Miller subjects both the theory of TJ and the wide-ranging experiences of transitional societies to unflinching analysis. She reveals the irony that ‘despite its claims to exposure, revelation and memorialization, the project of transitional justice may simultaneously perpetuate invisibility and silence.’ Following a genealogy tracing the emergence of TJ as a global enterprise and the ‘constructed invisibility’ of economic issues along this trajectory, Miller presents a threefold argument for overcoming this blind-spot of TJ. In her analysis, she highlights the possible reemergence of conflict as a result of the failure to address inequality as a cause of conflict in the first place.

‘Toward a Development-sensitive Approach to Transitional Justice’ offers a systematic and rigorously categorized theoretical analysis of the multiple direct and indirect linkages between the fields of development and TJ. Roger Duthie carefully weighs the pros and cons of applying TJ measures to development issues. He does not prescribe an answer, but he does highlight the questions that development and TJ practitioners might ask if they were fully aware of these complementary,

synergistic, intentional and inadvertent linkages in order to plan more carefully their interventions and consider both benefits and risks.

Ruben Carranza incisively addresses the issue of war economies and corruption in his article, 'Plunder and Pain: Should Transitional Justice Engage with Corruption and Economic Crimes?' Through revealing examples, he demonstrates the intersections between human rights violations and economic crimes, both of which perpetuate impunity, and exposes TJ's tendency to compartmentalize the two, with suboptimal outcomes. He outlines the mutual benefits accrued to TJ and anticorruption initiatives through a combined approach, given the limitations of extant anticorruption measures. He also points out the gains for TJ in strategically addressing the legacy of economic war crimes and corruption alongside its standard litany of atrocities and rights violations.

'Transitional Justice and Peace Building: Diagnosing and Addressing the Socio-economic Roots of Violence through a Human Rights Framework,' by Lisa Laplante, provides a valuable final piece to this theoretical and empirical section. Laplante takes a step back from TJ and development to draw linkages between the fields of TJ, conflict prevention and peace building, providing a rich contextual background to the evolution of the three fields. Her starting point is of critical importance today to practitioners of both TJ and development: she points to the rising trend of civic unrest and violence in postconflict societies ranging from Peru to South Africa to Guatemala, which are the result of exactly the same socioeconomic grievances that underpinned those countries' earlier conflicts. This trend suggests the failure of the conflict prevention and deterrence mandate of both peace building and TJ, and presents a convincing argument for linking TJ and development in peace-building contexts, as well as addressing the socioeconomic inequalities that underlie the causes of conflict.

### **Arguments for Implementing TJ and Development: Case Study of Nepal**

In this second, case study section, we made a judicious choice to focus on the newly unfolding and highly pertinent situation of Nepal through two articles that highlight different aspects of the social justice and development relationship in complementary fashion. This decision was guided by several considerations, the most important being timeliness to Nepal's political transition and the relevance of Nepal to the issues of social justice considered here. The war in Nepal was fought entirely on grounds of social justice, and its peace agreement is historic in underlining a commitment to equity and justice. Nepal arguably has the first peace agreement that so fully and centrally addresses all social and economic justice issues, including gender justice. Therefore, it provides an appropriate and timely case study for examining the relevance and practicability of expanding transitional justice in practice.

In 'A Deeper Justice: Economic and Social Justice as Transitional Justice in Nepal,' Tafadzwa Pasipanodya describes how economic and social injustice was

both a cause and consequence of the conflict in Nepal, and how, historically, Nepal's peace agreement makes a specific commitment to social justice. She argues that TJ in Nepal must address broader issues of social injustice and indicates specific ways in which this could be done. She calls for a revision of the Truth and Reconciliation Commission Act, as well as comprehensive reparations and adjudication.

In 'Gender Equality, Development and Transitional Justice: The Case of Nepal,' Daniel Aguirre and Irene Pietropaoli provide a nuanced analysis of the complex changes the Nepal conflict brought about in the status of women, making them not only victims but also actors and agents of change. The authors identify a real risk that the gains in status and freedom experienced by women during conflict, as well as the agency they gained and the role they played during conflict, could be lost if women are not deliberately included in TJ processes. Aguirre and Pietropaoli argue that 'the focus on women as victims alone may not reveal the full complexity of the issue.' Using a right to development framework, they demonstrate the potential role that TJ could play in addressing the social injustices that underlie conflict and in ensuring women's full participation and equality.

### **'Notes from the Field'**

The third section consists of 'Notes from the Field.' In this special issue, we look at how the TJ field is evolving in practice. The first article is based on the author's experience of attending a conference of experts and practitioners addressing that very issue. The second is a report on a field survey of a local population's perceptions and desires in the area of TJ and social justice.

In 'Purity and Planning: Shared Logics of Transitional Justice and Development,' Christopher Colvin provides an insightful analysis of the fields of development and TJ, which seem so different but, in fact, he argues, have a 'deeper, shared political logic and vision.' Colvin draws on the wide-ranging discussions that ensued at a conference in South Africa in late 2007 on the relationship between TJ and development. He problematizes the relationship in both fields between the external professional dispensers of development or justice and their less fortunate recipients, and tellingly points to the 'failed ethical relationship to the "other"' that underlie both. He ends by underlining the challenge of reconsidering the relationships between North and South and 'us' and 'them' in considering the nexus between TJ and development.

The second article, 'Ownership and Participation in Transitional Justice Mechanisms: A Sustainable Human Development Perspective from Eastern DRC,' by Patrick Vinck and Phuong Pham, presents the results of a survey conducted in eastern DRC regarding attitudes toward peace, justice and social construction. The survey was grounded on the principles of participation and ownership that are the foundation of human development. The authors present and analyze the results of their survey, indicating respondents' views on trials, truth seeking, vetting, reintegration and reparations, as well as respondents' priorities. The authors found that the overriding concerns of victims and survivors in the worst affected

areas of eastern DRC are meeting basic needs and issues of social justice and development, which must be addressed before the traditional concerns of TJ. The stated objective of the study is to provide empirical evidence in order to help in the design and implementation of TJ mechanisms that could contribute more effectively to sustainable social change and human development. In this, the authors succeed well.

## Conclusion: Means to Bridging the Gap between TJ and Development

The articles in this special issue of IJTJ suggest that the attempt to link the fields of TJ and development calls for a twofold expansion. The first has begun, as TJ, over time, has stepped out of its original focus on accountability for war crimes, crimes against humanity and other gross human rights abuses to include attention to the reform of institutions responsible for the rule of law, recognizing the interdependence of the two. The second expansion, which is more incipient, looks to how TJ can encompass issues of social justice – a phrase I prefer to the term ‘development.’

So far, the task of development in transitional societies has not been viewed by development economists and peace builders as an issue of justice. This is clear from the way in which postconflict economic reconstruction packages are drawn up, with concerns of social justice and inequity being almost nonexistent. Their overriding priority is rapid economic growth and integration into global markets, which tends to have aggravating consequences for the most vulnerable and worst-off in society, who often belong to the very groups that suffered the brunt of war.<sup>10</sup>

The field of development needs to move toward a more open embrace of justice, particularly in the critical time of transition. Influential development actors such as the World Bank and the UN Development Programme recently have begun to recognize that equity is important for growth, development and conflict prevention. This trend could be expanded and deepened valuably into a broader concern with social justice as the *sine qua non* for human and economic development.<sup>11</sup>

What does this mean for advocates of transitional justice? While the narrow and finite objective of TJ might be accountability for past crimes in the best way conceivable in a particular context and culture, the encompassing aim of the field is a just and sustainable peace that enables all survivors in society to live fully and coexist

<sup>10</sup> For further elaboration on this theme, see, for example, Frances Stewart, ‘Policies Towards Horizontal Inequalities in Post-Conflict Reconstruction,’ Research Paper No. 2006/149 UN University World Institute for Development Economics Research (2006); Joseph E. Stiglitz, ‘Civil Strife and Economic and Social Policies,’ *Economics of Peace and Security Journal* 1(1) (2006): 6–9; Nafziger, *supra* n 1.

<sup>11</sup> For example, the second part of the title of the World Bank’s *World Development Report 2006* is *Equity and Development* (Washington, DC: World Bank, 2006), while the UN Development Programme’s (UNDP) *Human Development Report 2005* dedicates an entire chapter to ‘Inequality and Development’ (New York: UNDP, 2005). Both texts argue why inequality is harmful and equity is important for development.

in dignity, without recrimination, fear or suffering. If advocated measures of TJ – whether truth commissions, trials, rule of law reforms or reparations packages – were to achieve their mandated objectives while patterns of systemic injustice and suffering, oppression and domination continued unfettered in the broader society, this would not provide satisfaction even to avid human rights advocates. TJ cannot divorce itself from the broader concerns of citizens of transitional societies or from the patterns of social injustice, violence and exploitation that will continue to oppress them if no attempt is made during the transition period to change such patterns.

So far, the only mention of ‘justice’ that has come to be associated with transitions to peace is within the parameters of TJ. This leverage, created through the arduous efforts of advocates and practitioners of TJ and human rights activists over the last two decades, must now be used to widen the space for ‘justice’ in the widest sense – social, economic, cultural, legal. Such leverage should be used judiciously to ensure that the countless members of brutalized societies who have suffered injustice through years of violent conflict finally taste the fruits of justice in their daily lives, where it is most immediate and meaningful to them. This is the necessary link we need to build between TJ and ‘development.’ This is how transitional justice could remind the older and more established field of development to return to its roots and once again embrace and reintegrate justice as the central pillar and objective of development.