

TRANSITIONAL JUSTICE: A CONCEPT WITH VARIOUS FACETS

Abstract

Transitional justice is a relatively new concept, especially in academic terms; its theoretical, research and practical fundamentals are still being in a phase of embedment but also they are object of various controversies. This article tries to shed more light on the paradigm of transitional justice in the context of the concepts around which it has been build – and in return, which determine its essence, such as transition, law and justice and peacebuilding in the conflict's aftermath or the end of the authoritarian regimes. Bearing in mind the historic and political context in which the concept appeared at first, this research focuses on the etymology, the notion's evolution, the meaning and dilemmas in implementing its key mechanisms. The article makes a critical assessment of the expectations from the transitional justice, which are quite often unrealistic, while it also emphasizes the fact that its mechanisms disregard the root causes and rather pay attention to the 'cure' of the consequences of internal conflicts and authoritarian regimes. The key hypothesis is that today's notion of transitional justice is a brainchild of the liberal paradigm: its utility is seen in promotion of liberal political and economic ideology of liberalism rather than in providing societal conditions for durable positive peace.

Keywords: TRANSITIONAL JUSTICE, TRANSITION, DEMOCRATIZATION, PEACEBUILDING, RULE OF LAW, LIBERALISM

1. Prologue: Transition, change and justice

Any debate over the meaning of the notion of transitional justice (TJ) unavoidably refers to the paradigm of transition to democracy - as it is seen as the point of origin as well as an essential determinant for its understanding. Apparently, and only at a glance, TJ calls for a different elaboration of transition made through a specific prism that is qualitatively different from the one taken by the so-called transitiology. Political changes, i.e. shifts from one type of regime into another, are nothing new in historical terms. They have always been an unvarying part of human history. It is sufficient to have a look on the period that began with the Second World War in order to get a full overview on the whole dynamics and varieties of the political changes that took place within a few decades, including revolutions, decolonization, liberation wars, transfers of power, military coups, etc. However, they all symbolized different things and made dissimilar political promises: some represented a transition from capitalism into socialism; or from military to civilian rule, and vice versa;

and finally, there was a wave of transformations from authoritarian and/or socialist systems into liberal/capitalist ones. In sums, if changes are a normal phenomenon, it does not imply they have a same essence and effects. Understood as political change and/or transformation, transition is a process with no beginning or end, for the same reason. Nevertheless, what dominates the academic discourse in the last few decades is the mantra that transition means exclusively transition towards liberal democracy - or it is not a transition but rather a failure and turn/deviation from the right path. Hence only this type of transition has been extrapolated as a fundamental paradigm since the end of 20th century in the spirit of Fukuyama's (1992) 'end of history' - in spite of the fact that Fukuyama himself has revised his original thesis (2018).

The idea of the concept and the praxis of TJ was established in a very concrete historic and geopolitical point of time, i.e. in the 1980s. The conditions and underlying reasons that enabled this process are numerous, but there is a widespread opinion over the following ones (Paige 2009):

1) *Desirability of democracy* (of Western, liberal type) as a key and primary value for the majority citizens in the countries engulfed by the so-called "third wave of democratization". Allegedly, this inherent need for (political) democracy and liberties has overshadowed all the other needs of the respective societies.

2) *Change of the understanding of transition concept from a means for socio-economic transformation into a means for legal and institutional reform in the states that made a shift towards human rights paradigm.* The Western academic and political circles used to interpret regime changes in the 1960s in conjunction of the theories of democratization and modernization. The theoretical framework was based on a premise that transitions are but a beginning of a long process of socio-economic and political transformations, including a process of creation of new habits and political culture, structural and other preconditions for establishment of democratic (liberal) system. Walt Rostow (1990) argued that socio-economic development is a sine qua non for emergence of society that would be capable to sustain democratic institutions. The new approach however turned things upside down: i.e. the new understanding of transition derives from the idea that democracy could be introduced regardless the existing socio-economic circumstances, i.e. in a rather short time span through swift legal and institutional reforms, rather than waiting the painstaking modernization efforts to give first results.

3) The third reason lies in the *rehabilitation of the term "transition"*. Namely, during the Cold War period, the term used to be a part of the socialist thought and practice of East, i.e. it signified a period between socialism to communism. In that context, transition was understood as a fundamental bottom-up transformation, starting from the economic and societal basis up to the political and cultural sphere, which was supposed to be led by the proletariat's avant-garde. But with the fall of the Berlin wall an upheaval took place: the term was recycled, i.e. cleansed from its previous ideological and practical im-

plication; thus it has begun to be used in the context of a capitalist reform - political and societal. A new interpretation read that transition is a preferable and positive turn of events, and moving away from an authoritarian (socialist or similar) system is a possible endeavour mostly if limited to the legal and institutional reforms i.e. constitution-making, institution-building, and installing formal framework for functioning market economy. The focus now is on a sectoral approach and public policy making by political elites (top bottom approach). The ideas of socio-economic evolution has been replaced by a technocratic approach to the political engineering (or lately, to the international state-building).

4) *Global crisis of the radical Left* in 1970s led de facto to abandoning of the leftist ideology altogether (or more precisely, abandoning of the notion of class war). Instead a new focus was found in the moral framework of human rights. Promotion of individual freedoms and rights has become a rescue shelter for all disappointed left-wingers, faced with the terrible facts about the individual and mass violations of human rights in the socialist regimes. The struggle against military juntas in Latin America had pushed off the agenda the idea of socialist alternative (Munck 1990). Something similar took place in Africa where then leftist ideology was focused on the issues of social injustice and the consequences of colonialist past. The latter has never become a part of the TJ's agenda due to the strong opposition of the great (Western) powers that did not like to become an object of observation and to be enforced to face the crimes committed during the colonization period (Sartre 1968).

The fall of socialism has opened the widest possible opportunity for setting the agenda of TJ, mostly in Europe. Yugoslavia's violent dissolution has strengthened the understanding of the TJ as a priority, at first through the establishment of the International Criminal Court for War Crimes (1993-2017), and later on through the promotion of the other mechanisms of the TJ primarily initiated by the non-governmental sector supported by the international community.

2. The origin of the notion of „Transitional justice“

As already emphasized, TJ is a relatively new term, especially in the academic sphere and university circles. Yet if seen through a historic prism it seems that many empirical elements of what is now encompassed under the umbrella term “transitional justice” were present in past epochs. According to some authors, they could be traced since along ago (regardless the used terminology that differs from today's one). Examples could be found as far back as in antiquity, up to the French revolution and much later on (Bass 2000). Jon Elster (2004), for instance, advocates so-called anachronist approach that treats TJ as a construct that is not limited by time contexts, and whose variations could be traced and followed throughout history. The opponents argue that the meaning of the each undertaken measure at a time was so radically different

from the others, that one could hardly talk about TJ as such. Namely, the dominant actors of each epoch had different ideas and motives, mostly incompatible with the modern understanding of the TJ concept and rational. Some scholars argue that words possess power to describe, but during the process of describing the phenomena, they simultaneously get evaluated and get normative dimension(s). For instance, speaking of democracy in contrast to dictatorship, or speaking of justice versus crimes, automatically creates legitimation ground for justification of all measures of TJ aimed at implanting the liberal system.

The term “transitional justice” got into wider use in the 1990s. Indeed it could have been detected much earlier, although sporadically and with different meanings (Israel and Mouralis, 2014). In the aftermath of the Second World War it was used as a signifier for a *temporary* judicial instance. At the same time, it also named a temporary legislative and organization that followed a regime change. Milton Fisk (1989) wrote about a „state conception of transitional justice”. Interestingly, his debate over transition were taking place simultaneously with the grand debate about transition from socialism into liberalism, but with a different semantic meaning: Fisk gives her a significance of a societal and distributive project, while in the second case the emphasis is on the political reforms that follow the overthrowing of autocratic regimes (including socialism). Huan Corradi used the term “transitional justice” in order to outline a “specific and intensive type of political justice: arbitrary trial of the previous regime. “ According to him, TJ is at the same time more and less than ordinary justice. She is more than it because its goal overarches the simple regulation of human relations; she aspires to reach moral and political regeneration. However, she is less than regular justice because she suffers from serious irregularities, it represents a political formula for formal elimination of the scapegoats, she is overburdened by dubious decisions and verdicts brought by the current power holders, in relation to the qualities and policies of their predecessors and as such it represents a constitutive act of the new regime. (Corradi 1992, p. 267). In spite of the fact that the modern origins of the TJ are linked to the Nurnberg model of criminal responsibility for war crimes and crimes against humanity, yet it took quite some time to establish a comprehensive concept of TJ. After a long pause after the Nurnberg and other trials, throughout the years it became necessary to first overcome the narrow framework of criminal justice as such in order to widen the horizon of TJ. According to some authors ‘revolution of responsibility’ and ‘cascade of justice’ took place with the establishment of a number of truth commissions at first in Latin America in 1970s. Through a domino effect, the mechanisms of TJ have been transferred to Eastern Europe and Africa.

The systematic use of the term TJ is linked with a series of conferences held by the end of 1980s and early 1990s. They *de facto* helped formulate an intellectual framework of the debate related to the issues of justice in time of transition from authoritarian and/or conflict societies (e.g. “State Crimes: Punishment or pardon” (1988) organized by Aspen Institute; “Justice in Times of

Transition" (1992) held in Salzburg in organization of Foundation Charter 77 and "Dealing with the past" (1994) organized by the Institute for democracy in South Africa). The conferences' participants were esteemed human right activists, intellectuals, philosophers, lawyers, scholars and journalists. The key the issues and problems that were tackled there mostly related to the most adequate measures to be taken in such rare historical moments; the following ones were singled out as the most significant ones: criminal prosecutions, truth telling, restitution and reparations, state apparatus reforms (especially the judiciary and security sector), etc. The original notion was obviously interrelated to the phrase of "justice in times of transition", although many participants used the term "transitional justice" in their presentations. There are opinions that the phrase was introduced by a reporter at the Salzburg conference; yet Ruti Teitel claims authorship over the name. Obviously, the sponsors of these conferences were powerful Western foundations. Actually, West took the advantage to present itself as a moral arbiter over the defeated and undemocratic countries. The appearance and the swift acceptance of the term TJ is therefore seen not only as an attempt to address the new historic and political challenges but also to legitimize the practices that would soon be known under the TINA principle (There Is No Alternative) when it comes to political and economic liberalism.

Transitional justice has become a well-established academic concept, and as such it was for the first time used by Teitel in 1992. There is a conventional wisdom that her book „Transitional Justice" (2000) is a cutting-edge work in this field. Also one should mention another publication that has had a high impact on the future academic research: "Transitional justice: How Emerging Democracies Reckon with Former Regimes" (Kritz 1995). Paige (2009, 331) complimented the editor of this book (Niel Kritz) as a creator of a canon of transitional justice who anticipated the significance of this filed for the coming period.

In the early phase, there were attempts to downgrade the term "transitional justice" and to diminish its use by referring to it as if only a mistake in the syntax. As a solution, some suggested the term "post-conflict justice" as more suitable. Alexander Boraine (quoted by Arbour 2006), one of the architects of the South-African Commission on Truth and Reconciliation, responded to such proposals in the following way: „Some prominent scholars have rejected the term itself, preferring instead to speak of post-conflict justice. But "post-conflict justice doesn't address the complexities and processes of political transitions, whether through conflict, negotiation, or state collapse...Others define transitional justice as an extension of regular criminal justice systems that rely exclusively on legal remedies to rectify grievances. This fails to account for the limits of law, particularly in cases of mass crimes such as genocide, ethnic cleansing, and crimes against humanity. In trying to come to terms these types of crimes, not only does our moral discourse appear to reach its limit, but it also emphasizes the inadequacy of ordinary measures that usually apply in the field of criminal justice."

Timothy Garton Ash (1998) criticized the term “transitional justice” as too narrow to embrace the essence of the measures that young democracies should undertake in order to deal with the legacy of the old regimes. He suggested a use of the German terminology from the denacification period and the German facing and dealing with the past and the consequences of Nazism. The German words *Geschichtsaufarbeitung* and *Vergangenheitsbewältigung*, according to him, may be translated as “treating” the past, “working over” the past, “confronting” it, “coping, dealing or coming to terms with” it; even “overcoming” the past. The variety of possible translations indicates the complexity of the matter at hand. He also warned that the word Truth is too big and subject to misuse; therefore it would be better to speak of facts rather than truth: „Evidences should be carefully measured. A text must be situated in the historical context in which it was created. Its interpretation calls for both intellectual distance and essential imaginative compassion with all involved, and even with the ones who carried out repression.“ (ibid., 40).

3. The different meanings of transitional justice

The term TJ has become domesticated, which does not imply that its use is uniform. Hence one should keep in mind the different meanings that are associated with TJ. The overview of the scope and the way of its use leads to a conclusion of at least three key meanings associated with it:

1) Bearing in mind that the term was originally created in the activist circles, no wonder that many perceive TJ primarily as a field of practical work in implementation of the various mechanisms of dealing with authoritarian and/or conflict past. The president of the Chilean Commission of truth and reconciliation Jose Zalaquett argued that dealing with the transitional political affairs represents a new field of human rights practice. According to Arthur Paige (2009, p. 324) TJ represents international network of individuals and institutions, whose internal coherency is sustained as a result of common concepts, practical goals and concrete legitimacy ground in acting. In other words, the field of TJ assumes a set of interactions among the activists, lawyers and legal theoreticians, policy-makers, journalists and political scientists who deal with human rights and transition towards democracy. The reasons because of which he speaks of a “field of transitional justice” are as follows: a) it is clearly recognizable and separate field from the one it was derived from, i.e. the field of human rights; b) it encompasses a group of actors with common goals who are directed and reply to each other in their practical activities; c) a set of institutions has been built on its ground for the sake of achieving the designated goals; and d) it has developed its own criteria for evaluation and self-legitimation.

2) On a global scope, TJ is a common term that brings together various comparative experiences from the process of application of the mechanisms of justice in time of political transition. Tricia Olsen, Leigh A. Payne and Andrew

G. Reiter (2010) define TJ as a set of processes designed as a response to the mass violations of human rights, which resulted from political upheavals, state repression or violent conflict. International Centre for Transitional Justice defines TJ as a set of judicial and unjudicial measures implemented by and in various states, which aim is to redress those injustices from the past that assumed mass violation of human rights. They include criminal prosecution and trials, truth commissions, reparation programs and diverse institutional reforms (ICTJ). In 2004, the UN Secretary General Kofi Annan defined TJ as comprising 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. He advocated holistic strategies that would assume more emphasis on criminal justice, reparations, fact-finding, institutional reforms, ban on performing professional or public activities, firing, or an adequate combination of all these approaches within the framework of international standards and obligations (*Report of the Secretary-General* 2004). Such a wide approach to TJ, inter alia, aims not only to healing the wounds and trauma but also to carefully determine the roots of the conflicts and the reasons that led to heavy violations of human rights (including socio-economic, personal and political rights). Louise Arbour, UN High Commissioner for Human Rights, emphasized that „transitional justice must be directed toward assisting in the transformation of the repressed societies into free societies through addressing the past injustices through means that would secure just future. It must deal not only with the crimes and misdeed that took place during the conflict but also with the violations of human rights that had existed prior to the conflict outbreak, and which caused it or contributed to its outbreak (Arbour 2006).

3) In the academic community, TJ refers to a relatively young but separate academic discipline that deals with research of the comparative experiences, good and bad practices, but also with theoretical considerations about the relations among law, justice, crimes, transition, memories, historical narratives, etc. Teitel (2003) defines TJ as a conception of justice that is linked to periods of political changes, i.e. transitions, which are treated by the scholarship as time intervals that last until the consolidation of the new political regime (i.e. introduction of democracy) (O'Donnell and Schmitter 1986).

In the midst of the intensive efforts in establishing the academic discipline at universities and research centres that deal with issues of peace and conflict, there are also scholars who question the academic status of TJ. Christine Bell (2009) argues that the claim that TJ is an established academic field is problematic. At first, she expresses her scepticism with regard to the unusual speed with which these issues have been promoted as parts of a specific field of academic research, unlike many others that had to go through long periods of self-proving as such. Secondly, she stresses that interdisciplinarity is just a way to cover the eclectic nature and political motivation that stands behind this mechanism of international state-building.

The leading scholars argue that TJ tries to create integrative platform for diverse activities, subjects and mechanisms that are involved in the practical activities directed towards dealing with the past: "Transitional justice is an 'evolving field' of study that originated around a set of legal inquiries and alternative justice mechanisms but is rapidly burgeoning to address a broader set of issues, and thus merits dedicated attention. There is a need to integrate the perspectives of the mix of activists, policy makers and academics involved in the transitional justice field (which is linked to a problematic divide between developed and developing countries)." (Editorial Note, 2007).

The advocates of the thesis that TJ is a separate academic field claim that it represents a "sphere of knowledge, interest and activity, held together by distinctive claims for legitimacy" as distinct from 'discipline,' which implies a body of knowledge with its "own background of education training, procedures, methods and content areas." (ICTJ 2007). They acknowledge that there is a need of developing a scholarly inquiry that previously was being done by a number of different disciplines with little dialogue between them. Nowadays, the academic activity related to TJ is not only intensified but it evolves within the frameworks of a number of academic disciplines, such as anthropology, cultural studies, peace studies, ethics, history, philosophy, political science, psychology, sociology and theology, among others. Yet, the influence of legal studies is still dominant. The latest tendencies lead in another direction, towards socio-legal analysis of a range of issues such as: how to understand the TJ concept with regard to the rule of law principle during the conflict; the need of institutional reform and dealing with the past; when and how do societies or mediators select the best mechanisms; what are the advantages of the "top - bottom" and "bottom up" approaches in modelling TJ, and what are the advantages of the local versus national and/or international approaches and processes.

Bell (*ibid.*, p. 6) offers the following propositions: a) Transitional justice does not constitute a coherent 'field' but rather is a label or cloak that aims to rationalize a set of diverse bargains in relation to the past as an integrated endeavour, so as to obscure the quite different normative, moral and political implications of the bargains. b) Transitional justice does not comprise a field of practice and a field of inquiry that need to be brought together in pursuit of coherent development. Rather, it is only by bringing practice and interdisciplinary legal analysis together that transitional justice can be presented as a coherent field. c) The call for interdisciplinarity is not a romantic and neutral call to transcend disciplinary constraints, but rather is part of the legitimating discourse of transitional justice as a field and an attempt by non-law disciplines to colonize the field (or alternatively 'decolonize' it from law's traditional hold).

But dilemmas remain open, especially due to the fact that the discipline (as many others) may be analysed through the postcolonial approach too (Dabashi 2015; 2019): science/knowledge is a reflection of power relations and epistemological hierarchy, imposed by the West. The essential questions and answers that are relevant for this discipline depend not only on the dialogue

among the disciplines but also on the dialogue among the scholars from democratic countries and the countries where TJ mechanisms were or are to be applied. So far this relationship is asymmetric, with the Western scholars leading the discourse. Those from the periphery and/or post-conflict societies are in a position of being 'collaborators' on various projects that uncritically promote everything that comes from the West - or simply as interlocutors (witnesses, victims, sources of first-hand information, etc.

4. Significance of transitional justice for democracy and peace

Ever since the onset, the concept of TJ has been founded on the belief that the heavy legacy of the past mass violations of human rights must not be neglected. Dealing with the past is necessary because if the opposite is the case not only the sufferings of the victims and survivors will deepen but also traumas will be transferred from one generation to the next one. Such a disregard of the past would hinder the transitional societies to open the processes of democracy building, rule of law, and reconciliation, i.e. the process of sustainable peace would be prevented. Hence TJ has a potential to become a means of conflict prevention, or in the words of Johan Galtung (2005), it is all about "healing the past" that is opposite to revision or fabrication of history.

All gained experiences and knowledge should represent a joint response to a single problem that reads: how is it possible to address violations of human rights from the past in the context of the regime change (i.e. the political transition)? Referring to the torture victims, Lawrence Weschler (1990) expressed this dilemma in the following words: "There was moment which has desperately to be addressed - and as desperately by torture society as by the torture victim." Questions needed to be answered: Who was there? Who was screaming...? Who, even now, will dare to hear...? Who will be held accountable? And who will hold them to account?" Yet the real challenge arises from the fact that precisely in times when there are calls for responsibility for the repression and torture, the political circumstances are delicate and perilous.

This standpoint insists on the claim that TJ is a neutral force with a higher moral ground. The literature from this field, which describes and analyses the approaches to the TJ and their relations with the moral principles through which it 'deals' with the past, demonstrates this quite evidently. The entire discourse evolves around concepts such as truth, justice, reconciliation, memories and responsibility. All mechanisms of TJ usually call upon the moral and legal reason in order to justify their own existence and implementation. In that way, the essence of the political project because of which originally was created the notion of TJ has been veiled, or more precisely establishing a new type of state - through international state-building (Chandler 2006). Therefore, TJ represents both *an answer to the power abuse of the old regime and a way of legitimating the new regime*. The authority of TJ derives from the international norms and of the so-called international community. The paradox is in the fact that TJ

as a concept is a reaction and an answer to the global wave of political transitions, and yet major efforts are invested in the understanding of TJ as something non-political, i.e. distant from politics - in spite of its inherently political essence and goal.

Throughout the years, TJ has become a global industry. Understood as a field of practical activity, it has spread mostly through promotion of truth commissions and the other mechanisms, while understood as a field of knowledge it mostly gets developed through comparative analyses and case studies of TJ mechanisms application. Authority of the international actors lies in their technical expertise and moral imperative to find suitable responses to the committed crimes in the past.

According to Tietel, transition is seen as completed in the moment when "liberal democracy from Western type" is finally established. Hence, although the language of TJ was supposed to serve for neutralisation (veiling) of the values of liberal democracy, yet the final aim is exactly the completion of the political transition. Crisis of liberal democracy, and especially the occurrence of so-called stabilitocracy as an end result of the unsuccessful state-building (Pavlovic 2017; Bieber 2019) open a range of new problems for already weakened foundation of transitional justice idea and praxis.

5. Conclusion

The new millennium began with a global feeling of so-called meta-transition, i.e. the need to deal with the old and hidden injustices has speeded up and raised the questions of belated TJ. No wonder that the number of vows and cries for public apologies, reparations, memorialisation, and other forms of dealing with the conflict and traumatic past has increased seriously. The victims of authoritarian regimes or of the violent conflicts seek justice against the perpetrators of heavy violations of their rights, i.e. against the power holders and officials of the old regime (political leaders, judges, policemen and military officers, civil servants, etc.). Their collaborators (business leaders, journalists, and even ordinary citizens - informants) are not spared. Having in mind that the new regime does not work in a political and societal vacuum and it cannot possibly start from ground zero, it is always important to ask the question if and how much can one trust the old institutions and their employees, if they should be punished or just replaced - and how. The break with the old regime should mean break with the old legal and judicial system, which adds to the dilemma how to secure rule of law principle during such dramatic changes. The advocates of TJ call for new and hybrid institutional and societal forms of fulfilling justice on behalf of the victims, but a part of the academia challenges the understanding that transition is incidental act in the political life, arguing that even during the transition period the changes should oblige the general framework of rule of law and that there should be no exceptions.

In the context of the narratives of globalization and sovereignty, TJ is faced with one more fundamental and normative dilemma: if and in what degree should the response to the inflicted injustices be in the hands of the state in which such events took place? If the state cannot be trusted, then the solution is seen in the international mechanisms for guaranteeing law and justice. But international justice remains either compromised or imperfect, mostly because of the double standards and selective approach to various states in the world. Seen through the prism of the TJ genealogy, starting with the first phase (Nurnberg trials) and the second one (the events that followed "the third wave of democratization), the third one led to a situation (as Tietel notices) in which new millennium is marked with expansion and normalization of TJ. What used to be unusual phenomenon in exceptional political circumstances has gradually become a part of everyday life. But that life is characterized with (undeclared) war in time of peace (global war against terrorism), weak or failed states, internal conflicts and other global threats. Many observers agree that the global spread and the increased expectations from TJ are a part of a fascinating trend that started at the end of the Cold War.

Positioning TJ in the center of international attention has not resulted into radical changes. The formal acceptance of TJ by the UN refers only to citizen's and political rights, but not to social and economic ones. The focal interest is still on State and not on individuals and community; international rules and standards dominate over cultural norms and local practices affiliated with specific societal contexts. Because of that, the fourth generation of TJ is marked by efforts invested towards promotion of those aspects that so far have been on the margins of reconciliation and peace-building. The crux of the matter here is the need of taking care of a fundamental policy of engagement in the field of TJ, imperative of balancing between involvement of the local and international subjects, greater emphasis on the economic justice - and all that, as an addendum to everything else that is linked with the previous three generations.

It seems as if the fourth generation announces a beginning of a new era of maturation: i.e. turning back towards one's own mistakes and prejudices, which have become mainstream. Key challenges are related to reassessment of the reasons that made some aspects and mechanisms of TJ privileged and dominant at expense of some others, i.e. why and how has TJ become a primarily political project. Emancipation of TJ from the political agenda would be a significant step forward towards more balanced, inclusive and holistic approach to the issue of justice in time of transition. It would be a democratic move not only due to the desired goals but also because of the methods and means for their accomplishment.

The question whether there is adequate balance between the "locals" and foreigners refers to the concrete stake, input, "ownership" over the conflict and its legacy, but also to authority and power in the context of selection of certain mechanisms of TJ. In addition, there is a need for reconsideration of the real reasons for the obvious neglect of the issues of economic justice, because it

seems that insistence on the political side of TJ might be a way to smokescreen the deep causes of authoritarianism and violent conflict. Having all this in mind, the scholars should focus on a central question that calls for quick response: should initiatives for TJ be initiated and led from outside actors and be externally driven, planned and implemented according to the “top bottom” principle? Or it is high time to envisage and undertake radical changes in order to gain desired goals in terms of sustainable positive peace and development?

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