

African Transitional Justice:

Universal Ideal or Political Reality?

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When considering a continent so marked by violence and political upheaval, one cannot help but focus on the transitional nature of many African societies. At the end of almost every war or dictatorship, the international community seems to step forward, institutions at the ready, prepared to help. Theories and mechanisms of transitional justice are growing in popularity among scholars and policy-makers, alike. There is a growing consensus that people will inevitably be tried for their atrocious crimes and that the truth will need to be told. There is now broad agreement that impunity must end, and that truth should be considered an important objective in order to work towards reconciliation^{1,2}. A wide array of possible definitions and images of what constitutes “reconciliation” could be considered. However, for the sake of clarity, an effective and functional definition of reconciliation can be explained as follows: reconciliation is the process through which a society learns to realistically live together despite its troubled past³.

The political reality is that there are a wide variety of ways to reach this goal of reconciliation, none of which can be guaranteed. The purpose of this paper is to first of all, examine two divergent options⁴ for transitional justice and consider their contrasting roles towards facilitating a society’s

transformation to reconciliation. The work of South Africa’s Truth and Reconciliation Commission (hereafter referred to as the TRC) and the contributions of the International Criminal Court (ICC)⁵ will be considered through the analysis of this paper’s argument. In terms of each institution’s purpose, universality is key to their underlying principles, though in very different regards. Both of these truth-seeking mechanisms are empowered by a contextual focus and a respect for the universality of the law. Yet each of these institutions seeks to find their own balance between the two principles. An in-depth analysis of this contention can be found toward the end of the paper⁶.

Secondly, this paper will discuss the evolution of academic discussion surrounding this topic. Of particular interest will be the shift from normative “one-size-fits-all” policy prescriptions regarding what *should* be done towards a broader understanding and respect for context in regards to these societal transitions. Finally, in acknowledging the critical importance of context in studying transitional justice, this presents a somewhat problematic consideration for certain goals of international and internal justice. Specifically, the legal ideal of universal application of the law seems to be at odds with the recognition that the understanding of local context proves crucial for the implementation transitional justice strategies⁷.

In a similar vein to the recent scholarship surrounding this issue, this paper hopes to encourage both debate and discussion regarding the various transitional justice strategies at the disposal of the international community. By questioning the purported aims and mandates of transitional justice, this paper hopes to generate a more profound

¹ Though much of the literature surrounding these subjects uses the language of “reconciliation” and “peace-building almost interchangeably”, this paper will be limited to the discussion of contributions to reconciliation.

² Debra DeLaet, “Gender Justice: A Gendered Assessment of Truth Telling Mechanisms,” in ed. Tristan Anne Borer *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame: Notre Dame University Press, 2006). 55-76

³ Charles Villa-Vincencio, “The Politics of Reconciliation,” in ed. Tristan Anne Borer *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame: Notre Dame University Press, 2006).

⁴ For the purpose of this paper, arguments will concentrate only on South Africa’s Truth and Reconciliation Commission and the International Criminal Court.

⁵ This paper will also consider the International Criminal Tribunal for Rwanda (or ICTR) as an accompaniment to the ICC. Despite the fact that the ICC and the ICTR differ in terms of their mandate and function, they similarly represent the work of the international community on this topic and therefore, both serve as pertinent examples of an international alternative to the TRC.

⁶ Please see: “Legal Challenges to Transitional Justice through the Concept of Universality”

⁷ Tom Ginsburg, “The Clash of Commitments at the International Criminal Court,” *Chicago Journal of International Law* 9 (2009) 499-514.

understanding of this issue, which may generate a more experienced analysis towards the implementation of such strategies, specifically within the African context.

A BRIEF OVERVIEW OF TRANSITIONAL JUSTICE SCHOLARSHIP

With the consensus that any society trying to move forward from a terrible past necessitates a solution in the form of transitional justice, the contributions of international trials and truth commissions became a prime focus. Prevention of impunity and the sharing of truth were both considered to be essential elements that should accompany any strategy⁸. The discussion soon shifted into a debate of “trial” vs. “non-trial” mechanisms, creating a striking dichotomy between granting amnesty and prosecution⁹. This classic debate, as put forth by Borer can be summarized as follows: Those in favour of prosecutions maintained that trials were essential in order to convince the public of the new regime’s commitment to democracy as it tried to distance itself from the old. This is often referred to as the “non-prosecution as complicity” argument—in other words, that an absence of punishment equates an absence of justice. Conversely, those who advocated for amnesty insist that it is the only way for achieving stability and a sense of “national reconciliation”. They emphasize that trials rarely take place due to logistical challenges and when they do, they only affect a small minority of perpetrators, and make prosecution seem more desirable in theory than in reality¹⁰.

Most contemporary views, especially those of cultural relativism, now tend to focus on the need for an appreciation of context and local conditions before advocating for one strategy over another. A more detailed analysis of this perspective will be

included later in the paper. Both of the above-mentioned strategies contain their own costs and benefits. This paper aims to provide an introductory analysis of the TRC and ICC’s mandate and functioning as well as outline several of their key strengths and weaknesses.

SOUTH AFRICA’S TRUTH AND RECONCILIATION COMMISSION

Mandate and Functioning

South Africa’s system of Apartheid has proved to be one of the most brutal and oppressive regimes on the African continent. It involved examples of some of the worst conditions imaginable: dictatorship-sponsored violence, an oppressive top-to-bottom hierarchy of enforcement, and genocide^{11,12}. In 1994, South Africa made the fateful decision to invest all of its hopes for transition within the TRC based on the dual premises that uncovering the truth was critical to restoring public trust, and secondly that making perpetrators subject to the consequences of public shame would prove essential for a “community” sense of justice¹³. Expectations were also high that the TRC would help to promote the rule of law within South African society by promoting civic trust through exposing compromised personnel (such as members of the judiciary)¹⁴. The TRC set out to create a record of human rights’ abuses by amassing the participation of citizens at large in order to also create broad awareness of the atrocities that had taken place¹⁵. The purpose of the hearings was to: provide an opportunity to begin dealing with the past; create a space within which truth could be expressed; allow for statements of forgiveness, empathy, and

⁸ Tina Rosenberg, Martin Meredith, *Coming to Terms: South Africa’s Search for Truth* (New York: Public Affairs, 1999).

⁹ Tristan Anne Borer, “Truth Telling as a Peace Building Activity: A Theoretical Overview,” in Tristan Anne Borer, ed., *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame: Notre Dame University Press, 2006).

¹⁰ Borer

¹¹ Rosenberg

¹² For further reading, see Rosenberg and Schnabel

¹³ Rev. Abraham Adu, “Peace Building in Africa: Lessons from the Truth Commission,” *International Journal of Humanities and Peace* 20 (2004) : 23-33

¹⁴ Pablo DeGreiff, “Truth Telling and the Rule of Law,” in Tristan Anne Borer, ed., *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame: Notre Dame University Press, 2006).

¹⁵ Jeremy, Sarkin, “The Necessity of Establishing a Truth and Reconciliation Commission in Rwanda,” *Human Rights Quarterly* 21 (1999) 767-823.

acceptance; and discover why and how certain deeds were able to take place¹⁶.

Strengths of the Truth and Reconciliation Commission

The functioning of the TRC attempted to accord due process for all those who participated. Special procedures were set out to ensure that this principle was followed, for instance: all those who planned on testifying were interviewed in advance and every person who the victims planned to accuse was notified and given the right to attend the same hearing in order to reply. Amnesty seekers without lawyers were provided them. The accused were forewarned regarding what the commission would say and were given the right to tell their side of the story before the release of the final report¹⁷. Additionally, the idea of a truth commission proves more conducive towards healing in contrast to the adversarial nature found within most trials¹⁸. It tends to take a more conciliatory tone; on that may prove more effective at encouraging victims to come forward while also creating a sanctioned environment that may be more likely to reveal an accurate picture¹⁹.

South Africa was able to experience what is sometimes known as the “democratization of reconciliation”²⁰. By creating a safe-space in which the truth could be told, the TRC was able to encourage many to come forward and share their stories. It allowed for the truth-telling to be spread among thousands of people²¹ and thus democratized the process of healing and dealing with the past²². This notion of democratization contributed to the reconciliation process in yet another way in the sense that it removed the focus from the idea of individual guilt while also

dispelling the myth of collective innocence²³.

Typically, a trial is only able to focus on one or two key perpetrators, thus individualizing guilt upon only one or two members of a society.

In contrast, the fact that the TRC was able to bring forward many victims as well as

perpetrators willing to share their stories enabled both a broader sense of justice and guilt respectively. Often, the assumption is made that all those not involved are, by default, innocent. This type of perception is highly problematic as it fails to account for bystanders whose inaction may have reflected complicity by those who more broadly benefited from the apartheid system (Fletcher and Weinstein, 2002)

The TRC pledged to grant amnesty based on full and complete disclosure of each applicant’s involvement and the fact that these actions must relate to a “political objective” under the apartheid regime²⁴. This was not “blanket amnesty” that hid the truth and proliferated a culture of impunity; it was amnesty capable of bringing about a truth that may have otherwise been hidden making this a useful tool for bargaining²⁵. Amnesty, in the case of South Africa, has proved highly effective at deterring further atrocities through its bargaining capacity as it takes into account the political realities of the local situation²⁶.

“This notion of democratization contributed to the reconciliation process in yet another way in the sense that it removed the focus from the idea of individual guilt while also dispelling the myth of collective innocence.”

¹⁶ Sarkin

¹⁷ Berinyuu

¹⁸ Sarkin

¹⁹ DeLaet

²⁰ Laurel E. Fletcher and Harvey M. Weinstein, “Violence and Social Repair,” *Human Rights Quarterly* 24 (2002) 573-639

²¹ Whereas in many other countries that had conducted similar commissions, attention had been limited to only one or two high-profile cases.

²² Rosenberg

²³ Fletcher (2002)

²⁴ Berinyuu

²⁵ Rosenberg

²⁶ Jack Snyder and Leslie Vinjamuri, “Trials and Errors: Principle and Pragmatism in Strategies of International Justice,” *International Security* 28 (2004) 5-44

Weaknesses and Criticism

Both the TRC and South African government have faced serious criticism as a result of the delayed nature of financial reparations. Despite signing numerous international conventions which oblige it to provide victims of human rights abuses with adequate and fair compensation, the South African government still seems reluctant to fully accept responsibility for the actions of its predecessors²⁷.

Without a gendered lens, the picture will be incomplete. There is an urgent need to understand these processes by rethinking the relationship between men and women and the false dichotomies that can often take place. For instance, men cannot simply be conceptualized as the “violent gender” and women as perpetually “victims”²⁸. A reassessment of gendered implications regarding violence, victimization and sexuality must take place in order for any transitional justice strategy to be truly effective. This will lead to a more accurate understanding of the truth while adding completion and credibility to accounts²⁹. Based on the arguments of Debra DeLaet, the TRC failed to challenge gender norms that made women reluctant to come forward regarding their own victimization. Furthermore, the TRC did not prioritize sex-specific violence in its mandate, and as a result they were treated as secondary in their importance to the commission³⁰.

Though the TRC did fail to live up to some of the expectations surrounding its work, it should still be considered as a remarkable achievement within a global context. It was capable of creating a climate that urged people to come forward and engage in the truth-telling process while promoting social healing and reconciliation on an unprecedented scale. The reality, however, is that not all countries will be able to replicate this strategy as they may lack the national will and political realities for effective implementation³¹. This realization should

prompt us to examine alternative strategies for transitional justice, which brings this paper to an analysis of international justice.

STRATEGIES OF INTERNATIONAL JUSTICE: THE INTERNATIONAL CRIMINAL COURT AND THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Mandate and Functioning

On July 1st, 2002 the Rome Statute entered into force upon its ratification by sixty countries³². Prior to its creation, international justice had already been at work within the African continent in the form of UN-subsiary, the ICTR³³. These jurisdictions have transformed international humanitarian law in several important ways. Firstly, they have given human rights violations a higher profile within the international community³⁴. Secondly, they have modernized the laws themselves; rape and other sex crimes are now considered to be part of what is defined as genocide. This is to say that serious crimes committed within the domestic context are no longer considered purely of national concern; the international community now has a right to be involved and the jurisdictional “teeth” to penalize perpetrators³⁵. Thirdly, these international efforts (and their subsequent reception in Africa) have sent a clear message that the continent will no longer permit the continuation of impunity³⁶.

Strengths

Trials can prove crucial for the families of victims as well as for the future of the nation. For many, the experience of seeing a perpetrator walk free upon receiving amnesty seems at odds with the notion of reconciliation³⁷. Many prefer to see

²⁷ Berinyuu

²⁸ Borer

²⁹ DeLaet

³⁰ Fiona C. Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa* (London: Pluto Press, 2003)

³¹ Rosenberg

³² Jamie A. Williamson, “An Overview of the International Criminal Jurisdictions operating in Africa,” *International Review of the Red Cross* 88 (2006) 111-131.

³³ Ibid.

³⁴ Marlies Glasius, “We Ourselves, We are part of the Functioning: The ICC, Victims, and Civil Society in the Central African Republic,” *African Affairs* 108 (2008) 49-67.

³⁵ Rosenberg

³⁶ Williamson

³⁷ Berinyuu

justice at work in the form of a conventional trial and strict punishment for the violators of human rights. Trials drastically change the balance of power in terms of regime in order to “break the cycle” of the past. Additionally, these trials can provoke a public dialogue capable of cracking through myths of victimization in order to help people see and appreciate other ethnic groups that have also suffered³⁸.

Transitional states are often highly dependent on the international community through a variety of different capacities. This proves to be especially true when international intervention is required to end the conflict in question³⁹. A state’s reliance on international sources to bring about a peace-agreement will be mirrored in its subsequent demands to bring about transitional justice. This implies that the international community should be willing and able to contribute to not only conflict resolution but legal assistance in the form of transitional justice.

The growing consensus that there are some crimes so atrocious that they simply cannot go unpunished is validated by the jurisdiction⁴⁰ of the International Criminal Court. Leaving horrific crimes unpunished either through amnesty or the incapacity to prosecute, violates certain paradigms of justice and impunity⁴¹. African states have demonstrated their intent to hold accountable the perpetrators of the gravest crimes through the work of the ICTR⁴² and the ICC⁴³. In this light, many African states are able to more actively engage in the process of reconciliation.

In giving “teeth” to the prosecution efforts of international law, the ICC is able to communicate a clear warning to would-be violators of human rights⁴⁴. The ICC, seen as a “court of last resort” is capable of intervening in the crimes of signatory states when the state in question is incapable or unwilling to prosecute on its own^{45, 46}. Through this capacity, the ICC is supposed to act as a deterrent within international human rights law sending the message that impunity cannot continue and those who commit crimes against humanity or war crimes will be prosecuted⁴⁷. Furthermore, the permanence of the ICC as opposed to the delineated timeframe of most truth commissions or *ad hoc* tribunals allows it to exert more power within the international arena. Its permanence holds the promise that internal or international atrocities will not go unpunished⁴⁸.

Weaknesses and Criticism⁴⁹

Despite their strong intent to hold perpetrators accountable, trials exclude: unindicted offenders (of which there can be many), states outside the area also responsible for violence, and bystanders, thereby contributing to the aforementioned myth of individualized guilt and collective innocence⁵⁰.

Due to their adversarial nature and the element of cross-examination, trials may create conditions that deter some individuals from coming forward as this antagonistic environment may cause them to feel that they are being “victimized” all over again⁵¹. Not only can trials potentially deter the victims from engaging in the process, they also lack the

³⁸ Rosenberg

³⁹ Laurel E. Fletcher and Harvey M. Weinstein, “Context, Timing, and the Dynamics of Transitional Justice: A Historical Perspective,” *Human Rights Quarterly* 31 (2009) 163-220

⁴⁰ Limited to signatories and crimes occurring after July 1st, 2002

⁴¹ Payam Akhavan, “Are International Criminal Tribunals a Disincentive to Peace?” *Human Rights Quarterly* 31 (2009) 624-654

⁴² The ICTR is only one of several UN-Subsidiary bodies at work on the African continent. Other prominent examples include the SCSL as well as current interventions taking place in Sudan, Uganda, and the Central African Republic, see Williamson, 2006.

⁴³ Williamson

⁴⁴ Paul J. Magnarella, “The Consequences of the War Crimes Tribunals and an International Criminal Court for Human Rights and Transition Societies,” in Shale Horowitz and Albrecht Schnabel eds., *Human Rights and Societies in Transition: Causes, Consequences, Responses* (New York: United Nations University Press, 2004)

⁴⁵ Ginsburg

⁴⁶ See also Article 17 of the Rome Statute.

⁴⁷ Williamson

⁴⁸ Magnarella

⁴⁹ Though the ICC and various ad hoc tribunals have come under-fire for a variety of other criticisms and concerns (such as issues of legality, or problems with complementarity), this paper attempts to focus purely on weaknesses that serve as a relevant cross-comparison to South Africa’s TRC.

⁵⁰ Fletcher (2002)

⁵¹ DeLaet

bargaining ability of amnesty that often proves necessary in order to bring perpetrators to the table⁵². As a result, many international trials and tribunals prove to be a long and exceedingly drawn-out process as they struggle to obtain the presence of those indicted⁵³. This slow-moving nature has many negative implications for the process of transitional justice. This implies that the ICC or ad hoc tribunal will exceed its mandated timeframe (and perhaps run-out of allocated resources)⁵⁴. Furthermore, it slows the very process of reconciliation for the society in question, which so desperately wants to move forward⁵⁵.

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Discussion:

Though both transitional justice strategies covered in this paper possess their own strengths and weaknesses, this is not to say that both are equally effective (or equally *ineffective* for that matter). One may, in fact prove far better suited than the other in regards to certain situations. However, the purpose of this paper and the majority of contemporary scholarship surrounding this issue are not to make a normative suggestion regarding the superiority of one method versus the other. Rather, this paper would prefer to suggest the recognition that there may not be an appropriate manner wherein to prescribe one or the other at this time. It is becoming clearer that the choice of action through legal response must be weighed carefully and implemented in combination with other appropriate forms of intervention⁵⁶. It is

therefore much more pertinent to discuss these strategies as they relate to context.

RECENT SCHOLARSHIP:

A GROWING CONSENSUS ON THE IMPORTANCE OF CONTEXT

Recent academic and policy-making literature has begun to revolve around the broad recognition that an understanding of context will prove critical for the implementation of transitional justice strategies⁵⁷. In order to generate the most effective policies, one must be keenly aware of context, and therefore its underlying factors⁵⁸.

Intervention of any nature that fails to take into account local political realities will be doomed to fail. Consider for instance an attempt to bring universal standards of justice and human rights in the absence of pre-existing conditions. The outcomes are inherently bound to be problematic⁵⁹. This broad recognition involves the shedding of conventional assumptions in order to appreciate the reality that multiple kinds of intervention and institutional changes can and will prove necessary⁶⁰.

In acknowledging the critical role of context for transitional justice implementation, it is useful to consider some of the factors that should be covered in any analysis of context⁶¹:

Culture can play a significant role when a state is deciding its transitional justice strategy⁶². If the decision to potentially select one transitional justice initiative over another can incorporate an awareness of cultural understanding, it is likely to be more effective⁶³. An awareness of local context

⁵² Sarkin

⁵³ Berinyuu

⁵⁴ Williamson

⁵⁵ Glasius

⁵⁶ Fletcher (2009)

⁵⁷ Villa-Vicencio

⁵⁸ Albrecht Schnabel and Shale Horowitz, “Protecting Human Rights in Transition Societies: Lessons and Recommendations,” in Shale Horowitz and Albrecht Schnabel eds., *Human Rights and Societies in Transition: Causes, Consequences, Responses* (New York: United Nations University Press, 2004)

⁵⁹ Synder and Vinjamuri (2004)

⁶⁰ Fletcher (2009)

⁶¹ Rosenberg

⁶² Ibid.

⁶³ Borer

for concepts such as “conflict” or “peace” can be incorporated into a continuation of indigenous values⁶⁴. Engaging with the local context through this capacity is likely to foster a local appreciation for such attention to details and perhaps encourage more widespread participation in the process.

The degree of *commitment* or *political will* to undertake one of the strategies in question will have a strong impact on its likelihood for success. The extent to which a state can support the public debate and dialogue necessary for the official record will influence the selection of one truth-seeking mechanism over another⁶⁵. This willingness to commit will likely be mirrored in a society’s capacity to undergo the structural reforms necessary for transition⁶⁶.

Other factors that should come into play when a country is making its decision include the type of dictatorship or conflict that occurred, the types of crime committed, the level of societal complicity during the conflict, the nation’s political culture and history, the possible conditions under which dictatorship could reoccur, the abruptness of the transition itself, and finally, the new democratic government’s power and resources⁶⁷. Thus it would seem that the best “suggestion” of strategy would allow for a dynamic and multi-faceted response, one that will allow the possibility of new forms to develop. This active style of strategy, that endeavours to take into account a myriad of local influences, is more likely to encourage further innovation and creativity when selecting a truth-seeking mechanism⁶⁸.

LEGAL CHALLENGES TO TRANSITIONAL JUSTICE THROUGH THE PRINCIPLE OF “UNIVERSALITY”

A universalist stand-point advocates for the principle “...that either the entire body of internationally recognized human rights or some core subset of such rights are applicable to all humans and to all states and societies.”⁶⁹ This notion, inherent to the fundamental underpinnings of the ICC and other related UN-subsiary bodies as well as elements of South Africa’s TRC, immediately appears to contradict an attempt to prioritize context in the search for appropriate truth-seeking mechanisms. As previously mentioned, each style of institution (TRC or International) values the concept of universality within its mandate in attempting to accord due process before the law to all actors. However, it is within the realm of *application* that these divergent transitional justice strategies modify adherence to the concept of universality. Therefore, the potentially problematic dichotomy between universality and a context-centred approach should prove central to an understanding of each institution and serve as a reminder that the scholarly and policy-making community may not immediately be capable of recommending one or the other.

In order to gain an appreciation of this tension between universality and a context-based approach in regards to transitional justice, consider the work of the ICC. For this institution, ending impunity must be a priority *regardless* of local conditions. If the ICC were to begin analyzing contextual factors prior to intervention, it would immediately begin to lose credibility. First of all, the ICC is ill-equipped to conduct such an analysis. Secondly, jurisprudence suggests that the prosecutor should be unaffected by external information of political consequences and simply commit to prosecuting. Finally, such a survey of local conditions does not fall under the requirements of the ICC’s mandate⁷⁰. The ICC has an incentive to apply firm and certain prosecution towards all those who fall under the

⁶⁴ Fletcher (2009)

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Rosenberg

⁶⁸ Berinyuu

⁶⁹ Richard Lewis Siegel, “Universalism and Cultural Relativism: Lessons for Transitional States,” in Shale Horowitz and Albrecht Schnabel eds., *Human Rights and Societies in Transition: Causes, Consequences, Responses* (New York: United Nations University Press, 2004) 53

⁷⁰ Ginsburg

jurisdiction of the statute regardless of local politics⁷¹. This will prove problematic for those who recognize the importance of timing, context, and local dynamics within their recommendations of a transitional justice process.

This contradiction proves crucial to our holistic understanding of the rule of law, which can be summarized in three principles: the government of law, the supremacy of the law, and equality before the law. In other words, the power of the state may not be exercised arbitrarily, the law must apply to the sovereign as well as instruments of the state, and the law must apply to all persons equally, thereby offering equal protection⁷². The question then, is whether or not we conceptualize the principle of universality within transitional justice as a normative political ideal or a functional concept that can and should guide the intent of our actions.

This tension between core concepts of universalism and cultural pluralism is best interpreted by Richard Lewis Siegel in his article, "Universalism and Cultural Relativism: Lessons for transitional states". He explains that opposition to comprehensive or core versions of universalism are often based on the legitimacy of moral or cultural pluralism. Additionally, the imperative of adjusting human rights standards to varying degrees of economic or political development helps to recognize the argument that some widely-proclaimed human rights can be perceived as irrelevant or inapplicable in many non-Western contexts⁷³.

This discussion is by no means trying to suggest that the focus of transitional justice initiatives should shy away from the imperatives of universal human rights. Quite the opposite is true: this paper recognizes the imperative of many African societies in transition to move forward *through* the empowerment of human rights within their local context. In doing so, this paper hopes to suggest

an opportunity to question some of the traditional assumptions regarding this topic and encourage further discussion in order to obtain a more holistic understanding of this topic.

CONCLUSION

There is a wide range of transitional justice activities currently at work within various regions of Africa. Their diversity in mandate, functioning, strengths, and weaknesses reflects the inherent variety of the African continent itself. Each country possesses its own political history, national goals, and culture. This recognition should empower local communities with the support of international actors to devise thoughtful and appropriate strategies that will best serve existing needs.

Reconciliation between contextual variance and the principles of universality of humanitarian law should inform all decisions regarding truth-seeking initiatives aimed at restoring justice. A dual respect for pre-existing conditions of context and the imperatives of the rule of law will prove essential. Through this recognition, national and international authorities must begin to answer a litany of difficult questions that may challenge their traditional assumptions. In supporting transitional societies, innovation and adaptation will prove crucial as local and supranational actors attempt to work together in restoring justice and reconciliation. One of the strongest showings of support for these initiatives comes from the African actors themselves⁷⁴. Effectively, this makes many members of African society much more than victims of conflict and injustice but strong proponents and advocates for these tentative and integral strategies.

⁷¹ Ibid.

⁷² Simon Chesterman, "An International Rule of Law?," *American Journal of Comparative Law* 56 (2008) 331-361

⁷³ Siegel

⁷⁴ Williamson.