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List of Abbreviations

AI	Amnesty International
CJA	Centre for Justice and Accountability
GDP	Gross Domestic Product
HRW	Human Rights Watch
ICC	International Criminal Court
ICTJ	International Centre for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for Former Yugoslavia
MENA	Middle East and North Africa
NGO	Non-Governmental Organization
POS	Political Opportunity Structure
PRA	Participatory Rural Appraisal
TRC	Truth and Reconciliation Commission
TJ	Transitional Justice
UN	United Nations

The ICTJ and the Changing Environment of Global Human Rights

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Abstract

The changes and demands in global human rights have led to the transformation of the field which in turn has generated direct political consequences for Transitional Justice Non-Governmental Organizations (TJ NGOs) and to some extent influences the kinds of projects they decide to work on. Focusing on one particular TJ NGO, the International Center for Transitional Justice (ICTJ), the question this paper explores is *how has the ICTJ transformed and changed in its purpose, scope, reach, internal and external activities and objectives from its beginnings until the present in the context of the changing environment of global human rights?* My research shows that it has transformed in many different areas. The main findings from this research show that it has expanded its purpose due to the increasing legalization of the field and it has become more professionalized which has led to greater demands from external actors for concrete indicators to prove the effectiveness of TJ projects in which they have been involved in. There are major challenges with this in that it becomes difficult to evaluate TJ goals such as truth seeking and social healing and the time required to finish the project does not match up to the TJ projects. For this reason very few organizations are now choosing to take the more complex 'risky' projects that are longer-term. The expansion has also resulted in something called 'templaticization' which basically refers to applying the same TJ mechanisms in the same manner for every transitioning country. This impacts the way TJ functions and it influences the outcomes of their projects in a negative way. It is important to consider that TJ mechanisms should be used in combination with other approaches, as not just one is enough to fix complex transitional societies.

Abstract

Die Veränderungen und Herausforderungen globaler Menschenrechte haben dieses Feld verändert, was zu direkten politischen Konsequenzen für NGOs geführt hat, die auf dem Gebiet der Transitional Justice (TJ NGOs) tätig sind, und beeinflusst auch in gewissem Maße die Art der Projekte, in denen sie sich zu arbeiten entscheiden. Mit dem Fokus auf

einer bestimmten TJ NGO, dem International Center for Transitional Justice (ICTJ), fragt diese Arbeit danach, wie sich diese Organisation gewandelt und seinen Zweck, sein Betätigungsfeld, seine Reichweite, seine nach innen wie nach außen gerichteten Aktivitäten und seine Ziele von seinen Anfängen bis in die Gegenwart im Kontext des sich wandelnden Umfelds globaler Menschenrechte verändert hat. Meine Forschungen zeigen, dass sich der ICTJ in vielen verschiedenen Bereichen verändert hat. Die wichtigsten Erkenntnisse dieser Forschung zeigen, dass der ICTJ infolge der zunehmenden Verrechtlichung seines Arbeitsgebietes seine Aufgaben erweitert hat und dass er einer stärkeren Professionalisierung unterlag, was dazu geführt hat, dass externe Akteure mehr Nachdruck auf konkrete Indikatoren legen, die die Wirksamkeit der von ihm betriebenen Transitional Justice Projekte beweisen können. Die damit verbundene große Herausforderung ist die Schwierigkeit, Transitional Justice Projekte wie Wahrheitsfindung und gesellschaftliche Versöhnung zu evaluieren, und dass die Zeit, um solche Projekte abzuschließen, den Transitional Justice Projekten nicht entspricht. Aus diesem Grund befassen sich heute nur wenige Organisationen mit komplexeren „risikoreichen“ Projekten, die mehr Zeit erfordern. Die Erweiterung hat auch zu einer Art „Schablonisierung“ geführt, was bedeutet, dass dieselben Transitional Justice Mechanismen in gleicher Art in jedem der Transitionsländer angewandt werden. Dies übt einen Einfluss auf die Art aus, wie Transitional Justice funktioniert, und wirkt in negativer Weise auf die Ergebnisse der Projekte. Es ist wichtig zu bedenken, dass Transitional Justice Mechanismen gemeinsam mit anderen Methoden zum Einsatz kommen sollten, da allein keine ausreicht, um komplexe Transitionsgesellschaften zu stabilisieren.

Introduction

I.I The Scope of the Topic

Since the start of transitional justice, which can be mapped back to the late 1980s, the scope and structure of transitional justice advocacy have changed profoundly in many ways in relation to the ever-changing global human rights environment. The changes in global human rights have led to the transformation of the field which in turn has generated direct political consequences for international TJ advocacy and to some extent changed what international TJ NGOs are and how they go about their work. I will examine how the changes at the international level impact local TJ NGOs emphasizing one particular TJ NGO called International Center for Transitional Justice (ICTJ), as well as where the international and local advocacy practices and priorities clash. There are quite a few challenges that these NGOs face as they grow and develop, their relationship with donors and domestic political elites among others. In my research, I tried to purposely avoid analyzing single cases of countries where justice efforts have been present (i.e. Rwanda or Argentina) because the intention is to show that the field of transitional justice developed at a global scale—local, national and international.

One of the changes that the paper will be discussing extensively is that TJ NGOs such as the ICTJ has significantly expanded its purpose by increasing legalization of the field as well as expanding to broader issues; for example, by helping to institute democracy and a culture of human rights in countries in transition and by assisting in facilitating post-conflict peace negotiations. The legalization of TJ advocacy has made TJ a standard norm which influences the way states act post-conflict. Furthermore, international TJ advocacy has become much more professionalized and specialized which has led to greater demands from the outside for concrete indicators to prove the effectiveness of TJ projects in which TJ NGOs have been involved. My aim in this paper is to first give a background of the origins of TJ, what it actually means and what it entails. Then I will situate TJ advocacy within the changing international environment of global human rights and then apply these insights to the ICTJ in order to describe the transformation of the field and then to analyze the consequences of the transformation on ICTJ's continuing TJ effort and its challenges.

It is important to analyze and evaluate transitional justice mechanisms because they have become a major if not the only way for transitional societies to deal with past human rights violations and to create a basis for a more democratic political system. To date much of the research has been on agreed upon advantages and disadvantages of different models as well as idealized notions of their achievements but this only gives us a foundation for understanding how transitional justice mechanisms function. More research should be done on their impact and effectiveness. The paper will discuss in detail the complex and challenging field of transitional justice. For defining concepts and measuring have become serious problems. “Truth, justice, democracy, human rights, perpetrators, reconciliation, and reparations all mean different things to different social actors and social scientists” (Olsen et al., 1). It is difficult for TJ NGOs to measure projects and their success when there is no agreement on the definitions and the priorities in TJ projects.

I.II What is Transitional Justice?

Before we get deeper into the topic, a crucial point to touch upon is the coining of the term “transitional justice.” “The term was invented as a device to signal a new sort of human rights activity and as a response to concrete political dilemmas human rights activists faced in what they understood to be ‘transitional’ contexts” (Arthur, 2009, 326). Often people are puzzled by the phrase ‘transitional justice’ as it raises questions such as what is transitioning from what and by whom? For the purpose of this paper, I will use the definition of transitional justice by Van der Merwe. “Transitional justice [is a] set of practices, mechanisms, and concerns that are aimed at confronting and dealing with the legacies of past violations of human rights and humanitarian law” (Van der Merwe et al.; 2009, 7). A more detailed definition provided by the International Center for Transitional Justice (ICTJ) is a “set of judicial and non-judicial measures that have been implemented by different countries in order to address the legacies of massive human right abuses [...] these measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms” (About ICTJ).

In a recent interview the ICTJ conducted with the Vice President of ICTJ, Paul Seils, he was asked why is it so difficult for the media to fully understand the concept of transitional justice and its benefits to societies that are facing or have faced massive human

rights violations. He was also asked whether this is the case with politicians and other important actors and whether there is still a need to explain the importance of transitional justice. His answer to this was:

“Yes. We need still to explain transitional justice and its benefits. One reason for this is because transitional justice is complex, simply put. It’s not straightforward. It’s not like advocating against the use of landmines or for basic accountability. It’s more complex than that; the term itself makes it more complex, to begin with. The second reason is that our counterparts change all the time. And even for the people that we’ve been working with for years—at embassies, the UN—it’s still relatively obvious that transitional justice isn’t their main focus. They have a grasp of some aspects of it, but they frequently need to have some kind of assistance to explain issues we work with. A classic assumption is that transitional justice is an alternative to criminal justice, as opposed to a strategic understanding of criminal justice as a part of transitional justice and accountability mechanisms” (ICTJ Program Report: Interview with Paul Seils).

Another question posed to Mr. Seils was whether other myths about transitional justice existed among politicians and the media? His reply was:

“One is the constant assumption that transitional justice is a repetition of the [South African](#) experience. And almost inevitably linked to that is the myth that transitional justice is about substituting conventional accountability mechanisms for truth and reconciliation approaches. I think there’s still a fairly massive gap—both normatively and practically—in the issue of [institutional reform](#). There are very few experiences where we can really point to effective, clear approaches to institutional reform. And when we talk about the importance of civic trust, we have to be careful not to give the impression that transitional justice is a [magic recipe](#) for creating peaceful democracies and building the entire necessary infrastructure that a functioning democracy will emerge from. I think our goals have to be much more focused, and we have to be careful in making it clear how much in the foothills we really are as we do this work. Accountability does not automatically create the necessary framework for a functioning democracy, but it is a necessary, crucial start” (ICTJ Program Report: Interview with Paul Seils).

Some critics believe that it is enough to call transitional justice simply “justice” and that special terminology is unnecessary to explain the different mechanisms used in different countries to address past conflicts. Other critics find the term confusing because “transitional” changes the meaning of “justice” which some would take as connoting a lesser form of justice. Instead, they propose a better term that would better capture the essence of process. Finally, some believe that the term is not appropriate at all because it does not live up to its expectations. “Some mechanisms may actually undermine both justice and transition by replacing justice with mechanisms of unaccountability, hiding impunity and the

continuity of authoritarian regime control behind a thin veil of political transition” (Olsen et al.; 2010, 10).

It is important to note that transitional justice is not a special kind of justice but rather a form of justice that is customized to fit the unique circumstances of societies that are going through transitions and development. “It is an approach to achieving justice in times of transition from conflict and/or state repression [...] by trying to achieve accountability and [attending to] victims’ [needs], transitional justice provides recognition of the rights of victims, promotes civic trust and strengthens the democratic rule of law”(What is Transitional Justice?). This of course does not mean it ignores other justice efforts such as national criminal justice systems or past injustices that have been directed at native Indians for example. They are also focusing on these issues and are initiating projects concerned with displacement of native Indians. “The Truth and Reconciliation Commission (TRC) investigating Canada’s century-long policy of forced assimilation of aboriginal peoples via residential schooling [...] initiated the Missing Children Research Project, an examination of the deaths and disappearances of thousands of aboriginal children at residential school sites throughout the country” (Progress is Unmistakable).

Transitional Justice is important because every individual in post-conflict societies has the right to know the truth, to receive reparations, and to see the perpetrators held accountable. Transitional justice is important on the whole because it doesn’t just affect victims but also the society in general. Not addressing past human rights violations can have major consequences to the society where mistrust with groups and institutions is obvious. This in turn can impede the success of development and security goals of the state. Furthermore, not fully addressing the violations and the aftermath of such atrocities can make violence reoccur again in different forms and it raises questions about the commitment to the rule of law. The claims for justice are still obvious in societies where massive human rights violations took place and so it is important that these states, along with satisfying their obligations, ensure that the violations will never happen again. In order for this to come about, priority has to be put on reforming the institutions that were involved in the atrocities or that were incapable of preventing such atrocities.

The cost of repairing societal disorder caused by the conflicts through formal mechanisms can be quite expensive depending on the severity of the conflict. “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” (Mani; 2008, 257). Often what comes to mind is what can be done to help the locals on the ground that find that TJ measures are costly and feel that it has no concrete 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 [...] this question points to a dual responsibility on the part of both advocates/practitioners and donors of TJ” (Mani; 2008, 257). More and more initiatives are being taken to solve this problem which will be discussed shortly.

I.III Approaches to Transitional Justice

There are two types of approaches to transitional justice which are crucial in TJ projects: retributive and restorative. Retributive approaches deal with putting perpetrators to justice while restorative approaches focus on the victim. Retributive justice “...equates with legal prosecutions and the rule of law [...] this includes the kinds of court proceedings and sentencing that are common throughout much of world today, all which are based on the notion of retribution or punishment for the crimes committed” (Quinn, 366). Restorative justice which is a foreign concept to most people since we were raised to think more in a retributive sense of justice which is basically about “restoring both the victim and perpetrator of crimes back into harmony with the community [and] always seeks to dignify and empower victims” (Quinn, 368). A more detailed definition is provided by Clark:

Restorative justice views crime as a harm to individuals, their neighbourhoods, the surrounding community, and even the offender. Crimes produce injuries that must be repaired by those who caused the injury. In this sense, crimes are more than a violation of law, and justice is more than punishment of the guilty. Restorative justice strives to promote healing through structured communication processes among victims, offenders, community representatives and government officials. It also strives to accomplish these goals in a manner that promotes peace and order for the community, vindication for the victim, and recompense for the offender. Under this restorative perspective, justice is not based on punishment inflicted but the extent to which harms have been repaired and future harms prevented (Clark; 2008, 340).

It is clear from this definition that there are major differences between retributive justice and restorative justice. In simple terms retributive justice basically views crime as a violation of the law and is mainly concerned with punishing those that break the law. Whereas, restorative justice, views crime as a violation of people and relationships. This however does not mean that retributive and restorative justice cannot work concomitantly as

they are both equally important for an inclusive justice approach. Reconciliation cannot happen if the perpetrators are not put on trial but also if there is no attention given to the victims. A notable scholar and professor of international peacebuilding at the University of Notre Dame, John Paul Lederach, “saw that reconciliation needs to create a ‘sense of participation, responsibility and ownership in the process across a broad spectrum of the population” (Clark; 2008, 341). This is not easily accomplished within retributive approaches such as justice where courts are far removed both geographically and mentally from the population and places that were affected by the crime. “Restorative justice initiatives have the greatest potential to foster reconciliation in post conflict societies and should, therefore, complement criminal prosecutions” (Clark; 2008, 331).

What TJ NGOs like the ICTJ demonstrate in their projects is that transitional societies need more than punishment of those who committed violations. The society as a whole (victims, communities and institutions) should be considered. I do not want to dwell too much on the two different approaches to justice, as it is not within the scope of this paper. However, it is important to know that two such approaches exist and the debates surrounding it because it is what TJ NGOs are involved in.

I.IV How does Transitional Justice relate to Global Studies?

My aim in this paper is to show that transitional justice is a “global” development instead of an “international” one because it involves three different spheres (the local, national and global) and its place within broader processes of globalization. “In the present dynamic political context, multiple alternative forms of transitional justice emerge, involving a range of international, transnational, national and private settlements. Further, there has also been a distinct privatization of the transitional response, involving devolution to new political actors, juridical and alternative, such as civil society—including churches, human rights groups, and other transitional non-state actors—to its relegation to private parties, whether through litigation or other alternative strategies” (Teitel; 2002, 899). Simply put, the transitional justice field comprises a wide range of actors including human rights activists, individuals in the non-profit sector, judges, lawyers, academics, various experts and diplomats who have a background in law, human rights, and government. Transitional justice processes reach out on the local level through the communities and its constituents,

on the national level through the government and national judicial courts and globally through international organizations.

I.V The Origins of Transitional Justice

Before we get into deeper analysis of transitional justice and NGOs, this paper requires a clarification of the origins of transitional justice and its theoretical boundaries. Transitional Justice can first be traced back to the time after World War II when international law became more prominent. The Nuremberg Trials which are known for the prosecution of important members of the political, military, and economic leadership of the Nazi regime is significant because it has triggered the establishment of a permanent international court. “Through its most recognized symbol, the Allied-run Nuremberg Trials, this phase reflects the triumph of transitional justice within the scheme of international law [...] the legacy of the post-war trials that criminalized state wrongdoing as part of a universal rights scheme far exceeds the actual force of historical precedent, and this legacy forms the basis of modern human rights law” (Teitel; 2003, 70). This first phase of transitional justice after 1945 is characterized as a period of war crimes and interstate cooperation. “In the beginning of the 1950s, the Cold War and a stable bipolar balance of power led to a general political equilibrium and an impasse on the question of transitional justice” (Teitel; 2003, 70).

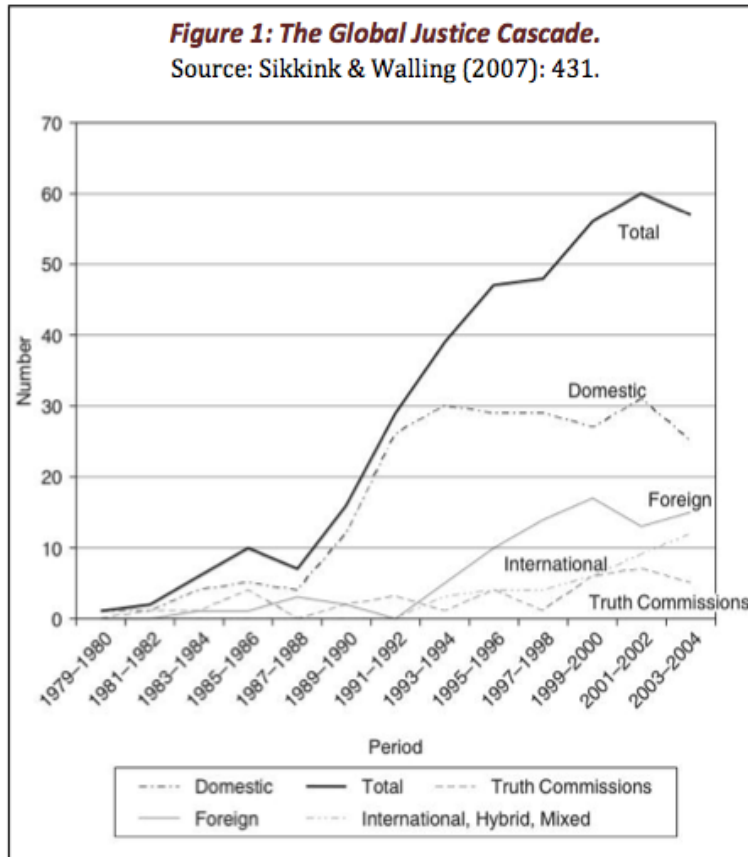
The second phase of transitional justice can be described as a period of democratization and political disintegration that has been characterized as a “third wave” of transition over the last quarter of the 20th century. “The collapse and disintegration of the Soviet Union led to concurrent transitions throughout much of the world [...] the withdrawal of Soviet-supported guerrilla forces in the late 1970s fueled the end of military rule in South America” (Teitel; 2003,71). Transitions in Eastern Europe, Central America and Africa were taking place frequently after 1989. “While these changes are often described as isolated developments or as series of civil wars, many of these conflicts were fostered or supported by international power politics and were therefore affected by the Soviet collapse, which ended the Cold War period of political equilibrium” (Teitel; 2003, 71).

The beginnings of contemporary transitional justice can be traced back to the mid 1980s to around the mid 1990s when there was a dramatic international rise of human rights NGOs as a result of conflicts that were taking place around the world. As Paige Arthur who is the deputy director of ICTJ, documented in detail, “the late 1980s which was the era of the

‘third wave’ transitions from authoritarianism to democracy in Latin America, provided a historical context in which human rights NGOs moved from ‘naming and shaming’ strategies to direct pursuit of accountability for rights abuses” (Subotic; 2012, 109). This itself is the result of a global trend of legalism, which has paved the way to the “lawyerization” and “normalization” of the growing TJ field, which will be discussed in more depth in this paper. This phase is also characterized as a period of increasing globalization of political instability.

Figure 1:

Cross-national data show that TJ efforts are becoming more and more apparent. The graph below shows that there is an increase in government efforts to address past human rights violations both domestically and internationally since the mid-1980s.



Graph taken from: Thoms et al. *The Effects of Transitional Justice Mechanisms* (April 2008): 15

The first appearance of the term ‘transitional justice’ can be traced back to the height of conflicts during the 1990s. “The first appearance of the term [...] came in a *Boston Herald* article about the Charter 77 Foundation’s 1992 conference in Salzburg, “Justice in Times of

Transition.” (Arthur; 2009, 329). There are several notable authors who contributed to the coining of the term *transitional justice*. “[The] most notable among them [was] Teitel, [however] its transmission and acceptance was most significantly aided in the mid-1990s by the publication of Neil Kritz’s four-volume compendium *Transitional Justice: How Emerging Democracies Reckon with Former Regimes* in 1995” (Arthur; 2009, 330). After the publication of his books and articles, references to transitional justice increased gradually throughout the late 1990s especially through the internet which just started to be widely available throughout the world.

II. The State of Research

One of the reasons for researching this topic is due to the little research conducted so far on the actual organizations and NGOs that focus on transitional justice. Until now most work on transitional justice centered on the formation of international and domestic courts or on truth commissions and their results and not on the institutions that promote transitional justice. “We know TJ advocacy NGOs exist, but we know little about what they actually do, how they achieve their policy objectives, how they adapt to change and how they learn from policy failures” (Subotic; 2012, 111-112).

My thesis focuses strictly on one particular NGO called the International Center for Transitional Justice (ICTJ) while also pointing out and analyzing other work of major international TJ NGOs, (i.e. Amnesty International and Human Rights Watch). I have chosen ICTJ because not much has been written on it compared to ‘gatekeeper’ organizations such as AI and HRW that are well funded and are widely known internationally. ICTJ is a relatively new organization compared to other TJ organizations and also a well-established organization offering a variety of information concerning transitional justice issues and so I worked on researching this particular organization.

Another reason for embarking on this topic is that I believe that other forms of justice are often overlooked which can make positive changes in transitional countries. Too often states and international organizations as well as academia focus on retributive forms of justice while ignoring other forms that have a significant if not direct impact on the people and institutions that are effected most by the transition. Human rights organizations need to adopt a participatory approach to transitional justice and move away from the top-down

‘one-size-fits-all’ approach if the aim is to achieve longer-term sustainability. As Lundy and McGovern emphasize in their work, “popular participation and local agency [...] is necessary to achieve ends identified in much transitional justice discourse, and to embed mechanisms for the creation of sustainable peace” (Lundy and McGovern; 2008, 265). This paper will stress the importance of knowledge available in development studies and participatory theory which should be imbedded more clearly in debates and approaches in transitional justice.

In the next three years, the ICTJ plans to carry out research to further explore different areas within the transitional justice field and to systematize the results. This topic is actual and quite a recent phenomenon, thus another reason for embarking on this topic. The ICTJ plans to “continue to deepen [their] understanding of the contexts in which transitional justice measures are applied, particularly how they can be made more effective in post-conflict settings and in contexts where states are strong but institutions for justice and accountability are otherwise weak” (Three Year Strategic Plan 2012-2014).

III. The ICTJ

During the 1980s and 1990s countries set up truth commissions and also some international tribunals to address human rights violations. However, when setting up these commissions there was no knowledge of other similar initiatives in other places. It was widely believed that efforts in truth seeking, holding perpetrators accountable, responding to the needs of victims and introducing new laws and mechanisms to prevent these crimes are the states’ responsibility. Despite there being some improvement in this area there has not been a central hub for information on these issues. The Ford Foundation based in New York saw a strong need for a new organization to collect this information and network with governments and organizations that are concerned with TJ issues. “After broad consultation, the Foundation made a commitment of substantial initial funding for the creation and first years of work by the new centre [...] the Foundation attracted South African Alex Boraine as the founding president, who worked closely with Priscilla Hayner and with South African lawyer Paul van Zyl in start-up operations” (Hayner; 2009, 80). Hayner and van Zyl were program directors for the first couple of years since the centre opened in 2001.

There were concerns that the ICTJ would largely center on truth commissions and the South African model (victim hearing process and amnesty) and not on criminal accountability. However, contrary to the beliefs they have helped societies that are dealing with past human rights violations to cope with the transition to democracy by restructuring state institutions and building trust among people and organizations along with addressing the crimes of the perpetrators. “The organization began its work by promoting a broad set of TJ strategies for social healing, truth seeking and reconciliation that at times appeared to be a possible alternative to the more legalistic approach, focusing on individual criminal prosecutions, taken by HRW and AI” (Subotic; 2012, 120).

The ICTJ works alongside with numerous NGOs and provides assistance to governments, victims and others in civil society. The ICTJ website provides a detailed definition of what they do. “In the aftermath of mass atrocity and repression, we assist institutions and civil society groups—the people who are driving and shaping change in their societies—in considering measures to provide truth, accountability, and redress for past abuses” (About ICTJ). The ICTJ began its work by taking in an alternative approach to the legalistic way of doing transitional justice (i.e. individual criminal prosecutions) taken by NGOs such as Amnesty International and Human Rights Watch by promoting a wide variety of strategies for social healing, truth seeking and reconciliation. Compared to other TJ NGO’s, ICTJ is different in that it believes that judicial legal measures are not sufficient. Therefore, ICTJ adopted a more all-embracing packaged approach, which focuses both on trials and alternative justice strategies (such as reparations initiatives, truth seeking, memorialization and domestic legal and security sector reforms).

ICTJ provides “technical expertise and knowledge of relevant comparative experiences in transitional justice from across the globe” (About ICTJ). ICTJ is global in that it researches, analyzes and reports on transitional justice happenings globally and has many branches around the world where they are able to gather information from different countries on the ground. “The ICTJ has offices in 31 countries in North and South America, Africa, Asia and Europe and employs more than 120 people [...] allowing [them] to engage deeply and effectively by combining [their] broad expertise in transitional justice with detailed knowledge of local political conditions” (ICTJ Annual Report, 3).

The research that it undertakes aims to show the successes and failures in the field and in addition to promoting innovation and informing about best practice they also “share

this knowledge locally, regionally and internationally, in the form of publications, policy recommendations, working sessions and international convenings” (About ICTJ).

Furthermore, they give advice to institutions and policymakers at the local, national and international level on how to address past violations and setting up concrete solutions on how to do this. They also work with victims and their communities and with a variety of other NGOs dealing with justice, women’s organizations and human rights activists by giving advice and helping build capacity on a variety of transitional justice projects and approaches such as criminal prosecutions, memorialization and truth telling. They have a participatory approach to justice where they “work to ensure local ownership of the transition process, prioritize the needs and interests of victims, and to build confidence in the rule of law in society at large” (About ICTJ).

Some recent examples of their work include activity in Tunisia to inform government members and judiciary members who are investigating human rights abuses that were committed by the former regime about important transitional justice practices used in other countries. They have also offered technical assistance to Argentine judges in organizing, prioritizing, and providing public information about the numerous prosecution cases that are still pending for the abuses during the “dirty war” as well as working with several NGOs in Peru to help victims from rural communities engage with the government on their demand for reparations and provided professional advice to government agencies and advocates on compensation. These are just some of the projects they have done. It can be said that the ICTJ is an operational NGO because it primarily offers technical assistance to governments and NGOs interested in setting up accountability processes. “ICTJ mostly works on training and capacity building, although recently it has started to allocate resources to advocacy and research” (Subotic; 2012, 113). These operational projects can put ICTJ expertise in good use while decreasing field presence when they are confident that transitional justice processes can be looked after by national institutions. The job of the ICTJ would be to assist national institutions in the transition to local ownership so they can carry on with the work the ICTJ has been doing.

IV. Research Question

A lot has been written about the origins and development of TJ, what is less researched is how the international environment influences the processes of TJ. More specifically, I would like to know how are TJ NGOs—which are a group of organizations and people that promote and guide TJ processes, transformed in relation to the political and social changes throughout the world. Due to the limits of the paper, I will focus on the ICTJ.

My research question is as follows: *how can the transformation of the ICTJ be understood in relation to global human rights?* Or more specifically, *how has the ICTJ transformed and expanded in its purpose, scope, reach, internal and external activities and objectives from its beginnings to the present in the context of the changing environment of global human rights?* I will first position ICTJ advocacy within the changing environment of global human rights. I will then apply these findings to describe the transformation of the ICTJ and to analyze the consequences of the transformation on its continuing advocacy efforts and challenges.

V. Methodology

There is a wealth of information for this thesis topic because it focuses on an organization that has existed for more than a decade and it is continuously growing. I looked for gaps in the literature about TJ NGOs and ICTJ in particular and found that information on the “expansion” and “transformation” of the ICTJ and factors that have contributed to it is lacking. I carried out a detailed analysis of the ICTJ’s reports, documents, website information and other publications on any evidence of transformation and change as well as the effectiveness and impact in the organization’s purpose, scope, reach, internal/external organization and objectives. I looked at particular events and phenomena globally such as conflicts and new technological innovations to see to what extent they might have contributed to the transformation or change in organization of the ICTJ. I also looked at the ways in which the activities of the ICTJ are covered by others (i.e. the press, TJ NGOs and the scholarly community). This would give me an idea if the ICTJ has expanded through other areas outside the organization itself. I found the “Journal of Transitional Justice” and “Journal for Human rights” to be particularly helpful because they contain up to date articles

and debates on the topic. They also provide new perspectives and a critical re-examination of the theory and practice of human rights in general and transitional justice in particular.

This project is largely based on analysis of the primary source. When selecting literature for the thesis I first evaluated the relevance and credibility of the source by asking questions such as “how current is the source?” I looked for sources on the ICTJ from the year 2001 until the present in order to look for patterns of transformation from the beginnings of the ICTJ until the present. I also looked at sources and researchers from the 1980s and 1990s which allowed me to set up foundational concepts that continue to this day. I looked at how relevant the source is to the research question in order to make sure that the research stays focused and not go off on a tangent. The credentials of the authors were also taken into account and all of them are knowledgeable in the area and have written other books and/or articles on a similar topic.

Although I have not used a particular theory to support my findings, the research has been based on a participatory approach grounding which is evident throughout the project. “Participatory action can be summed up as a process that facilitates the permanent ability to identify and analyze problems, formulate and plan solutions, mobilize resources and implement them, to gain control over the processes that affect people’s lives” (Lundy and McGovern; 2008, 280). Participatory development allows for many development goals to be put into work while at the same time allowing the community to have the self-determination it needs. The type of debate that has been surrounding participatory action has to do with the persisting duality in development theory; namely, the top-down institutional level versus the bottom-up participatory based approach to development. Ultimately, my aim in this project is to illustrate that the changing political, social and economic environment can have an effect on the way the ICTJ along with other TJ NGOs develop and expand. Along with this, I want to show the debate surrounding participatory action as it also has an impact on the ICTJ and the way its programs develop. I want to show that most transitional justice projects being carried out are short-term solutions responding to the inherent problem of instability and corruption found in transitioning societies.

VI. TJ Approaches

Since the beginnings of the ICTJ, the field of transitional justice has become more defined and clear. Transitional justice consists of a whole range of approaches both judicial and non-judicial that deal with human rights violations. Quite often this includes “criminal prosecutions, including by international tribunals, non-judicial truth-seeking efforts such as truth commissions, reparations programs for victims, and institutional reform aimed at preventing the reoccurrence of abuses in the future” (Hayner; 2009, 80). Compared to other TJ NGO’s, ICTJ is different in that it believes that judicial legal measures are not sufficient. Therefore, ICTJ adopted a more all-embracing packaged approach, which focuses both on trials and alternative justice strategies (such as reparations initiatives, truth seeking, memorialization and domestic legal and security sector reforms).

VI.I Criminal Justice

One of the obvious approaches to transitional justice is criminal justice. “The investigation and prosecution of international crimes—including genocide, crimes against humanity and war crimes—is a fundamental component of transitional justice” (ICTJ Our Work: Criminal Justice). It has its origins in international law that can be traced back to the Nuremberg trials and they continue today with the ICTY and ICTR. It is important in addressing human rights violations because it helps strengthen the rule of law by putting those that have perpetrated the crime accountable which sends a strong message that crimes such as these will not be tolerated anywhere in the world. “The International Criminal Court (ICC) was first established in 2002 by the Rome Statute where they investigate and prosecute the individuals accountable for the war crimes committed in cases where countries are unwilling or unable to do so” (ICC: About the Court).

Trials play an important part in transitional justice for victims because it can bring back their dignity, of course when the trials are carried out in a manner where the victims’ needs and expectations are met. However, there are problems that arise with trials because it is difficult to achieve justice when prosecution for large-scale crimes often focus on the “big fish”—the ones that organized and planned such crimes instead of those who actually orchestrated the crime. Therefore, it is important to apply prosecution strategies with other approaches—such as projects like institutional reforms, reparations, memorialization and truth seeking which would address crimes holistically.

Domestic prosecutions for international crimes have more potential for impact when they are held within the society where the crimes occurred. However, societies that just came out of a conflict may not have the political will or ability to prosecute these crimes because the legal systems may be in a chaotic state. In response to this, “hybrid” national courts are set up by the international community, which involve both international and domestic justice actors drawing on best practices from different places. “Such courts have been created in Sierra Leone, Kosovo, Bosnia, Timor-Leste and Cambodia” (ICTJ Our Work: Criminal Justice).

The ICTJ’s role in this is that they give professional support, examination, analysis and recommendation to governments, civil society and a variety of other actors. Furthermore, they share experiences and lessons learned from other countries concerning the judicial processes. They have special knowledge on how domestic legal systems can familiarize themselves in investigating and prosecuting large-scale crimes such as genocide. Some examples where they have done this is “in Columbia, [where they] provide[d] legal support to justice actors and victim representatives in criminal proceedings against former paramilitaries under the Justice and Peace Law; [they have] done comparative research on the political, legal and policy aspects of hybrid tribunals in Sierra Leone, Bosnia, Cambodia, Kosovo, East Timor and Lebanon and we have prepared various policy tools, including briefs for the Office of the UN High Commissioner for Human Rights on domestic and hybrid prosecutions” (ICTJ Our Work: Criminal Justice).

Figure 2:

Below is a timeline showing the establishment of criminal courts since 1945 until 2002:

20.3 Timeline of Modern International Mechanisms of Transitional Justice	
<p>1945 <i>Nuremberg Trials</i> established by victorious Allies in post-War Germany</p> <ul style="list-style-type: none"> • Tribunal located in Nuremberg, Germany. • Four justices and four alternates from the four Allied countries adjudicated cases. • Charges of crimes against peace, crimes against humanity laid—crimes that did not exist at the time of commission. • More than 200 Nazi officials tried, excluding most senior decision makers. 	<p>1994 <i>International Criminal Tribunal for Rwanda</i> established by the UN Security Council to try high-ranking <i>génocidaires</i> from the 1994 genocide</p> <ul style="list-style-type: none"> • Tribunal located in Arusha, Tanzania. • Sixteen justices elected to four-year terms by the UN General Assembly, and nine <i>ad litem</i> justices (appointed only for specific cases) adjudicated cases. • Charges included genocide, crimes against humanity, and violations of the Geneva Conventions and Protocols. • Modelled after the ICTY; tribunal intended as <i>ad hoc</i>.
<p>1946 <i>Tokyo Trial</i> established by victorious Allies in post-War Japan</p> <ul style="list-style-type: none"> • Tribunal located in Tokyo, Japan. • Eleven justices from ten countries adjudicated cases. • Charges of crimes against peace, crimes against humanity, and conventional war crimes. • Twenty-eight top Japanese officials tried. 	<p>2002 <i>Special Court for Sierra Leone (SCSL)</i> established between the United Nations and Sierra Leone as the first hybrid national/international tribunal to try criminals from Sierra Leone's brutal civil war</p> <ul style="list-style-type: none"> • Tribunal located in Freetown, Sierra Leone (except Taylor, who was tried in The Hague under SCSL auspices). • Eleven judges appointed from ten countries, from across Africa and the West. • Charges included war crimes and crimes against humanity committed within Sierra Leone. • 'Big fish' including Charles Taylor charged, detained, and tried.
<p>1993 <i>International Criminal Tribunal for the Former Yugoslavia</i> established by the UN Security Council to try top officials from the conflict in the Balkans</p> <ul style="list-style-type: none"> • Tribunal located in The Hague, Netherlands. • Sixteen justices elected to four-year terms by the UN General Assembly, and twelve <i>ad litem</i> justices (appointed only for specific cases) adjudicated cases. • Charges included grave breaches of Geneva Conventions and Protocols, violations of laws of war, genocide, and crimes against humanity. • Most 'big fish' eluded capture and escaped prosecution. • Tribunal intended as <i>ad hoc</i> or temporary, to be disbanded when mandate met. 	<p>2002 <i>International Criminal Court</i> established by states parties to the Rome Statute</p> <ul style="list-style-type: none"> • Tribunal located in The Hague, Netherlands. • Eighteen justices elected from Assembly of States Parties adjudicated cases. • Charges included crimes of aggression, genocide, and war crimes.⁴ • ICC intended as permanent tribunal.

Chart taken from: Quinn, Joanna R. *Transitional Justice*, 366.

Criminal justice however has its drawbacks and it is insufficient to look at transitional justice only in a criminal justice point of view. The claim that criminal justice supports reconciliation is used as a justification for having war crimes tribunals in post-conflict societies. Also there is an issue that criminal trials miss out on other actors that may have been indirectly involved such as: “(1) unindicted perpetrators including community members who directly or indirectly profited from the event; (2) states outside the area of conflict that may have contributed to the outbreak of violence by their acts or omissions; and, (3) the bystanders who did not actively participate in violence, but who also did not actively

intervene to stop the horrors” (Fletcher and Weinstein; 2002, 593). There is a problem with the first one in that the large number of those who have engaged in criminal acts puts too much stress on domestic and international justice systems. Therefore, selectivity becomes an issue which communities have to deal with. Tribunals focus more on leaders and officials of particular regimes and to a lesser extent those who do carried out the crimes.

In regards to the second category (2), an example of this would be the war in Bosnia and Rwanda where the international community failed to intervene even though it was clear that there were atrocities being carried out there. For example, when the Bosnian Serb army overran the UN-designated “safe haven” area of Srebrenica in Bosnia. This raises the question of whether the UN should be held accountable under international law for the resulting massacre. There is another sub-category of groups that lie beyond the reach of trials: “(1) those who, swept along by group emotion or solidarity, participate at the margins—looting, taunting, or profiting from the misfortune of their neighbors—and (2) the so-called “innocent bystanders,” those who did nothing to stop or mitigate the atrocities” (Fletcher and Weinstein; 2002, 593). In other words, criminal justice systems do not look at the cases where individuals stood by or supported the war criminals or those who elected these people to represent them. For this reason “individualized guilt” is often questioned if it can actually contribute to a myth of collective innocence. “Criminal trials single out intellectual authors and actual perpetrators of atrocities while leaving to broader initiatives in rule of law, humanitarian assistance, democracy building, and economic development the task of resuscitating a sick society” (Fletcher and Weinstein; 2002, 580). Such an approach does not work to repair transitioning societies if it does not work with other capacity building measures. If there is no awareness of the processes of civil destruction in a broader sense then it becomes impossible to detect and address the most important aspects of civic reconstruction.

As for victims “they know what happened to them, they don’t need to go to court and hear evidence of what happened to them, they know, but they want the official acknowledgement and that for many victims is the beginning of their healing process.” (Goldstone et al, 3). That is why it is crucial to incorporate different approaches in the transitional process.

VI.II Reparations

Reparations are another measure that the ICTJ promotes for societies in transition. Reparations come in different forms such as monetary compensation to those who have been affected; social services such as in education, health care or housing; and other measures as in formal apologies or public memorials. The ICTJ examines and assesses earlier and current reparations initiatives. Furthermore, they do investigations, analyzing and reporting on issues concerning victims' needs, such as gender inequality, displacement, corruption etc. Based on the ICTJ's knowledge of reparation projects globally that they have participated in, the ICTJ is able to assist courts and policymakers to develop policies on reparations and programs. For example, the ICTJ has "provided assistance to the International Criminal Court (ICC) and to the Trust Fund for Victims on ways to design judicial reparations for victims; [furthermore] [they] helped the Peruvian Truth and Reconciliation Commission engage with victim's organizations when defining its reparations recommendations [among other initiatives]" (ICTJ Our Work: Reparations).

It is important however that this type of measure be engaged with other justice measures because it is often seen as trying to buy victims' silence even though the intentions are pure. "The guidelines explicitly state that their intent is to restore victims to their status in a time of peace, but the distribution of rights and resources often wasn't equal in peacetime" (De Greiff; 2006, 19). There is a problem in reparations in that it may disregard systemic oppression and can reproduce social hierarchies. For example, reparation programs have ignored the needs of women in transitional justice processes. "There is a question of access for women [...] having to do with women's greater difficulties in complying with formal requirements (such as identification, certificates, official documents, etc.); their greater difficulty in accessing information (linguistic barriers, illiteracy, etc) or having a bank account; their degree of involvement in civil society organizations that function as intermediaries in either the identification and registry of victims or the delivery of services; and their geographical distance from the agencies that decide on reparations or deliver services." (Rubio-Marin; 2006, 34). Reparation programmes should be more responsive to gender-based violence in order to truly succeed in what it is intended to do. They should be well informed about the social and economic condition of the victims it intends on repairing and should have an impact doing so. A broader approach to reparations is one that would

look at reason why the victims were more vulnerable to the violation. It should also look at the causes of the conflict and the political and structural inequalities that affect women, the current social and economic conditions of the victims and also the communities that might benefit from collective reparations.

VI.III. Truth-Seeking, including Truth Commissions

Truth commissions are commissions that deal with investigating and revealing past human rights violations by a government in order to resolve the conflict and put those who orchestrated the crime accountable. Truth Commissions comprise several parts such as protecting the evidence found, gathering files and information, interviewing victims and other actors involved both directly and indirectly, making public the information which has been gathered, writing reports and making suggestions. The increase in the adoption of truth commissions is an important indication that having the right to truth is being recognized globally. For example, “in 2011, the International Commission of Inquiry on Cote d’Ivoire was established; Brazil passed legislation to establish a truth commission that will examine crimes of the 1964-85 dictatorship; and there were renewed calls in Nepal to establish a truth commission after years of political stalling” (Three Year Strategic Plan, 3). After the political turmoil that caused change throughout the Middle East and North Africa, “one of Tunisia’s first actions was to establish national commissions to investigate human rights violations, repression, and other crimes of the past” (Three Year Strategic Plan, 3).

It is imperative for societies and individuals to know that they have the right to know the truth about mass human rights violations in events of armed conflict or repression. “International law clearly recognizes the right of victims and survivors to know about the circumstances of serious violations of their human rights and about who was responsible [and] it continues to develop in this area and on the concept of a society’s right to the truth” (ICTJ Our Work: Truth and Memory). Not all societies recognize the importance of personal and collective healing. Truth telling goes a long way to address wrongdoing especially when authoritarian regimes purposely rewrite history in their own way and deny the violations they have committed. Truth seeking helps in establishing a historical record that would put off any manipulation and it would help victims to learn more about what happened (i.e. the whereabouts of disappeared individuals and why certain people were targeted etc.). It would also bring an end to the whole turmoil for the victims.

Ever since it first began in Latin America, truth commissions have become a very important part in transitional justice processes around the globe. “As of early 2011, some 40 official truth commissions worldwide have been created to provide an account of past abuses” (ICTJ Our Work: Truth and Memory). For example, in Argentina, the National Commission for Forced Disappearances has been established, in Canada the Indian Residential Schools Truth and Reconciliation Commission and the Truth and Reconciliation Commission in South Africa just to name a few.

Figure 3:

20.4 Where have Truth Commissions been Established?			
Uganda	Commission of Inquiry into the Disappearance of People in Uganda Since the 25th January 1971 (1974)	South Africa	Commission of Enquiry into Certain Allegations of Cruelty and Human Rights Abuse against ANC Prisoners and Detainees by ANC Members (1979–1991)
Bolivia	<i>Comisión Nacional de Investigación de Desaparecidos*</i> (1982–1984) (National Commission of Inquiry into Disappearances)	Sri Lanka	Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons (1988–1994)
Argentina	<i>Comisión Nacional para la Desaparición de Personas</i> (1983–1984) (National Commission on the Disappearance of Persons)	Haiti	<i>Commission nationale de vérité et de justice</i> (1991–1994) (National Commission of Truth and Justice)
Uruguay	<i>Comisión Investigadora sobre la Situación de Personas Desaparecidas y Hechos que la Motivaron</i> (1985) (Investigative Commission on the Situation of Disappeared People and Its Causes)	Burundi	International Commission of Inquiry (1995–1996)
Zimbabwe	Commission of Inquiry (1985)	South Africa	Truth and Reconciliation Commission (1995–2000)
Uganda	Commission of Inquiry into Violations of Human Rights (1986–1994)	Ecuador	<i>Comisión de la Verdad et Justicia</i> (1996–1997) (Truth and Justice Commission)
Nepal	Commission of Inquiry to Locate the Persons Disappeared during the Panchayet Period (1990–1991)	Guatemala	<i>Comisión para el Esclarecimiento Histórico</i> (1997–1999) (Commission for Historical Clarification)
Chile	<i>Comisión Nacional para la Verdad y Reconciliación</i> (1990–1991) (National Commission on Truth and Reconciliation)	Nigeria	Commission of Inquiry for the Investigation of Human Rights Violations (1999–2000)
Chad	<i>Commission d'Enquête sur les Crimes et Détournements Commis par l'Ex-Président Habré, ses co-Auteurs et/ou Complices</i> (1991–1992) (Commission of Inquiry on the Crimes and Misappropriations Committed by the Ex-President Habré, His Accomplices and/or Accessories)	Sierra Leone	Truth and Reconciliation Commission (2000–2004)
South Africa	Commission of Enquiry into Complaints by Former African National Congress Prisoners and Detainees (1992)	Serbia	Yugoslav Truth and Reconciliation Commission* (2001–2003)
(ANC)		Peru	<i>Comisión de la Verdad y Reconciliación</i> (2003) (Truth and Reconciliation Commission)
Germany	<i>Enquete Kommission Aufarbeitung von</i>	Morocco	<i>Instance Équité et Réconciliation</i> (2004–2005) (Fairness and Reconciliation Commission)
		Ghana	National Reconciliation Commission (2004–2005)
		Timor-Leste	Commission for Reception, Truth, and

El Salvador	<i>Geschichte und Folgen der SED-Diktatur in Deutschland (1992–1994)</i> (Commission of Inquiry for the Assessment of History and Consequences of the SED Dictatorship in Germany) <i>Comisión de la Verdad para El Salvador (1992–1993)</i> (Commission on the Truth for El Salvador)	Liberia	Reconciliation (2005) Truth and Reconciliation Commission (2006–2008) *Unable to complete its work; disbanded without producing a report. Adapted from Hayner (2003).
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(Quinn, Johanna R. Ch. 20 “Transitional Justice.” In: Goodhart, Michael. ed. *Human Rights: Politics and Practice*, 370).

Despite some of the positive impact truth commissions may have on truth building, they can also get in the way of having a transparent transitional process because sometimes they can be used as a way for legitimizing new governments. It does not necessarily mean that the transition is going to be a democratic one even though truth commissions are generally associated with regime transitions.

“The 1986 Ugandan commission and the case of Chad are emblematic of truth commissions being used mainly as a tool to discredit the previous regime. In other cases, such as Uganda’s 1974 commission, it seemed not to be a sincere attempt to rectify the past, but rather a flimsy effort to placate international pressure. Furthermore, in places such as Zimbabwe and Haiti, the publication of the commission’s report was hindered or completely stopped because it was too critical of the new government. In Bolivia and Ecuador, commissions cannot be solely blamed for this—the political will to act on their findings did not exist” (Beyond Intractability: Truth Commissions).

Generally speaking, there are high expectations of truth commissions from the general public. Truth commissions sometimes, however, do not live up to these expectations because they do not go far enough to deal with the past or to assist in reconciliation. Truth Commissions do not have the right to punish nor do they have the authority to implement reforms. Also, forgetting all past problems and starting anew benefits those who committed human rights violations. This denies the victims’ justice and they begin to lose their own sense of worth. A lot is expected from truth commissions, however; there is only so much truth commissions can do. They try to investigate the particular events that happened and the reasons for why it happened while at the same time trying to facilitate reconciliation.

Truth commissions are one part of the peace process and it should work together with other approaches in order to see positive results. It would be unfair to judge the success of truth commissions solely by looking at the social and political stability of the new regime

or looking at the crime levels or the adherence to the rule of law. There are many factors that would determine whether ever-lasting peace would be maintained.

VI.IV Memory and Memorials

Along with truth telling, memorialization is an approach that addresses wrongdoing in a way that reconciles tensions with perpetrators. Human rights violations should not be forgotten and victims have a fundamental right to memorialization to preserve the memory of such violations. Memorialization in the form of memorials, museums and other commemorative activities are important, as they are educational for others to learn about the atrocities and to establish the record and avoid reoccurrence. “Memorials whose goal is to prevent the repetition of past abuses will ask us not only to remember the victims, but to look inward and think critically about our history and what forces within society or ourselves unleashed the demons of war, racism, or political oppression” (Brett et al.; 2007, 6).

The ICTJ helps in initiating commemoration activities, which in turn has led states to acknowledge what had happened in the past. Some examples of commemoration projects that were initiated by the ICTJ include: “[a] truth commission in Morocco, established to investigate human rights violations committed from 1956-1990 [and] based on best practices from other commissions worldwide, we [the ICTJ] recommended the use of public hearings for dissemination of the truth” (ICTJ Our Work: Truth and Memory). ICTJ’s work and training activities demonstrate best practice so that future truth and memory initiatives can have benefit from past experience.

Despite some of the advances, memorialization still remains a largely underdeveloped field. The reason for this is because they are quite often seen as external to the political process or at least in the margins of the political process, in an area designated for “soft” cultural politics. “Memory sites fall between the cracks of existing policies for historic preservation, transitional justice, democratic governance, urban planning, and human rights” (Brett et al.; 2007, 2). This is why memorials are hardly ever incorporated into larger strategies of democracy building. There are major challenges that the memorialization approach faces such as determining to whom the memorial should be dedicated to. This is an issue in Bosnia and Herzegovina where raising a memorial to the victims of one ethnic group that form the majority of the population in the country can be a serious challenge.

Kada Hotic (Association of citizens “Mothers of Srebrenica and Zepa Enclaves”) described the challenges faced with the commemoration of victims of the Srebrenica genocide in the Bosnian entity of Republika Srpska: “When we commemorate victims, we visit the warehouse in Kravica, where people were killed. However, we cannot leave any flowers there which will not be removed half an hour later, let alone erect a memorial” (Brett et al.; 2007, 7).

Experts point out that removing controversial memorials is not a solution because it can make the situation much worse by further aggravating the tension between the groups. Instead, it is important to address this in a way that allows memorials to co-exist in a manner that is respectful of all. Memorials should be made to act as open forums in order to facilitate in the broader democratic reconstruction that encourages cooperation and dialogue between citizens to come to terms with the past.

VI.V. Institutional Reform

Public institutions such as government, police, military and courts are often used as tool for suppression and systematic violation of human rights. When states are transitioning to a democratic government, reforming these institutions is crucial. “Institutional reform is the process of reviewing and restructuring state institutions so that they respect human rights, preserve the rule of law, and are accountable to their constituents” (Our Work: Institutional Reform). It contributes to transitional justice because it disables the functioning of institutions and organizations that permitted the violations to happen which in turn deters those in power to continue committing crimes.

Institutional reform like other measures comes in many forms, such as vetting. Vetting refers to the “examination of personnel backgrounds during restructuring or recruitment to eliminate from public service or otherwise sanction abusive and corrupt officials” (Our Work: Institutional Reform). There is also structural reform, which is basically the reformation of institutions where integrity and legitimacy is maintained by showing accountability, independence, awareness and representation. Another important measure within institutional reform is oversight, which basically means creating a transparent body of authority that oversees the work within the state institutions that guarantees

accountability to civilian governance. The reformation or creation of new legal frameworks is another process within institutional reform that works to “adopt constitutional amendments or international human rights treaties to ensure protection and promotion of human rights” (Our Work: Institutional Reform). Institutional reform in most cases calls for disarmament, demobilization, and reintegration, which means disabling armed forces such as military groups and providing justice and a way for ex-combatants to reintegrate into society. Also as a transitional humanitarian mechanism it aspires to educate people on this matter so that they can know their rights and to bring trust between the citizens and their institutions. Some measures used to facilitate in this process include promoting freedom of information, public awareness on issues such as citizen’s rights and raising memorials or giving public apologies as a symbolic form. Examples of initiatives that have been taken by the ICTJ to assist in institutional reform are through various projects. For example, “in the Democratic Republic of Congo, [the ICTJ] worked to ensure that new legislation on the security system includes accountability principles...[furthermore], we have produced guidelines for vetting security sector institutions published by the Office of the UN High Commissioner for Human Rights and by the United Nations Development Programme—published also in *Justice as Prevention*” (Our Work: Institutional Reform).

For institutional reform to be most effective it must be incorporated in a wide-ranging transitional justice policy that consists of criminal prosecutions, truth seeking, and reparations to victims. First and foremost, it cannot happen without a stable state structure, which provides a framework for security, rule of law, economic development, and political stability. Institutional reform is a difficult task in post-conflict countries as is evident in recent experience, particularly in Bosnia and Kosovo but also in Iraq and Afghanistan. While international contribution is vital, the problem lies in the fact that little room is given for local input into institutional reform. In order to have legitimacy and sustainability, the local population needs to participate in the process. “Where incentives become distorted, particularly when local governance institutions become accountable to foreign donors rather than local people, the potential for effective state-building is undermined even further [...] therefore, the participation of local stakeholders in enacting institutional reforms is crucial” (Sullivan et al.; 2009).

If local members do not exist they must be created no matter how difficult this may be. Larry Diamond, a contemporary scholar from the field of democracy studies at Stanford University notes, “efforts must proceed with some humility and a decent respect for the opinions of the people who are ultimately on the receiving end of that reconstruction” (Sullivan et al.; 2009). This way, institutions can be based on local experiences, needs and concerns which make them legitimate and would help countries to achieve an agreement on reform and become sustainable democracies even if it means lengthening the reform process. Institutions cannot be transferred from one country to another because what works in one country may not necessarily work in the other. Therefore local culture should be put into consideration. Incentives should also be put in place because if there were no incentives for the government or for the citizens to help improve the functioning of institutions, then stable institutions would be very unlikely.

Giving the locals the opportunity to reconstruct their own institutions is an ambitious task but it is necessary if countries want to have some say in humanitarian aid and institutional reform. If there is a situation where the implementation of reforms and the channeling of humanitarian relief is not going so well, focus should be put on building it up instead of bringing in external leadership to substitute it. There should be the right amount of both external and local cooperation to help revive the reform process but not too much of one because it may interfere with incentives and can hinder long term goals at the expense of short term needs.

VII. TJ NGOs

NGOs today have a greater opportunity for resource mobilization and political access which are very important for NGOs’ growth thanks to international organizations and the ever changing state policies. As will be discussed in detail in the paper there was an emergence of a new pro-NGO international norm since the 1980s that set a top-down pressure on countries to support and involve NGOs in both international and national politics.

The role of NGOs in TJ processes are important in that they offer a different approach in offering aid. They have the capability to reach the victims directly, they are more accommodating, they have unique ways in dealing with obstacles, they have the ability to

reach out to many and increase participation in their projects. Their relatively low cost have made them important actors in these processes. International justice advocacy NGOs have played an important role in the expansion and transformation of the TJ field as they have “made rules, set standards, defined principles of action, formulated global issues, promoted ways in which these transitional justice issues should be resolved and lobbied states to enact policies consistent with their principles” (Subotic; 2012, 112). This new outlook on NGOs is due to the shift from top-down led development which has proved to be unsuccessful toward a more bottom-up, local, grassroots approach that is participatory. The state-led development model focused more on the recovery of the rule of law and not on human rights issues concerning the victims. Since the State was seen as a barrier to local participation, participatory development is based a lot on civil society. The shift to participatory development allows for many development goals to be put into work while at the same time allowing the community to have the self-determination it needs.

TJ NGOs in most cases work together with other human rights NGOs because they generally share similar objectives and work with limited resources. Furthermore, working together increases effectiveness and avoids repetitions of particular projects. “This type of coordination is essential when attempting to reach target audiences, since external partners to the TJ NGO community [such as other NGOs and donors] can act as intermediaries, assisting in the establishment of lines of communication with certain groups” (Making an Impact, 28). Working in partnerships also gives technical and financial support as well as professional guidance and know-how.

There are a couple of other human rights NGOs along with the ICTJ that have taken up issues on transitional justice in their work such as the two well known NGOs, Amnesty International and Human Rights Watch, and other less known such as Center for Justice and Accountability (CJA), Open Society Justice Initiative Institute and Coalition for the International Criminal Court. “Unlike the ICTJ, other TJ NGOs are more focused on lobbying and so interests in projects usually diverge because of this” (Subotic; 2012, 114). Human Rights Watch (HRW) for example, “is primarily an advocacy and lobbying group that focuses on reporting human rights abuses and publicly shaming abusive states or intrastate actors” (HRW: Who We Are). Thus, HRW has been the main protagonist in the development transmission of the “international individual criminal accountability norm”. It was an important influence in the formation of the *ad hoc* tribunals such as the ICTY, ICTR,

and the ICC. Compared to the ICTJ, HRW has a stronger legalistic focus where they not only aim at making sure that abusers are punished but also work to prevent potential violators to commit future crimes. “Its (HRW’s) understanding of conflict, justice and accountability is grounded in a commitment to individual criminal accountability, derived from international human rights practice that excludes the possibility of amnesty” (Subotic; 2012, 113). HRW is considered to work more with top organizations and governments by giving them advice for specific government actions. HRW also has more contact with different media outlets which keeps them in the public eye. “Indeed, citation in the *New York Times* or the *Washington Post* is counted as a success by Human Rights Watch, much as Amnesty International would trumpet the release of a prisoner of conscience” (Welch; 2001, 15).

Amnesty International (AI), which is one of the most well-researched human rights NGOs and the architect of the concept of ‘naming and shaming,’ gains its strength from its mass membership and its capacity to gather a large group to put pressure on politicians, armed groups, companies and international organizations through public demonstrations, petitions, human rights education, direct lobbying and other public actions. AI has a fairly strict mandate and its role in transitional justice lobbying is quite significant. “The group has the longest history and broadest name recognition in the field, won the Nobel Peace Prize in 1977, and is believed by many to set standards for the movement as a whole” (Ron et al., 6). What makes AI especially noteworthy along with other NGOs is that they are not political. “They have no political affiliation, endorse no political party, and [accept] no fund[ing] from governments or any political party” (Ron et al.; 2004, 7). Compared to HRW, AI has been quite hesitant to new adjustments in the organization as they are sticking to the same mandate. Their fundraising approach is also different because AI relies mostly on contribution from members whereas Human Rights Watch relies a lot on big donations and foundation grants from elite organizations and individuals. Analyzing the websites of HRW and Amnesty International, I found that they do not talk much about transitional justice per se but more on cases in which they were involved in.

Center for Justice and Accountability (CJA) has a distinct legal approach to TJ because it does direct legal action on behalf of human rights abuse victims. Furthermore, “CJA works together with national prosecutors and provides expertise on a variety of trial elements, such as witness preparation, testimony and introduction of evidence” (Subotic;

2012, 114). The organization also gives technical assistance in the field of law such as training national judges, prosecutors and investigators on how to deal with human rights prosecutions and it also offers health and psychological services to victims and their communities.

The purpose of this brief description of the NGOs that are involved in TJ was to describe the variety of activities and practices each one of them are involved in while having a shared set of goals. There are however areas where the ICTJ and the other NGOs depart. Where the ICTJ and AI/HRW diverge is that the latter are hesitant about truth telling and other restorative approaches because they see it as obstructing the rule of law. These two organizations, AI/HRW, are 'gatekeeper' organizations meaning that they are powerful in conveying messages. "These 'elite' human rights organizations influence other NGOs, which imitate the leading NGOs' work, methods, issue choices and structure" (Subotic; 2012, 12). Furthermore, these NGOs "have become critical to framing the way in which postconflict accountability becomes defined, articulated and constructed" (Ni Aola'in; 2009, 1056). They also have greater credibility; they are in the spotlight and have connections to the media and governmental and international institutions which smaller NGOs do not which makes them important. Their 'popularity' also helps them to take on a cause, propose a solution and to activate other organizations in the same field to do the same. Being a well known NGO helps transitional justice issues that they deal with to be well known as well. "They exercise authority over the human rights agenda because once they support a particular human rights claim, this issue is perceived by both activists and governments as legitimate, as an agenda item they need to take seriously" (Subotic; 2012, 113).

ICTJ does not oppose what AI/HRW do but believes that they should offer a more participatory approach to justice from the ground up where the activities would make an impact on the victims and society directly. For TJ projects, organizations that aim at helping victims and human rights NGOs are generally the best for productive collaboration. However, a problem with this is that when the projects aim at a particular social group (i.e. children, women etc.) without looking at the underlying issues that transitions and conflicts have brought them in, collaborating with these types of NGOs only, will not be adequate. For this reason it is crucial to make connections with states and other NGOs that are knowledgeable in other areas such as development, children's rights, gender issues and displacement among others. These NGOs are resourceful in that they have experience

working on the ground and thus having local connections they can reach. Having this continuing local presence and experience working with communities, they are able to build trust among people and the institutions.

NGOs have always been active in following human rights violations during civil wars where the actions led by governments have been inadequate or unsatisfactory. TJ NGOs need cooperation from the government in order to achieve meaningful change. Of course some governments refuse to cooperate in this regard. “Indeed, states will rarely attribute change in policy to pressure from human rights NGOs, or may actively deny it; often this follows from a denial of the abuse in the first place” (No Perfect Measure, 8). Even if changes were brought about by TJ NGOs, sometimes governments would never show this to the public or they would simply deny it. Recently there have been initiatives by governments from various countries to limit the freedom of TJ NGOs. This too is a breach of human rights. “A dynamic and autonomous civil society, able to operate freely, is one of the fundamental checks and balances necessary for building a healthy society, and one of the key bridges between governments and their people [...] it is therefore crucial that NGOs are able to function properly in countries in transition, as well as in established democracies says UN High Commissioner for Human Rights, Navi Pillay” (“Restrictions on NGOs Worldwide”, UN News Centre).

In the case of Egypt allowing a draft law would give the government too much freedom to control TJ NGOs. “If passed in its current forms, [it will] seriously undermine the spirit of Egypt’s revolution, in which civil society played such a pivotal role” (“Restrictions on NGOs Worldwide”, UN News Centre). Another example would be in Cambodia where their government would have a similar law in effect which would shut down NGOs that pose a threat to the nation according to their government officials. A similar law was passed in Algeria. Ms. Pillay also expressed concern about ongoing attempts to stop NGO funding, on which the organization and everyone depends on. Governments obviously do not have the obligation to finance NGOs but they do not have the right to stop other organizations or individuals from donating money for their activities if it is for a legitimate cause.

VIII. The Changing International Environment of Global Human Rights

Today the setting in which transitional justice operates has changed significantly since it first came about. When transitional justice measures were used for the first time in South America beginning with the trials of the Juntas in Argentina in 1983, it was for states that were going through transition from an authoritarian government to a democratic one. The measures used then were applied in order to repair the institutions that were repressive. In the last two decades, it is used mainly for unstable states recovering from conflicts that are not able to function properly. “The crimes being examined in these settings are often more a product of social chaos than of policies of systematic state abuse” (Three Year Strategic Plan, 3).

Over the past 20 years, a number of global forces have paved the way for new opportunities in which human rights advocacy and more specifically TJ advocacy was able to expand. The advancement of the human rights framework on the local, national and global level increased opportunities for TJ by having one action at one level cause action or change on another. For example, “the Inter-American Court of Human Rights concluded that pardons and amnesty decisions in Argentina were incompatible with the American convention [...] such ruling are creating a body of jurisprudence at the Inter-American level that domestic courts are expected, and increasingly inclined, to take note of” (Domingo; 2012, 6). Therefore, decisions like this one made by the Inter-American Court of Human rights effects the national decisions made about TJ in the region. Even striking events can open the way for strategic opportunities for TJ efforts in different places or in different areas within TJ. For example, “the arrest of General Pinochet in London in 1998 speeded up domestic criminal processes in Chile and prompted similar international action in a number of other cases in other countries” (Domingo; 2012, 6). Decisions made by international actors can also outline the course of action internationally. For example, “some thought that the indictment by the ICC against President Bahir in Sudan exacerbated conditions on the ground and put more lives at risk” (Domingo; 2012, 7). The choices made by these actors concerning TJ are controversial because they are political and because of this they can have major repercussions in global politics.

Another global phenomenon that has helped advance TJ was the concept of global liberalism that was becoming more and more normalized. “The larger norm of global liberalism, which is evident in the increasing legalization of the international system and reliance on the rule of law as the appropriate model of state practice”(Abbott et al.; 2000, 402). Legalization is showing signs of spreading and institutionalization as can be seen through the many TJ NGOs that have adopted this approach, which assists in the further expansion and strengthening of TJ. This legalization of transitional justice or more generally the human rights field has made other issues that were not considered a legal matter to become an accepted practice in the TJ field. “This judicialization of international relations has put a clear mark of legalism on TJ, which is becoming rapidly institutionalized through legal edifices, such as the *ad hoc* International Criminal Tribunal for Rwanda (ICTR) and International Criminal Tribunal for the former Yugoslavia (ICTY) or the International Criminal Court (ICC)” (Subotic; 2012, 109).

The changing international global human rights environment means that issues and actors they deal with constantly change. “Patterns of human rights abuse change, who is legally accountable may change, the legal basis for monitoring human rights abuse may change, the field of international and domestic human rights institutions, and of NGOs themselves, all may change” (Bell and Keenen; 2004, 333). Whether a TJ NGO continues to exist depends on the changes that affect it. “These changes can affect [...] what mandate it works under, its priorities, its ability to recruit and retain staff, the types of intervention which it finds effective, its funding base, and its institutional capacity” (Bell and Keenen; 2004, 333). The changes in conflict violence can also have a tremendous affect on human rights issues, which need to be addressed by TJ NGOs. For example, “the initial aim of a peace process is usually to get a cease-fire in which further negotiations can take place [...] a cease-fire will [therefore] change patterns of violence, and with it patterns of human rights abuse” (Bell and Keenen; 2004, 338). Issues concerning massacres cease to exist after negotiations take place because there is a legally binding agreement between the two parties that the conflict should stop which then automatically changes in some aspects the priorities for TJ NGOs.

The human rights environment as we can see is constantly changing and therefore TJ mechanisms are hardly ever fixed in time. Human rights highly depend on the political processes which can redesign incentive structures and allow for change to happen. Human

rights activists need to watch out for these changes in world politics and see where the opportunity arises so that they can then adjust their tactics to these opportunities. During a transitional phase governments are most likely not able to get back up on their feet or are simply unwilling to reorganize society and so they are often in need of social aid. TJ NGOs are seen as an important actor in the reorganization of the transitioning society and this is where there opportunity comes in to be involved. The importance of these TJ NGOs is then supported globally, which gave them leverage to expand. “[The] international normative promotion of NGOs has given NGOs legitimacy and political space in many countries that previously suppressed NGOs and is one of the reasons for the spread of NGOs from the West to other parts of the world” (Reimann; 2006, 46).

IX. The Transformation of Transitional Justice Advocacy and the ICTJ

IX. I. Expansion of Purpose

As the TJ norm becomes more acknowledged and institutionalized, it also continues to grow and expand into areas TJ NGOs usually do not focus on. Probably the most obvious sign of TJ advocacy success is in the establishment of the permanent International Criminal Court (ICC) in 2002 along with ad hoc tribunals, the International Criminal Tribunal for former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR). Along with this “many TJ NGOs expanded the scope of their activities to not only helping communities deal with legacies of violence but also deterring future conflict from occurring, or even using TJ instruments to intervene in ongoing conflicts” (Subotic; 2012, 155-56). The new approach puts TJ in a new perspective—“from a moral or legal duty to one that is instrumental, that can be used as a political tool of peacebuilding” (Vinjamuri; 2010, 192).

The TJ projects undertaken by NGOs are now included more directly in larger projects of peace building and state building and thus have come to be seen as globally significant and consequential than it has ever been before because the peace and state building projects now also focus on improving the lives of the victims by making sure they receive the daily necessities they need and also helping them cope with what has happened. “What used to be discretionary mechanisms for societies to deal with past violence (truth commissions in some countries, trials of perpetrators in others), primarily driven by a moral principle of ending impunity or acknowledging victims, are increasingly included in post

conflict peace accords, conflict resolution and peacekeeping negotiations as political tools” (Subotic; 2012, 106).

TJ is expanding into areas where it has not normally focused on such as development policy and assistance. “A huge proportion of the development effort now goes into building courts, reconstructing judicial systems from the ground up, conducting war crimes trials and generally promoting the rule of law” (Subotic; 2012, 115). Another expansion of the scope of TJ projects is the focus on security sector reform, which ICTJ, for example, has made to be one of ICTJ’s central TJ mechanisms. “Interest in the security sector represents, in fact, a broader concern with institutional reform, which includes such state-building measures as disarmament, demobilization and reintegration” (Subotic; 2012, 115). This shows that there are efforts to move beyond the more traditional TJ concern of accountability and truth seeking while still having these two concerns in the back of their minds. The paper briefly mentioned that criminal justice is the main TJ mechanism that has been used in transitional justice processes since its beginnings. However, now we can see that TJ NGOs are expanding to other areas.

From the very beginning, the ICTJ set out the main principles of their work and it has stayed unchanged ever since but with a few additions to their work such as promoting local involvement and empowerment and focusing on new topics which the paper will discuss shortly. Recently, it has also begun to work in different countries on its own initiative when there is a clear necessity as opposed to the organization’s earlier years when they worked in countries only when they were called on from the government or other human rights organizations.

IX.II Changes in Issues

Transition phases usually bring about evident changes to which TJ NGOs must respond. One of the changes are concerning issues that they deal with. These are new issues that arise that are connected with transitional justice but that have not yet been thoroughly researched and therefore it can pose a challenge to TJ NGOs because they are faced with issues they are not familiar with. Planning for such issues that arise randomly becomes difficult. “While the general patterns are predictable, the precise issues arising are not, and cannot therefore be planned for” (Bell and Keenan; 2004, 338). For example, the issues concerning internally

displaced people are fairly new to the ICTJ and it poses a great challenge. Not much attention has been given to how TJ approaches can be used to deal with the wide range of injustices that come with displacement. Large-scale displacement is quite complex and varied and so TJ approaches do not have much capacity to deal directly to victims. Large displaced populations can pose major resource and capacity challenges. For example, “providing financial compensation for lost property and the suffering of thousands or even millions of displaced persons is often simply unaffordable for transitional government, particularly in developing countries” (Transitional Justice and Displacement: Challenges and Recommendations, 5). Furthermore, there are technical and institutional challenges that include “assessing the needs and rights of displaced populations and distributing an appropriate range of benefits in an efficient and fair manner” (Transitional Justice and Displacement: Challenges and Recommendations, 5). There is also an issue of determining who is considered a victim of forced displacement and who is eligible for reparations. This is quite difficult to determine especially when there are cases where those displaced are not formally registered.

In terms of jurisdiction, it continues to be a problem because there are not many laws out there concerning internal displacement in depth. “Criminal justice efforts are constrained because international jurisprudence on forced migration as a crime, while evolving, is not yet as developed as is the jurisprudence for other violations” (Transitional Justice and Displacement: Challenges and Recommendations, 5). Prosecutors are more inclined to choose more traditional crimes around resource and political constraints, simply because it is easier to evaluate. A major problem that exists is that national criminal justice courts center on crimes connected to displacement instead of the crime of displacement itself. “Displacement is often seen as a natural consequence of other crimes or as an inherent effect of armed conflict, and as a result, there are few investigation of the criminality or rationale of the multiple actors involved in these crimes” (Transitional Justice and Displacement: Challenges and Recommendations, 6).

IX.III Governance and Structure

Since its inception, the governance and structure of the ICTJ has grown profoundly that it made changes to its internal structure. “The most important change came in 2007 when the

organization delineated regional and thematic programs, with a director heading up each region (Africa, Americas, Asia, Europe, and the Middle East and North Africa) and each thematic area (prosecutions, truth-seeking, reparations, security-system reform, memorials, gender, and peace and justice)” (Hayner; 2009, 80). There are now thirty-one ICTJ representation offices around the world. “Permanent representation offices were established in Cape Town, South Africa; Brussels, Belgium; Geneva, Switzerland; and program offices were set up in a number of additional countries such as Columbia, the Democratic Republic of the Congo, Indonesia, Liberia, and Nepal” (Hayner; 2009, 80). Probably the most noticeable transformation of the ICTJ’s governance and structure internally is its fast and consistent growth in a relatively short time. “By 2008, when it had been in operation for just seven years, its staff had reached a size of approximately 130 and retained offices in ten countries around the world, including its New York headquarters. This expansion was largely a result of the extensive demands arising in the many countries it works in, as well as significant financial contributions to support that work” (Hayner; 2009, 80).

The board of directors has also increased to eighteen members by 2008. “Since the founding president, Alex Boraine, stepped aside in 2004, the organization has been led by Argentine human rights advocate and legal scholar Juan E. Mendez” (Hayner; 2009, 81). The international or global nature of the organization can be seen through the diversity of its staff and board of directors especially when taking into account the number of different spoken languages and the nationalities of the staff members. “In 2008 it boasted an impressive thirty-one nationalities within its staff of 130, who spoke thirty-two different languages” (Hayner; 2009, 80).

IX.IV Finances

The organization funding has grown steadily throughout the years from a wide array of donors. “The initial commitment from the Ford Foundation, \$15 million over five years, provided a solid financial base” (Hayner; 2009, 81). This was soon expanded with contributions from other private foundations. A couple of years in, the ICTJ started to receive funds from governments as well as support from the European Union, Canada, Japan as well as other countries. Due to the central role the U.S. plays in foreign affairs, “it [the ICTJ] established a policy that restricted it from seeking U.S. government funds, based

on a stated need for independence and the central role that the United States plays in many contexts in which the Centre works” (Hayner; 2009, 81).

In the end of 2008, the ICTJ was beginning to draw support from individual donors, which are an important source of support for the existence of these human rights organizations. “The ICTJ received financial support from eighteen foundations and thirteen governments [...] the organization’s growth during these years was steady, in some years seeing its expenditures grow by over 40 percent from the previous year. This tremendous growth naturally put operational strains on the organization, but its widely respected programming continued to attract the necessary funding. Its projected expenditures for fiscal year 2008-2009 stood at close to \$20 million, a 20 percent increase over the previous year” (Hayner; 2009, 82). A great portion of the funding is directed through multilateral pacts and international organizations such as the United Nations and the International Criminal Court.

IX.V Professionalization

TJ first started out with small NGOs and a limited number of people who were involved voluntarily. As there was no particular training for this job in the late 1980s, they were expected to learn on the job. Nowadays TJ advocacy has become a unique ‘justice industry,’ with highly skilled members with advanced degrees in law or social sciences. When talking about professionalization, it refers to the increasing sophistication of the TJ field through the work that organizations such as the ICTJ do and also the sophistication of the organization itself. “When the ICTJ was established in 2001, it had four permanent staff members working out of temporary offices and serving as *ad hoc* advisers to countries, with an operational budget of around \$5 million. Today, ICTJ employs more than 120 people, has a central headquarters in New York City, five permanent regional offices (Brussels, Belgium; Bogota, Columbia; Beirut, Lebanon; Nairobi, Kenya and Kathmandu, Nepal), ongoing operations in more than thirty countries and an annual budget of around \$20 million” (ICTJ Annual Report 2010).

Professionalization has also changed the type of work that international TJ activists are involved in. Earlier TJ efforts worked mostly on supporting TJ activities globally, whereas now TJ NGOs actually plan, set up, recruit and consult for international and domestic justice institutions. TJ advocacy NGOs have as a result become a direct driving

force for TJ projects: “they collect witness testimony and evidence, serve as expert witnesses and advisers and help generate the political pressure necessary for the arrest of suspects” (Olsen et al.; 2010, 47). Furthermore, “they lobby on states’ behalf, fundraise and link the use of TJ with other international benefits, such as state membership in international organizations [...] they also act as plaintiffs on behalf of victims, bringing lawsuits against alleged perpetrators in the US and Spain, for example, under universal jurisdiction” (Olsen et al.; 2010, 47).

The professionalization of TJ is due to its increasing legalization or ‘lawyerization’ as already discussed. This is no wonder considering the fact that TJ came about as a legal response to the political changes in South America and Eastern Europe in the late 1980s and early 1990s and many TJ activists from around the world have some background in law. The work TJ NGOs do is increasingly professional because they use a legalistic framework to show that their arguments and conclusions are universally objective and uncontroversial because they rely on human rights principles. Being legalistic does not necessarily equate to being professional but when an organization goes by the rules and facts, it shows us they are setting legal standards which is an important aspect to the “professionalism” of the organization. This legalization has helped professionalize and institutionalize international criminal justice as well as make human rights a well known concept to the public over the past couple of decades. However, the problem here is that while transitional justice has become institutionalized and professionalized, not much thought has been put into the reasons why still different types of traditional judicial practices are used in different countries, particularly in Africa. “In Sierra Leone it has been estimated that some 85% of the population does not have access to formal justice and relies upon traditional measures (Sriram and Ross; 2007, 48). This has to do with the fairly low cost and accessibility of local justice to the poor and because local justices are intermediaries of issues concerning land and family/lineage. Local justice processes are seen as efficient in repairing and restoring relationships that all community members can associate with. International judicial courts are making little sense of this and for this reason they are receiving very little support from the actual people they are supposed to be assisting.

The focus on project effectiveness is also another aspect of ICTJ advocacy professionalization, which has been pressured from the outside and also from the TJ NGO community. “TJ NGOs increasingly work within newly developed standards of operations

and are ever more facing donor pressure to demonstrate clearly each project's impact and effectiveness" (Gorvin; 2009, 479). Organizations that fund NGO activities want to know exactly what the aim of the projects are and they want to see positive results from such projects. Therefore, there is increasing pressure on NGOs from donor organizations. TJ goals such as truth seeking and social healing can be quite difficult to evaluate and so TJ projects have always been under skepticism that they do not produce clear outcomes. That is why "donors demand that all human rights NGOs, and TJ NGOs among them, be able to demonstrate macro and micro indicators of project success in order to renew funding" (Subotic; 2012, 119). Macro indicators of success would include "states adopting new justice standards as a consequence of a TJ organization's recommendations, general awareness raising of TJ issues and capacity building of local partner NGOs" (Subotic; 2012, 119). Micro indicators include "completion of training programs for local judiciary or a human rights trial successfully completed" (Subotic; 2012, 119). Concentrating on efficiency, effectiveness and relevance of TJ projects makes the organization valuable for transitional justice according to program evaluators. This change in focus towards impact and effectiveness determines the kind of projects TJ NGOs decide to do and how they go about doing them.

Professionalization is not without its drawbacks. In order for TJ NGOs to carry out the projects effectively and efficiently as they do, they had to become professionalized. However, while it allows them to do a lot more with greater recognition, it has resulted in something called 'templatization' which basically refers to applying the same TJ mechanisms in the same manner for every transitioning country. "These best practices have been further institutionalized in UN manuals, such as the 'rule-of-law tools,' which explicitly adopt the 'templatization' approach by calling for a holistic or integral approach to TJ that includes prosecutions, truth commissions and vetting" (Subotic; 2012, 120). This impacts the way TJ functions and it influences the outcomes of their projects in a negative way. Every country is different and has its own unique problems and simply applying the same models to all would not give the expected results.

IX.VI Media

One question that comes to mind after a violent conflict is how a society restores the rule of law or rebuilds it and how does it maintain a setting where human rights and democracy should be a custom? One way this becomes possible is through the media. It is unbelievable

how absent the role of the media and the restructuring of media institutions are in scholarly work on transitional justice. However, this gap in the research is not that surprising given the fact that in all fields the role of media is somewhat an uncharted sphere. “Strikingly absent in transitional justice scholarship, however, is discussion of the role, as well as possible reform of, media institutions and systems in the transitional justice processes that play out in post-conflict societies. This gap in the literature comes as no surprise considering that the role of the media in conflict and post-conflict settings remains a relatively unexplored area of research across *all* disciplines, even that of media communications study” (LaPlante and Phenicie, 255).

Despite this fact, media can still influence transitional justice in a remarkable way and does not really have a limited impact on these processes. “Certainly, given the central role that the media plays in keeping citizens informed and shaping public opinion in democratic societies, it is inevitable that the media would also influence the public’s impression of the work of transitional justice mechanisms and the information the transitional justice mechanisms seek to impart” (LaPlante and Phenicie; 2009, 256). The media is a way for transparency and accountability to show and in turn bring about an open civil society. As the Organization for Security and Co-operation in Europe (OSCE) recognized, “building a free and independent media is integral to creating an open and civil society as well as fostering peace and reconciliation” (LaPlante and Phenicie; 2012, 256).

Agenda setting is publicized through the news because it shows the public the issues that are important, which influences the public opinion. “A report on the media and conflict prevention issued by the United Nations Educational, Scientific and Cultural Organization (UNESCO) contends that the media have the opportunity to provide a safe battleground to help [...] transform destructive conflicts into non-destructive debates.”(LaPlante and Phenicie; 2009, 267-8). The findings from different organizations in addition to truth commissions can foster discussion while also raising awareness of how citizens and society in general have endured the mass abuses through different media outlets such as newspapers, internet and television. Only when there is a shared memory can there be reconciliation. In other words, when there are efforts in raising awareness through commemoration of those who have suffered, victims feel more at ease and relationships between victims, perpetrators, and others become stronger.

In order to have a successful media approach to spread the information on the issues concerning transitional justice it should include the following: “regular issuance of press releases, organization of press conferences, meetings and briefings with journalists, facilitation of interviews, and the participation of senior officials in national and international TV and radio programs” (Making an Impact, 32). At the ICC, for example, “the outreach unit prepared a case-information fact sheet and an introductory video before the Germain Katanga and Mathieu Ngudjolo Chui hearings to explain the purpose of the hearings, the rights of the suspects, the role of the participants in the courtroom, the content of the warrants, and the possible decisions the judges might make according to the Rome Statute” (Making an Impact, 32). Another useful tool for transitional justice NGOs would be the expert advice that some media organizations/companies can give, especially the ones that have experience in reporting on human rights issues. “Internews, Reporters without Borders, the Institute for War and Peace Reporting, Hirondelle, the BBC World Service, for example, partnered with the ICC to organize three-day trainings for which a syllabus was developed and an 80-page handbook was published” (Making an Impact, 32).

The ICTJ’s media component has expanded quite significantly throughout the decade. On the official website for ICTJ, there are a wide array of media forms used to get information across. For example, podcasts are now used to show various episodes of audio news concerning different stories from around the world pertaining to transitional justice. “Over the summer we launched ICTJ’s podcast channel and released ‘Peace and Justice,’ a video viewed by thousands online and presented by Witness.org and Global Transitional Justice as a powerful example of the use of multimedia to promote justice” (A Year of Change: ICTJ’s 2011 Annual Report, 25). There are also press releases as a form of written communication to announce breaking news. As well as media coverage from different media outlets that are shown on the ICTJ website that are well known such as The New York Times, LA Times, BBC and Al Jazeera; and some that are not so mainstream, such as the Himalayan Times, AP, All Africa and Jurist just to name a few. The ICTJ website has a wide variety of publications in the form of briefing papers, fact sheets, newsletters, reports, UN Universal Periodic Review Submission, and books on a variety of cases. The ICTJ website is also registered on various social networks such as facebook, twitter and youtube where millions are connected to and have their own monthly e-newsletter, which includes expert interviews and press coverage of transitional justice issues from around the globe. “This year we introduced two e-mail bulletins, the *World Report* (a digest of transitional justice news) and

In Focus (a compilation of ICTJ news), reaching over 7,000 readers in English and Arabic” (A Year of Change: ICTJ’s 2011 Annual Report, 25). The launch of new ICTJ websites in different languages (English, Spanish and Arabic) has shown to be a success because it has provided better access to their publications for a larger audience.

IX.VII Universal Jurisdiction

Another major transformation is now the ability for states to take on a role in judicial matters. “The most recent sign of TJ’s expansion is the notion of universal jurisdiction, according to which national courts can investigate and prosecute alleged perpetrators on their territory, regardless of where the crime was committed or the nationality of the accused or the victim” (Subotic; 2012, 109-110). It is the horrific events of human rights abuses such as the genocides in Rwanda and Bosnia and Herzegovina that had an impact on international peace and security which has led to the adoption of the principles of universal jurisdiction. The slight change in the strategy and institutional priorities was first seen through the creation of the International Criminal Court in 2002 and the *ad hoc* tribunals. “Around that time, in 2004, then UN Secretary-General Kofi Annan commissioned a report on the rule of law and TJ, which was followed by a set of rule-of-law manuals” (Subotic; 2012, 110). This is another example of institutionalization of TJ at a global level and a start towards a stronger connection to TJ advocacy in international policy making. The shift in the globalization of human rights norms and accountability has now become a very important element in international relations and foreign policy. Michael Ignatieff put it well when he said that “human rights talk has become the ‘lingua franca’ of global moral thought” (Subotic; 2012, 110).

The role of the ICC is especially relevant to the expansion of TJ NGOs. The more cases the court takes up, the more the expansion becomes noticeable and anticipated. Transitional justice therefore is talked about more and more globally and we can see that there is greater media attention on these issues even in relatively remote places. Even the mere presence of the ICC allows the issues of prosecution to be presented to the mass public much more rapidly than if it did not exist.

In this section we have discussed that the ICTJ has expanded and transformed in different areas. The ICTJ expanded in purpose in that they are focusing on new areas that have never been explored before such as development and the security sector reform. They

have also expanded their purpose and scope gradually throughout the years to include different regions in their work. Another transformation would be the changes in issues. There are new issues arising such as internal displacement as result of civil war, which is quite complex, and therefore TJ measures have only a limited capacity to deal with it. The ICTJ expanded significantly in terms of its governance and structure. There are now many ICTJ representation offices around the world on different continents and there is a growing number of staff working with the ICTJ. Transformation and expansion in the ICTJ can also be seen through finances. The organization's funding has grown rapidly throughout the years from a wide range of donors such as the Ford Foundation and even international organizations such as the UN and the ICC. ICTJ has also transformed through increasing professionalization meaning increasing sophistication of the TJ field through the work that it does; now they support justice institutions in designing, recruiting and consulting TJ projects instead of just supporting TJ activists globally. The ICTJ's work is also professionalized because it uses a legalistic framework to show that their arguments and conclusions are universally objective. Focus on project effectiveness is also one feature of ICTJ professionalization, which is not without its drawbacks especially concerning project effectiveness, which the paper will discuss in greater detail in the next section. The use of different forms of media has expanded rapidly in the last decade. Now a wide variety of media forms are available to the ICTJ to get their message across; i.e. podcasts, social networks, publications, websites etc. Last but not least we have universal jurisdiction, which is another major transformation that gives the ability for states to take on a role in judicial matters.

X. The Monitoring and Evaluation Framework

In this section the paper will focus on one important process in TJ NGOs projects which is monitoring and evaluation. From the very beginning when the ideas are conceptualized to the point when it is completed, the project is expected to have positive outcomes for transitional justice whether it is establishing truth, empowering victims by attending to their needs and helping achieve peace and reconciliation. "M & E is not limited to assessment of policies and programs already in place, but also includes the collection of empirical evidence to inform decision makers at the planning stage through, for example, a thorough needs assessment" (Pham and Vinck; 2007, 235).

The process in the monitoring and evaluation stage can be basically divided into three steps which are: “(i) conceptualization and planning; (ii) implementation; and (iii) completion. At the conceptualization and planning stage, the central question for decision makers is: ‘What justice for whom and when?’ During implementation, the main question is: ‘Is the project working?’ Finally, upon completion, the question is: ‘What is the impact?’” (Pham and Vinck; 2007, 236). The first question: ‘What justice and for whom and when?’ falls into formative evaluation because it is a type of assessment where data is collected on the ground at the local level or from key stakeholders. This data is then used solely for descriptive analysis to look at the factors linked to the needs and opinions of victims (the respondents). Formative evaluation is more on a descriptive level where it tries to answer questions regarding the past and the events that occurred; the attitudes towards justice among the population; who should be held responsible for the war crimes committed and how; and the state of transitional justice mechanisms that are presently in place. “Formative evaluation provides a means to gauge what the population believes to be the priorities for transitional justice, as well as a platform for respondents and affected communities to contribute to the transitional and rebuilding processes” (Pham and Vinck; 2007, 236).

The process monitoring and evaluation stage is designed to answer the question: whether the transitional justice mechanism is actually being put into place? “Process monitoring refers to the descriptive process of collecting data about the characteristics of the population being served, the services provided and the resources used to deliver those services” (Pham and Vinck; 2007, 236). Process evaluation is a “normative process in which the responses to these questions are systematically compared to goals, objectives and standard procedures: is the intervention being delivered to the intended beneficiaries and, if not, why not?” (Pham and Vinck; 2007, 236). In particular this process addresses whether or not the project was used as intended and whether or not it reached its specific audience. Also, it addresses whether the project targets had any obstacles in accessing the intervention that was meant for them.

The third question that the monitoring and evaluation framework poses regarding the completion of any transitional justice project is: what is the impact? Transitional justice projects are created to accomplish different goals in different situations. “Amongst their primary goals, however, are deterring and preventing future conflicts, the discovery and publicizing of the truth about atrocities, the punishment of perpetrators, responding to the

needs of victims, promoting the rule of law in emerging democracies and promoting reconciliation” (Pham and Vinck; 2007, 236). To assess whether or not a certain policy has attained any of the goals, outcome monitoring is used. “Outcome monitoring first determines whether or not the expected outcomes were realized (e.g. peace was achieved), regardless of the role of the program or policy in achieving those outcomes [...] then [it] assesses whether or not a causal link exists—such as, for example, whether a truth commission contributed to a sustainable peace” (Pham and Vinck; 2007, 237).

XI. Challenges to the ICTJ

The performance of ICTJ depends on a couple of variables which may have negative impacts on the way projects are carried out in the implementation, monitoring, evaluation and funding stage of TJ work. “A combination of factors, including increasing professionalization of social action, geopolitical shifts and developments in the global economy, the growth of philanthrocapitalism and the expanding roles played by NGOs in governance, have resulted in these profound shifts” (No Perfect Measure; 2012, 1).

XI.I Impact and Effectiveness

One of the major challenges to ICTJ and TJ NGOs in general is regarding project impact and effectiveness. Sometimes there are many things happening at once for TJ processes to have an actual impact. “A monumental issue is whether it is even reasonable to attribute effects to specific policies or institutional measures that are implemented during a wave of major political and social changes” (Van der Merwe et al.; 2009, 59). Of course, this does not mean that transitional justice processes are marginal or worthless. Rather, the problem is that their impact can be difficult to quantify because it may be showing a certain outcome due to other factors that are happening at the same time. “It may be highly collinear with other factors, contingent on precise constellations of circumstances, modified by numerous intervening variables, and subject to complex interaction effects” (Van der Merwe et al.; 2009, 59).

Without doubt one of the major challenges has been the particular approach to the ‘assessment’ and ‘measurement’ of the impact and effectiveness of TJ NGO interventions which have been propelled by the human rights community, in particular donors and

evaluators. “The voluntary and non-profit sector today is feeling the full impact of the emergence of ‘results-based management’ and ‘value for money’ or ‘audit’ culture, and human rights organizations too are feeling the pressure to prove their ‘impact’, ‘value’ or ‘success’” (No Perfect Measure; 2012, 1). In this era of fast information and technologies, everything needs to be proven with numbers which is seen as the only way of measuring something. “Evidence-based policy making seems to have become the new silver bullet of international aid and transitional justice advocates and researchers appear to be falling into the trap of believing that anything is provable—if only we have the data to back it up” (Duggan; 2009, 9).

The “measurement revolution” phenomenon demands that the success of the projects and organization be measured which has major impacts on the ICTJ’s work. “Beginning with attempts to quantify such ‘elusive concepts’ as democracy, discrimination, corruption, freedom and governance, it has led, more recently, to the investment of significant resources in the development of indicators and tools to measure everything ranging from state compliance to effectiveness of human rights interventions” (No Perfect Measure; 2012, 1). It is not only in this sector that this has been apparent but in others as well which is due to a trend called ‘assessment’ that has become increasingly globalized. “In the 1990s Michael Power described an ‘audit explosion’ across many different sectors, characterized by the emergence of audit not just as a technique but as an idea, one that has much to do with articulating values, with rationalizing and reinforcing public images of control” (No Perfect Measure; 2012, 1).

There are obvious problems with this in that it is difficult to measure concepts which are simply immeasurable and where current techniques in assessing projects remain inadequate to measure concepts that are working in contexts of transition. “For the most part this concern stems from the understanding that the methods and approaches used are not specifically developed for human rights work or by human rights practitioners, but rather are transplanted from development practice or even business” (No Perfect Measure; 2012, 1). Evaluating human rights work is just not that simple as it sounds. As one author; Paul Gready, the director of the Centre of Applied Human Rights at the University of York, put it: “[o]bserving the number of individuals trained, the number of individuals with piped water systems, or attendance at a workshop is relatively straightforward...monitoring

advocacy-based projects and their impact on human rights is not” (No Perfect Measure; 2012, 8).

There are problems of causality and attribution which is another issue for showing the impact and effectiveness of projects. “Attribution of results or change to a single or a series of interventions is something that all donors dream of but rarely are able to collect enough evidence to prove” (Duggan; 2009, 8). Changes can occur to the recipient(s) of transitional justice to whom the project was intended for either before or after the program is completed and may not turn out the way it was expected. Furthermore, stakeholders and donors may influence the program indirectly. Time and again has shown that evaluations in these settings are nowhere near supportive. Unfortunately, “evaluation is still largely viewed by program recipients as a negative and often punitive experience that is imposed from on-high” (Duggan; 2009, 12).

Another problem within assessing the impact and effectiveness of a TJ project would be that no matter what the objectives of TJ projects, or its methods in conducting the research, it is difficult to restore dignity and promote psychological healing to victims of abuse. The only way this could be done is through analyzing the experiences and responses of victims. Although this can be quite complicated as well because these are sensitive issues that might put the victims in possible danger and also such engagement can further traumatize them. Also, victims are quite a diverse group because the nature of the abuses that each victim experienced is different. Some for example are indirect victims such as relatives of those killed.

Impact and effectiveness can be quite subjective because different people see these two concepts differently. These two concepts in the most basic terms would mean achieving the best of results or getting the most out of the resources that were invested into the project. “Success for a human rights NGO may be in eye of the beholder—but does the most appropriate judgment come from the persons served, activists of the organization, providers of resources, disinterested outside observers, or others?” (Welch; 2001, 15) is an important question worth pondering about. Having individuals or organizations that are not actually ‘independent’ conduct ‘independent evaluation’ is contradictory. External evaluators can be a problem in that they can impede the process of valuable learning in the organization

and can be a threat to transparency. The particular problem that the ICTJ had with external evaluators is that the external evaluators took more control over the process while not having thorough knowledge of the program. Comparative research carried out by Maastricht based European Centre for Development Policy Management ECDPM shows that: “external evaluations are increasingly identified as ‘inappropriate or counter-productive’, suggesting self-assessment as a more effective evaluation method” (Hailey and James; 2003, 4). Unfortunately evaluation has become a money-spinning industry which gets funds from various sources. Some big private companies today that have nothing to do with human rights work actually own and control evaluation centers. “For example, [there was an instance where] a donor awarding an evaluation contract to a private firm that was part of a larger business with interests in security, natural resource extraction, infrastructure development etc., all of which engage many human rights concerns” (No Perfect Measure; 2012, 5).

Evaluating how the goals of a project have been met is the core premise of evaluations. However, as discussed so far in the paper, the assessments needed for such an exercise are difficult if not impossible to carry out in the field of human rights. It is important that donors and evaluators keep this in mind and when they are planning, reviewing or modifying expectations, they should be flexible where possible. “This may mean relying in part on *trust* rather than verification, an element of the donor-grantee relationship that was repeatedly described as lacking” (No Perfect Measure; 2012, 5). A question that usually pops up in mind is why is it so difficult to have an approach to evaluation that is completely based on trust and that is not dependent on the traditional approach? This all depends on whether donors or other funding organizations would be willing to give up their power and authority for a transparent open-ended process in creating new meaningful ways to deal with evaluation.

Another issue within the evaluation framework has to do with the timing of the projects. Projects that the ICTJ take up usually do not match up with the time required to finish the project. This is because their TJ projects are usually a longer-term type of project that would require years and years until results can be seen. “The tension between a particular project or a specific project cycle and the wider or longer-term work and investment is often needed to redress deep-rooted systematic or structural human rights

concerns, such as discrimination, for example” (No Perfect Measure; 2012, 10). However, the amount of time they are given to complete the project are usually around 2-4 years which is quite short for issues as complex as these. This in turn is “encouraging organizations to ‘pick low hanging fruit’, i.e. projects which can be more easily measured and demonstrated as successful” (No Perfect Measure; 2012, 10). For this reason, fewer and fewer organizations are choosing to take the more complex ‘risky’ projects that are longer-term. One would ask what is the relationship between the success and failure of one project and the objectives of the organization in the long term? Perhaps, “organizations may limit themselves, planning for advocacy ‘in terms of a well-marked path to success’ and specific timescales of change in order to secure funding” (No Perfect Measure; 2012, 10). In regards to this, donors and evaluators should keep in mind that these project time frames and pressures influence small and big projects significantly when evaluating the success or failure of a project and that most likely TJ NGOs would choose to do the small project that requires less time and that would show immediate results.

There has been some action towards this problem from a group of practitioners that discussed various approaches that could be used in evaluations and reporting of TJ programs which encourages evaluators and donors to try. One such project is called the *Big Push Forward* initiated by the ICTJ. “Conceived in 2010 in reaction to a narrowing of what is valued and how value is measured, the *Big Push Forward* (see figure 4 below) initiative seeks constructive ways to advance conceptually and methodologically for assessing the impact of development aid in support of a fairer world, beyond the narrow bureaucratic protocols that assume guaranteed predictable outcomes” (No Perfect Measure; 2012, 6). This initiative tries to deal with this issue by challenging the prevailing discourses regarding impact and effectiveness and it tries to get different perspectives on the issue in developing countries while also researching and coming up with new methods of evaluating and reporting, and promoting learning and practice at the same time.

Figure 4:

"How Things Work" – an International Center for Transitional Justice (ICTJ) initiative in evaluation research to describe the space between 'inputs' and 'outputs' in justice interventions

Pablo de Greiff (Columbian human rights activist, UN special rapporteur and ICTJ director of research)

How Things Work is meant to contribute to discussions about impact, by taking a step that should precede evaluation, namely, understanding precisely how interventions in the area of justice work. In the absence of clarity regarding what makes it reasonable to assume that if a certain measure is implemented certain consequences will follow, the great rush to adopt results-based approaches and to understand programmes primarily through the prism of 'impact' seems, well, rushed.

Practitioners, anthropologists, historians, and other academics have provided rich and fine-grained descriptions of particular cases, while sociologists and political scientists, in particular, have offered a different type of description, concentrating on correlations between interventions and 'results'. On the other hand, human rights activists and scholars, amongst others, have engaged in sometimes sophisticated debates that seek to strengthen the various justifications of undertaking transitional justice interventions. *How Things Work* is intended to occupy a space between descriptivism (an account of how particular interventions have worked) on the one hand and normativism (a justificatory account of transitional justice interventions) on the other, by constructing 'reasonable accounts' of how interventions can bring about the effects that are often attributed to them.

To this end, a group composed of prominent practitioners and scholars in equal measure were invited to participate in this project, receiving exactly the same assignment: to construct, initially, three different detailed accounts that might provide an explanation of the 'results' of transitional justice interventions. 'Providing an explanation' consisted of reconstructing the causal pathways that could lead from the intervention (input) to its outcomes (output).

The project, now (2011) in its final stages, has led to the following insights:

- ▪ Monocausal accounts of the relationship between justice interventions and the ends frequently attributed to them are likely to rest on over-simplification.
- ▪ The very same interventions can serve various goals at the same time; but neither the goals nor the relationship between interventions and measures are of a kind. In particular, it is important to distinguish between 'immediate', 'mediate', and 'final' goals of interventions; the point is not only about temporal proximity (or remoteness) but causal sufficiency (or insufficiency). There are goals that can be brought about through single interventions (and rapidly, to boot), and others that cannot plausibly be brought about through the implementation of a single type of measure, not even in the long run.
- ▪ There is a trade-off between which types of goals to focus on for purposes of assessments. Effectiveness is more easily assessed by reference to more immediate goals but ignoring mediate and more 'final' goals deprives policy design and choice from an important source of guidance and critique. Ultimately, this choice imperils the normative leverage which could explain why justice sector work is important in the first place. Current approaches also create a counter-incentive for policy integration, catalysing competition and short-termism rather than cooperation and coherence.
- ▪ The current rush in favour of results-based approaches sends strong (and therefore all other things being equal probably costly) signals in favour of assessing the success and failure of interventions only by reference to the attainment of their more proximate goals.
- ▪ The two primary 'social mechanisms' that can be used in order to explain the way justice interventions work are norm affirmation, and the capacity of these measures to articulate and disarticulate social groups. There are reasons to think that designing and

- implementing programmes having these mechanisms in mind may increase their effectiveness.
- *How Things Work* underlines the immense importance of a phase of enquiry that ought to precede discussions about impact and evaluation. However, such foundational work, which analyses the process of hypothesis formation is distinctly lacking. While no one should assume that justice related programming should be exempt from evaluation, in the absence of clearer accounts of how such programmes work the use of present 'measurement' techniques as a criterion for investment decisions in this sphere should itself be open to question."

Taken from: "No Perfect Measure: Rethinking Evaluation and Assessment of Human Rights Work" (2012): 12.

Basically the aim of this project is to help individuals and organizations get more out of the process of measuring and assessing projects in a meaningful way instead of just learning from its successes and failures. This project is a response to the lack of understanding about how to evaluate transitional justice interventions because of the lack of knowledge about how the interventions themselves work. Before attempting to assess the effectiveness of a mechanism, it is important to think about how that mechanism would have an impact at all. Not much focus has been given to this issue and so this project involving a group of people engaged in transitional justice processes is designed to help close this gap. This way three things would be clear: how transitional justice interventions work, how they achieve any effects and the factors on which their efficacy depends.

XI.II Legitimacy and Credibility of ICTJ

One point often criticized by different actors working in the field of development and also ordinary citizens within the global South is that a huge lump of money has gone into building ICTJ institutions around the globe, while more important immediate issues such as poverty, housing and medical care have still not been addressed adequately. Furthermore, the institutional reform projects that ICTJ are involved in often turn away from important grass-roots, bottom-up projects that are important to local organizations. Some point out that ICTJ and other TJ NGOs intervene on important issues of national development without questioning or challenging the status quo. Instead they work to build cooperation within the society in favour of the status quo. Criticism is also leveled at donors because they often ignore grass-roots NGOs in favour of the more professionalized NGOs. "Human rights activists in Sri Lanka have referred despairingly to such NGOs as 'grant eaters' and suggest that they represent a highly professionalized 'peace industry' that responds to donor

agendas” (Lundy and McGovern; 2008, 282). Donors really need to think about public participation and its marginalization, which are important issues. Such criticism most likely has raised questions of what participation and empowerment actually means. “It is crucial that advocates of participatory approaches within the field of transitional justice directly address and seek to overcome such issues in the development and design of such strategies” (Lundy and McGovern; 2008, 283).

XI.III Dealing with Complexity and Unpredictability

The kind of setting transitional justice processes usually take place in are for the most part socially and politically unstable due to the transitioning of a new government and/or due to the outcome of a conflict which has left an ethnically divided society. This means that the setting is increasingly complex, especially when it comes to cooperating with national institutions because they may have their own way of dealing with certain situations which they would not want to change. “Transitional justice mechanisms, especially when used in combination, aspire to facilitate or promote complex social change processes that require multifaceted interventions and multiple national and international actors over whom we do not have uniform levels of influence and control” (Duggan; 2009, 8). When the ICTJ tries to make changes in domestic policy which depend heavily on the cooperation of governments and various sorts of political processes, planning and predicting becomes tough. “Changing the law is a fundamentally political activity and it is in the nature of politics to shift, change and behave in unpredictable and nonlinear fashions [...] advocacy efforts to change policy can take decades to come to fruition” (No Perfect Measure, 8).

Another issue that makes the work of ICTJ rather complex and unpredictable is that the goals they focus on such as social healing and their assumption that they would accomplish it. These type of goals need to be constantly maintained and they do not have an end in itself. In other words, special attention needs to be given to these goals each year because they are difficult to achieve in a short period of time. This can be troubling because the projects the ICTJ and other TJ NGOs deal with are relatively short-term and they receive a limited budget from donors that can only cover the project to a certain point. “In new or recovering democracies these are long term processes that are cyclical in nature, whereas transitional justice projects and programs funded by international donors tend to be shorter in duration—maybe three to five years (the duration of your typical truth

commission, for example)” (Duggan; 2009, 8). To see the expected results (ie. a rebuilt human rights culture, reformed institutions etc.) it would take years if not generations and a whole lot of investment.

XI.IV Challenges of Learning

Evaluations are an important part in the learning process of how TJ NGOs work.

“Ultimately the purpose of all evaluations is to help individuals and organizations learn not only from successes and failures but also from the process of measuring and assessing them meaningfully” (No Perfect Measure; 2012, 13). The main challenges regarding learning are that TJ work does not take criticism easy because its work is grounded by ethics and morals and universal values that justify their actions as simply the right thing to do. Also, practitioners sometimes do not deal with failure in an honest way because they believe that they might not be seen as credible because of the failure. Therefore, they would conceal any flaws or mistakes in their projects especially when competitive funding is involved. This can really affect the learning experience in a negative way. Also, the evaluation process itself can be a problem. When these evaluations are externally imposed to satisfy the donors, they are usually carried out in ways that are not participatory. They may also put an unnecessary amount of workload on the staff which can be exhausting and discouraging and in all likelihood will affect learning process in a harmful way.

One of the recommendations that were given in a workshop on evaluation was that “embedding learning requires a shift from a focus on evaluation or audit to ‘evaluative thinking’, an approach characterized by an action-reflection-learning chain that is continuous and integrated into the organization’s culture” (No Perfect Measure; 2012, 13). In order for this to come about it needs “a political commitment; creating a learning environment requires both institutional structures and spaces, and also political legitimacy within an organization”(No Perfect Measure; 2012, 13).

Active involvement throughout the years in transitional justice or human rights work in general may help evaluations become more relevant and the evaluators more reliable. “In a manner of speaking, external evaluators of human rights organizations may also be ‘peers’, to the extent of their association and involvement, previous or concurrent, within the broader

human rights movement” (No Perfect Measure; 2012, 14). Peer assessments where other members working on similar issues in different organizations undertake an evaluation of other organizations could benefit everyone by paving the way for mutual learning, a thorough knowledge of the issues, build team spirit and promote reliable data and information. “The affinities developed and discovered through shared issues and concerns could build a platform that would benefit the human rights community as a whole [and] the level of trust and solidarity could in fact encourage greater honesty and openness” (No Perfect Measure; 2012, 14).

XII. Conclusion

The changing global human rights environment has a profound affect on the way the activities unfold for the ICTJ and other TJ NGOs. Global liberalism has paved the way for increasing legalization of the field of TJ which has in turn led to a significant expansion of the ICTJ such as in new issues (i.e. internal displacement), the governance and structure of the organization, organization funding, professionalization (which has open doors to new opportunities and challenges), media and universal jurisdiction. Global liberalism has also helped make TJ an established norm which has an effect on the way governments act post-conflict and it has helped create international tribunals around the world. Individual events have also led to new opportunities in TJ advocacy. For example, those that came into power in one country, the ones arrested and even decisions made by regional courts have altered the course of action in transitional justice and have led international efforts in reshaping TJ. Therefore, changing tempos and dynamics are important because the way TJ mechanisms unfold depend a lot on the political, economic and social environment at a given time.

The ICTJ has become more professionalized and specialized which has led to demands from donors and other external actors to prove the effectiveness of the projects ICTJ has been involved in by showing exact indicators of success. One of the biggest concerns with this is that it is difficult to determine the impact and effectiveness of the TJ projects because they focus on concepts that are simply difficult to measure. Another concern discussed was the timing of the projects because the impact of such projects requires years and years to become noticeable, so trying to measure the effectiveness of such projects in the short-term can be quite misleading. As a consequence, the ethical principles that are used to support the legitimacy and purpose of international TJ NGOs are

undermined because of the focus on effectiveness and impact instead of the goals TJ NGOs are intended to deal with.

The expansion and transformation along with the challenges that go with it has some implications for the international community. Context is everything. When dealing with transitional justice, TJ practitioners have the tendency of using measures assumed to be “universal” in all contexts. From the experience the ICTJ has had with this, it is clear that when working with transitional justice it is crucial to work with context-specific conditions in order to identify the appropriate TJ mechanisms and their real impact because every society is different and has its own unique set of problems. What works in one country may not work in the other. Therefore, it is important to have in-depth knowledge of a country’s political, social and economic history as well as input from the locals to decide on the proper mechanisms to be used. The environment in which ICTJ is involved in is obviously a transitioning one and so this context already presents some obstacles that will make the job much harder for NGOs because there already exist new issues that they have to deal with along with cooperating with domestic actors that are involved in the process as well. This can change the kinds of projects ICTJ usually decide to take on and it can also change their initial project objectives and priorities because things may not go as planned.

When the ICTJ interviewed last year (2012) its Vice President, Paul Seils, the interviewer asked what the future holds for the ICTJ and its programs.

In terms of the future, I think we first have to speak of the risks. For example, I see the risk of transitional justice being taken for granted. The Arab Spring countries and others have shown that to ensure respect for human rights during times of huge political/societal shifts, transitional justice mechanisms are clearly needed. This is a great opportunity to show the relevance of transitional justice. In Colombia, the stakes for transitional justice could not be higher than they are right now as it seeks the development of a more just and equitable society.

The World Development Report talks about the cycles of transitions that are now occurring. In many countries we are seeing windows of opportunity. Guatemala represents an example of a new cycle, with a new opportunity, limited but significant. It is limited in terms of the actors who are interested in its success, but significant in terms of what its potential impact on for accountability.

ICTJ has a very clear focus on how we want to do things and where we want to do them. And the holistic engagement we will be adopting in some countries will bear incredible fruit in the next three or four years. ICTJ can demonstrate that transitional

justice can be done in a sensible and methodical way to deliver a result that in the past has been so hard to come by” (ICTJ Program Report: Interview with Paul Seils).

I personally do not think that there is a risk of transitional justice being taken for granted as it has potential for positive change in the Arab world. The new Egypt has expressed the intention to join the ICC which would help in the long-term success of the country in assisting the transitional society in overcoming past atrocities and creating a better future. I think with what has happened in the Arab world in the last couple of years, society is more willing to work with transitional justice because they can see its true potential to rebuild society. In regards to Guatemala, the conflict there has been going on for decades but even with the official end to the war in 1996, problems exist with the government’s cooperation in the transitional process. TJ practitioners are reluctant to help out here simply because of the lack of interest by the Guatemalan government which makes this opportunity in Guatemala limited. At the same time, this scenario would be significant as Mr. Seils stated because it could give opportunity to show the impact that transitional processes can have on accountability.

The ICTJ should stick to the issues which they already have and go deeper into it, instead of expanding their scope more and more each year although this can be a challenge. This way they would be able to stick to their objectives as close as possible without being carried away with other issues which are not the focal points of the ICTJ. In the future, I would think that probably more and more governments would seek assistance and so I think that the main challenge would be to be firm on their objectives to ensure they keep within their limits. The ICTJ should continue with the implementation of a participatory approach to their projects to benefit the people that depend on it the most and to move away as much as possible from the all too well known top-down ‘one-size-fits-all’ approach in order to allow the victims to be heard.

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Graphs/Charts

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Date of Birth: 20.12.1987 Nationality: Bosnian and Canadian

Education

Universität Wien Vienna, Austria
Master of Arts in Global Studies 2011-2012

- Key Subjects: Research Methodologies in Peace Studies; Participatory Project Planning-Methods and Tools; Global Labour History

Universität Leipzig Leipzig, Germany
Master of Arts in Global Studies 2010-2011

- Key Subjects: Global History; International Studies; Regions in Globalization: Europe and The Americas

York University Toronto, ON. Canada
Bachelor of Arts in Political Science and Sociology 2006-2010

- Statistics for the Social Sciences; Social Movements; International Relations; Human Rights
- Dean's Honour Roll

Work Experience

Canadian Automobile Association (CAA) Toronto, ON. Canada
Government/Community Relations Researcher 06/2013-present

- Bridge knowledge gaps and build a case for CAA SCO programs and public policies by conducting research activities that support departmental operations, i.e. *"Making the Case for Transportation Infrastructure Funding."*
- Consult to CAA management, stakeholders and business partners on community relations
- Develop program plans and execute on community events/initiatives, i.e. School Safety Patrol Program

Ontario Court of Justice Toronto, ON. Canada
Adult Probation Court Intake Worker 05/2008-06/2010

- Interviewed clients (offenders) who had been placed on probation in a non-judgmental and patient manner
- Explained the probation conditions and the consequences of non-compliance with probation
- Contacted community probation offices and booked the appointments for the probationer and provided them with all the necessary information.

Conferences

- Represented European Commission's "Study in Europe" Erasmus Mundus campaign of the at the annual NAFSA conference St. Louis, MO. USA
05/2013
- Represented the Committee for Sustainable Development (UNSCD) Lille, France
for the delegation of Venezuela at the National Model United 02/2012

Awards & Certificates

- Travel grant to represent Erasmus Mundus at NAFSA Conference
- Administration, Law and Social Work Certificate for successfully completing training for work in Adult Probation
- York University Entrance Scholarship