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## Reflections of the nexus between justice and peacebuilding

Padraig McAuliffe

**AQ** School of Law & Social Justice, University of Liverpool, Liverpool, UK

### ABSTRACT


This commentary reflects on eight articles recently published in this journal as part of a special issue on the nexus between transitional justice and statebuilding (Volume 10, Issue 3, 2016). It positions the special issue within an emerging ‘fourth phase’ literature on transitional justice that draws on critiques of liberal peacebuilding to urge an expansion of its boundaries to embrace socio-economic issues. It is argued that the type of analysis found in the special issue, characterized by in-depth, on-the-ground empirical analysis of complex domestic politics of material accumulation and ideological contestation, marks a significant and welcome advance in a literature which to this point has been largely de-contextualized, exhortatory and over-reliant on tired binaries of the ‘international and the local’ or the ‘liberal and legitimate’.


### KEYWORDS


Elites; liberal peacebuilding; peace agreements; political economy; transitional justice; socio-economic rights

As one of the first conscious attempts to account for the interactions between two distinct forms of international intervention, the eight articles recently published in this journal on ‘Mapping the Nexus of Transitional Justice and Peacebuilding’ are significant in taking a necessary debate further than the prevailing literature in either field has allowed. The surprisingly sparse transitional justice literature that links these two fields has hitherto been characterized by the plausible but under-theorized assumptions that transitional justice is a core element of contemporary peacebuilding (Dancy 2012, 397) and that the latter’s imposition of external legal frameworks and institutional templates represent the ‘foundational’ limitations to the former (Gready and Robins 2014, 340). The contributors to this issue do not depart from this analysis, but significantly deepen it by rooting it in empirical analysis of Bosnia, Democratic Republic of the Congo, Sierra Leone and Libya. Here, both the traditional theoretical assumptions about transitional justice’s relation to peace and the strands of critique that emerged in relation to them are problematized by the concrete challenges of post-conflict instability, accumulation and contention. The contributors attempt, and mostly succeed, in explaining how external blueprints for peace and justice are seldom realized, how the interventionary practices of external actors privilege accountability for physical violence or bodily integrity abuses over redress of structural inequalities, and how the short-term management of violence trumps structural change.

However, while the contributors do not depart from the prevailing assumption that transitional justice is fundamentally shaped by the liberal principles that underpin peacebuilding, they notably complicate this assumption by consistently illustrating that

domestic politics tends to determine both the extent and success of externally promoted projects at all points. The special issue makes apparent that the incorporation of socio-economic forms of transitional justice has been made difficult by the prevailing liberal impetus of peacebuilders. The contributors cogently urge a revision of approaches in both fields. Nevertheless, the analysis herein makes apparent the limitations of even the most thoroughgoing reorientation of transitional justice and peacebuilding theories to address socio-economic issues and the interests of marginalized communities. What these contributions make clear (at times, unwittingly) is that the self-evident ability of state-level leaders, sub-national elites and grassroots actors on the ground to reshape, modify and subordinate interventions means that the aspirations adopted and the ends achieved in transitional justice are as much a product of the domestic political economy as the ideological biases of interveners. While we can lament the fact that transitional justice as heretofore conceived in think tanks,  and diplomatic negotiations leaves little room to address community concerns and structural forms of injustice, the way in which international interveners envision justice only partly explains the field's persistently disappointing record in catalysing meaningful societal change. That transitional justice and peacebuilding respond to a narrow range of concerns, empower a limited group of people and conduce more to top-down statebuilding than bottom-up development cannot be ascribed entirely to the 'constructed invisibilities' (Miller 2008) of the international community—it is also a reflection of how powerful domestic actors or groups themselves conceive the limits of justice and apportion wealth in a given society in ways that international interveners have little power to restrain. While Lai (2016, 362) is correct that 'complex international intervention can marginalize experiences of socio-economic justice', a revised commitment on the part of peacebuilders and transitional justice actors to emphasize socio-economic justice or catalyse change to structural inequalities would still challenge an existing order that thus far has not permitted such progress to develop organically, and that is deliberately sustained by endogenous political forces that benefit from the unequal distribution of power and resources.

The articles in this special issue argue that a better understanding of the nexus between peacebuilding and transitional justice can be a productive analytical tool, and in the country-specific studies demonstrate how this can be the case. However, there is a tension in the pieces between those who ascribe the failures of transitional justice mostly to the biases and goals of international interveners (Lai 2016 and O'Reilly 2016), those who firmly commit to emphasizing the multifaceted and often sharp contestation between international actors and their domestic counterparts (Arnould 2016), and those who balance a rhetorical dismay at the influence exercised by external transitional justice and peacebuilding actors with forms of empirical analysis which suggest the often stark limitations of interventionary influence on domestic structures (Hronešová 2016; Lamont 2016;  dović-Wochnik 2016).

There has been a  and welcome shift in what is labelled 'fourth phase' transitional justice discourse (Nesiah 2016, 11) that urges an expansion in its boundaries to embrace redistributive justice (Laplante 2008) or action to 'actively reverse the systems and attitudes that discriminate and dehumanize' across the entire society (Mullen 2015, 477). At the root of this scholarly turn is an acknowledgment that the forms of transitional justice traditionally promoted by the international community do not and cannot respond to the most pressing interests of local communities. Each of these works



examines how external blueprints are therefore shaped by domestic processes of contestation, resistance and compromise. In so doing, the contributions suggest two conclusions that may not be fully reconcilable. The first is that transitional justice needs to escape its liberal blind-spots to respond to the needs of marginalized communities. The second is that those domestic communities that are not so marginalized and instead benefit from the extant political economy have both the means and the motivation to resist any such reorientation. If the nexus between transitional justice and peacebuilding is to be a useful analytical tool, scholarship needs to move beyond simplistic binaries of liberal impositionism versus domestic resistance, the international versus the local. This is not merely, as Arnould notes, because the international and the domestic never constitute distinct analytical levels or separate geographical spaces (Arnould 2016, 325). It is also because they preclude the sort of fine-grained analysis of the international and domestic that could inform better policy-making or critique. There is no liberal international monolith—it has long been recognized that liberal statebuilding is often undermined by economic liberalization (De Soto and del Castillo 1994, 74) and that both activities are practised by distinctly different actors (Woodward 2013, 148). Nor, indeed, is there an identifiable local beyond a phantasm that exists only in rote juxtaposition to the international—as the articles in the special issue make clear, the local mixes the poor, the unemployed and the marginalized with national and sub-national elites who benefit from the structures that led to war and followed from it. To usefully analyse transitional justice’s nexus with peacebuilding means the local needs to be disaggregated into the national, the sub-national and the micro-local, all of which have different, and often conflicting, interests.

It is apparent from these articles that progress towards more redistributive justice or provision of social minima can only follow from inherently conflictive and non-linear processes of negotiation and interaction. The contributors urge that more sensitive models of transitional justice be co-produced internationally and domestically, but the prospects for success can only be assessed with a historically informed understanding of the loci of effective political power in a given post-conflict state. Such an understanding would incorporate the balance of social divisions after war, the institutions and sites where power is contested, and the means through which political will is formed and employed. The articles in this special issue do this in a way that a largely exhortatory transitional justice literature has failed to do until this point. In so doing, they also highlight the limitations of approaches that nevertheless concentrate more on the practices and biases of interveners than the full range of agencies and contradictory interests of the intervened-upon.

In reflecting on these issues, this article begins by outlining the reasons for the gap between the transitional justice and peacebuilding literatures that is identified throughout the special issue, but not fully explained. It then goes on to examine how domestic politics serves to reorient and co-opt external blueprints for transitional justice in an environment characterized by contestation and bargaining between national, sub-national and international actors. It concludes that to meaningfully comprehend the nexus of peacebuilding and transitional justice such that it becomes a guide for more economically conscious justice projects, it is not enough to interrogate the ontological, epistemological and methodological biases of interveners, as most of the fourth phase transitional justice literature has done. Socio-economically emancipatory visions of justice can never be translated in a linear fashion into reformed social conditions as purposeful action to this end is inevitably warped by the domestic obstruction and resistance such activities set in motion.

## Explaining the gap

As Millar and Lecy (2016) demonstrate in their study of citational practices, the literatures on peacebuilding and transitional justice developed in splendid isolation from each other with little cross-over or engagement, notwithstanding evident similarities in context of application, teleology and critique. One point that should be made is that by focusing on the ‘legal’ (criminal) transitional justice literature and the psychosocial literature in peacebuilding, the authors do not pinpoint the dominant contemporary intellectual directions in both fields—transitional justice scholarship and practice has long abandoned a single-mechanism focus to embrace more holistic bundling of mechanisms, while liberal peacebuilding scholarship is characterized far more by examining statebuilding and democratization than restoration of damaged relationships between communities in divided states. Even bearing this in mind, their ultimate conclusions remain solid—the research focus of transitional justice is rarely situated in a peacebuilding context, while a survey of the main texts and journals in the field reveals that peacebuilding largely ignores transitional justice, and there is scant substantive exchange between the literatures. Though Baker and Obradović-Wochnik (2016, 287) express a sense of puzzlement that they should have ‘ended up as separate fields rather than distinct but interlinked topics of inquiry within a unified field’ of post-conflict reconstruction, the distinctive development of both disciplines readily explains their parallel evolutions.

That peacebuilders have neglected to engage significantly with transitional justice should not, on the face of it, be surprising. Peacebuilding, after all, is a much larger and more multi-faceted process. The meta-project of peacebuilding is statebuilding, a totalizing enterprise that incorporates most aspects of domestic political and administrative life, which itself is festooned with a number of other urgent and attention-sapping enterprises like democratization, rule of law, security sector reform and refugee returns that operate to restrict the amount of policy or scholarly scrutiny that even something as seemingly imperative as transitional justice can be afforded. That these projects take priority over transitional justice should not be attributed to a conscious or unconscious blind-spot on the part of peacebuilding scholars. They instead reflect the priorities of antagonists when negotiating an end to conflict. Easterday’s (2014, 388–389) analysis of the UN peace agreement database reveals that even given the increased emphasis on human rights in peace accords, the most common substantive issues included are security arrangements (69 per cent of all peace agreements), rule of law (just over half of all peace agreements), military issues (just under half of all peace agreements) and statehood, territory and identity (approximately 40 per cent). Human rights issues, by contrast, were included in 31 per cent of agreements and transitional justice in merely a fifth of them. The average specificity of peace provisions is also indicative of what is considered essential and what is considered marginal. Provisions relating to security issues, power-sharing, elections and property rights are considerably more exacting and precise in terms of benchmarks and timetables for implementation than rights issues (Suhrke, Wimpelmann, and Dawes 2007, 22). This reality underpins the ‘disconnect’ Arnould (2016, 323) describes between the norm and actual practice of transitional justice, where even those states that ostensibly commit to pursuing justice adopt policies that contradict or insufficiently support the norm.



Though transitional justice scholars express confidence that transitional justice is an ‘essential’ and ‘extensive’ part of the liberal peacebuilding package (Andrieu 2010, 538), this is not borne out by the practice of peacebuilding missions. While it is true to say that criminal justice was seen by the international community as a key peacebuilding

185 tool at the time the ad hoc tribunals were established, the self-evident failure of the ICJ

**AQ4** and ICTY to deter atrocities in Kosovo or the Great Lakes and the instrumentalization of their verdicts by ethnic leaders rapidly undermined this faith. The UN-supported Serious

**AQ5** Crimes Process did little to protect East Timor against destabilizing violence, the ICJ indirectly

190 handicapped the search for peace in Uganda and Darfur, and demand for accountability severely complicated the quest for an end to Colombia’s civil war, complicating emergent

narratives of ‘no peace without justice’. Optimism regarding the ability of truth and reconciliation

195 commissions to ground more responsive forms of peace have given way to a realization that their predicted potential to catalyse much-needed institutional or structural

reforms is ‘still-born’ because executive commitment to implement their recommendations is frequently lacking (Mani 2005, 518). The failure of peacebuilders to adequately

200 support truth commissions in terms of resources and political support may amount to an implicit acknowledgement of what De Greiff (2009, 36) recognizes as the persistent gap

between insight and transformation that characterizes even the best designed of these mechanisms. Reparations have been justified in instrumental terms as a form of justice

205 that conduces to stabilizing the transition after conflict (Elster 2010, 17). However, the evident reality that in most post-conflict states any satisfactory compensation of victims

would deplete the available funding for other victim support or other necessary social projects

210 have called into question the causal contribution reparations can make to peacebuilding, even as the moral and legal cases for reparation become better articulated (e.g. Kritz 2002,

44; De Greiff 2009, 39). For these reasons, it is difficult to assert that transitional justice is

something the peacebuilding literature should be paying greater attention to. As of early

215 2017, of the six states listed by the Peacebuilding Commission as priorities (Burundi, Sierra Leone, Guinea, Guinea-Bissau, Liberia and Central African Republic), transitional justice has

seen significant progress only in Sierra Leone’s Special Court and in Liberia’s Truth Commission. Commitments to transitional justice were greater in other peacebuilding missions

220 in DR Congo and Libya. However, as the articles in this special issue make clear, these were not strongly supported by peacebuilders. The lack of attention the peacebuilding literature

pays to transitional justice, while regrettable, may ultimately be a reflection of the latter’s marginality to its core focus. It is worth pointing out that this marginality is something

225 that practitioners on the ground have long been aware of, even if theory has yet to take full cognizance of it—to claims in the critical literature that transitional justice is essentially another example of liberal international imposition, transitional justice actors

**practising** on the ground respond that they have little or no influence over domestic priorities (Taylor 2000, 5).

**AQ6** Given the prominent centrality of peacebuilding to the prospects for its success, transitional justice’s failure to engage with peacebuilding may seem more puzzling. It can,

230 however, be explained by the intellectual development of the field. As Baker and Obradović-Wochnik (2016, 282 and 283) note, transitional justice exists because institutions and scholars have constructed them as objects that can be comprehended through a

235 process of producing not only the understandings of what knowledge is seen as authoritative, but which goals are seen as imperative. In an extremely short period of time the

field has raced from debates over whether or not to punish to controversies like the peace versus justice and justice versus truth debates, to ultimately arrive at a general commitment to holistic blendings of mechanisms. All debates in its advocacy-cum-policy-oriented literature implicitly or explicitly relate to the field's self-identity. This identity has become contested, the locus of those 'struggles over meanings, hierarchies and resources' (Gready and Obradović-Wochnik (2016, 285) observe. A broad interdisciplinary space emerged spanning academic arenas as disparate as anthropology, development studies, economics, gender studies, history, psychology and theology, among others. In 'fourth phase' transitional justice, these new transdisciplinary mindsets expand the discursive boundaries of who and what the field is for, and so elaborate competing visions of justice. The field's increasing symbolic capital leads to ever-greater pressure to 'reframe' the field to include the broader agendas like socio-economic justice, the everyday and women's rights (Bell 2009, 13). Transitional justice is therefore a site of purposive struggle where 'issues are framed so as to resonate with already accepted norms, attract funding, consolidate partnerships and networks, and encourage action' (Gready and Robins 2014, 355).

It is submitted that this constant metaconflict over transitional justice's direction, aspirations and conceptualization has meant that the focus of transitional justice has remained more on the field's own knowledge-making practices than the actual field of application. The vigorously contested process of expanding the interdisciplinary spaces within transitional justice (and hence its ultimate goals) has taken precedence over study of actual post-conflict ecologies. The essential element in this reframing process is a firm constructivist conviction that inter-subjectively constructed norms shared among pertinent political or economic agents in transition can be a decisive causal factor in influencing outcomes. Constructivism is generally comprehended in contradistinction to realist and/or rational choice-based attitudes that present how material constraints, vested interests and strategic calculations impinge on political, economic and social resources as the key factors determining the impact of norms. Constructivists, by contrast, adopt the view that while their normative and ideological frameworks do not absolutely determine action in causal terms, collective cultural, normative and ideological understandings can strongly influence the interpretation of context and constraints (Autesserre 2011, 156). Consequently, the belief O'Reilly (2016, 421–422) expresses that transition from war to peace is a 'window of opportunity' to unsettle existing hierarchies and norms is one that is shared throughout a literature characterized by an under-analysed assumption that transition amounts to a transformative constitutional moment where the distribution of poverty and wealth, land reform and the economy may be publicly addressed (Bergsmo et al. 2010, 2). It is assumed that states should feel a greater compulsion to redress conditions of socio-economic deprivation in the transitional period, especially if they are presented as rights violations, and that it is the task of transitional justice to capitalize on the opportunity (Laplante 2008, 331, 341). On the basis of such an assumption, behavioural norms may define the policy options open to international and domestic actors more than the actual economic, political and social contexts they intend to affect. As a result, material interests are subordinated to the value that affected populations put on both the process and outcome of change, and lose the causal agency they enjoy in more realist accounts (Chandler 2007, 709).

A concentration on post-conflict ecology would have compelled greater attention to peacebuilding if the intellectual history and developmental trajectory of transitional

justice were different. However, as it stands, what little attention peacebuilding is given consists of a relatively superficial appropriation/repetition of the core elements of the liberal peacebuilding critique without much engagement with the actual field of application on-the-ground. This in itself should not be surprising, as constructivists tend to disregard the potential limitations of humanitarian action—failure is instead attributed to collective lack of will on the part of the international community (Coyne 2013, 14–15). As a result, scholars have generally assumed that transitional justice has been captured by liberal peacebuilding, and that this explains the historic privileging of bodily integrity abuses over structural inequality. Franzki and Olarte (2013, 204–207), for example, argue that liberal peacebuilding not only circumscribes the ambition of transitional justice in defining democracy as a certain state of social relationships in the political sphere, it also legitimizes it as such. Sharp (2013), similarly, argues that transitional justice is so entangled in liberal peacebuilding’s imperatives towards democracy and the market economy that the issues of social justice that are caused by conflict, and flow from it, go unnoticed.

Lai (2016, 363) is correct to note that transitional justice could benefit from the critical peacebuilding literature’s focus on the exclusions and power relations embedded in international intervention. However, if the aspiration for the nexus of transitional justice with peacebuilding to become a useful analytical tool is to be realized, it needs to go beyond the mere appropriation of critical peacebuilding. A critique has emerged of those critical peace studies that place the West and the liberal at the centre of analysis, juxtaposing them against the domestic ‘rest’ (Peterson 2012, 18). Though this literature is replete with references to hybridity, localized needs and everyday existence, much liberal peacebuilding critique omits to ‘represent or engage with the activities or behaviour of particular peoples targeted by interventions, since these were ... implicitly irrelevant to the conclusions that the research wanted to draw about the West’s relationship with post-conflict environments’ (Sabaratnam 2013, 263). Even forceful critics of liberal peacebuilding have started to question whether contemporary critical peace studies can ever yield a functional way forward to an improved praxis on the ground beyond simply deconstructing liberal interventionism (Newman 2011, 1747). In the special issue, Martin (2016, 403) conveys a sense of this when she argues that ‘the critical peacebuilding literature has become too focused on questions regarding the potential manifestations of resistance and hybridity, who is appropriating what, where the everyday and local exist, and in what ways liberal peace is understood. Centralizing these conceptual aspects has perhaps overshadowed more pragmatic priorities in transition periods’. While the pragmatic concerns she addresses are the ways citizens in post-conflict states practise normality, there are other pragmatic concerns that a focus on interventionary practice international transitional justice actors also tends to obscure, like the interests of domestic elites. As the next section of this article goes on to argue, there is good reason to believe that unless the aspirations for more localized, redistributive or restorative justice accord in some way with the ideological or material interests of politically effective groups like conflict principals and societal elements that formally or informally contest control of the economy with the state, it is unlikely that transitional justice actors can co-ordinate sufficient political power to secure any outcome on the spectrum from liberal-legalist to redistributionist.

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Those in the less ‘critical’, policy-oriented peacebuilding literature have long argued that policies can only be effective if they can ascertain from a given post-conflict environment how certain proposed goals tally with the state’s resources and capacity to provide services and **the** elite will to direct these resources and services towards the fulfilment of those expectations (Organization for Economic Cooperation and Development 2008, 17). The fixation of transitional justice critiques with the ideological commitments and interests of external interveners has largely served to preclude any such contemplation. As the contributions to the special issue demonstrate, those liberal-legalist aspirations **that** transitional justice actors initially promote at headquarters level are fundamentally reshaped by domestic negotiations and then compromised by domestic political economy factors. Revised forms of transitional justice that depart from earlier preoccupations with civil and political rights to address socio-economic injustice and everyday concerns must, like any more traditional conception of it, proceed from an acute awareness of the key opportunities and limitations that condition the political economy of the state concerned to understand how justice interventions can build on or manipulate these exigencies. Particularly in those environments like Libya where the international community is evidently ‘lacking any material leverage’ over national or factional leaderships (Lamont 2016, 388), the rote binary of international versus domestic may obscure a clear vision of where much, if not most, power and influence over structural conditions really lies. Most theories in the contemporary policy literatures of statebuilding, peacebuilding and democratization stress the necessity of enhancing the incentives for elites **to** pursue policies in the public interest (e.g. Ohlson and Soderberg 2008). For example, those informal power structures of elite control of resource **hoarding** and **patrimonialism** **that** fundamentally condition political behaviour and define economic expectations of political actors need to change, but it remains difficult to do so. As Helmke and Levitsky (2009) contend, those branches of research or policy campaigning that neglect to incorporate these structures are apt to overlook many of the defining incentives and constraints that govern political behaviour and delimit prospects for change. Without understanding how such factors permeate the site of intervention, much of **the** transitional justice’s fourth-generation turn towards addressing structures of poverty and inequality will resemble sloganeering, a guide to groping in the dark.

### The contested domestic politics of transitional justice

The work in this special issue constitutes a necessary advance in the transitional justice literature in particular because it mixes this by-now standard analytical focus on the ideology and behaviour of transitional justice actors noted above with an examination of the agency, interests and power of national actors elevated to key positions by the vagaries of conflict and its resolution. The most impressive exponent of this approach is Valerie Arnould (2016, 325), who consciously departs from the dichotomized view of the relationship between interveners and domestic actors that epitomizes the critical transitional justice literature. This literature is replete with presentations of international actors enjoying largely untrammelled agency to dictate the shape of justice, truth and redress while domestic actors are passive actors that merely respond to external imposition. For Arnould (2016, 325), the diffusion of international transitional justice norms to the domestic arena is neither unproblematic nor hegemonic, and is instead characterized by

conflict as they encounter different justice values or political concerns and are ‘enmeshed, influenced, co-opted and distorted’ by national interests that pre-exist intervention and should not be understood primarily as responses to it. Justice outcomes are therefore co-produced in ways that theories of ‘spoiling’ by elites or ‘resistance’ from grassroots actors unduly simplify. Transitional justice is never simply a reflection of a liberal ideology’s export, but ‘as wholly dependent on a number of dynamics not originally envisaged as part of its normative aims, such as bargaining, negotiating, accessing capital and engaging with local politics which are often ... a site of illiberality or oppression’ (Baker and Obradović-Wochnik 2016, 292).

This reality is most apparent in the study of war-related payments in Bosnia by Jessie Hronešová (2016). As she notes, the scale of payments to victims has been vastly outweighed by those to veterans, resulting in a sub-optimal distribution of resources and opportunity in society. She makes it clear that the decision to prioritize veteran networks over victim organizations owes predominantly to domestic factors of political economy. In the context of an ‘ethnopolis’ where national identity outranks any other value system as an organizing political principle, veterans groups have been able to draw on privilege and prestige that long predate peacebuilding to assume statebuilding roles and to form powerful lobby groups to exert pressure on the national and cantonal political leaderships:

Powerful groups, which came out of the war and which were at the same time seen as the main guarantors and potential spoilers of peace—the military—have monopolized the political arena across all three ethno-national groups. The close links between the military leaders and elites in the formal political sphere have over time created a distorted peacebuilding dynamic where the place of victims as a group is highly limited. (Hronešová 2016, 353)

International actors are of course complicit in the international agreements that underpin the ethno-national settlement, and the exclusion of victims has occurred in an environment where international donors (most notably the EU) have promoted democratization and marketization at the expense of local socio-economic issues such as welfare provision, and social safety nets are gutted. Damaging as this is, the deliberate exclusion of victims is more the product of the domestic political economy—as Hronešová (2016, 344) notes, ‘Indeed, material reparations are often opposed by powerful actors, who resist the extraction of state resources and challenge victims’ rights’—than any deliberate choice of interveners. It is hard to demonstrate that greater commitment to more thoroughgoing reparations for victims on the part of external transitional justice actors could have altered the domestic political calculi behind resource accumulation by post-war elites. As Lai’s study of Bosnia makes clear, ethnic leaderships amassed economic and political power during the war (i.e. before international intervention) and dominated a criminalized post-war state based on connections between political leaders and economic elites. Though she laments that the ‘liberal bias’ embedded in the transitional justice framework ‘left socioeconomic issues affecting the Bosnian society substantially unaddressed’ (Lai 2016, 374), the implication that transitional justice actors enjoyed sufficient potency to address socioeconomic issues if they refocused their attention to them is undermined by the clear ascendancy enjoyed by recalcitrant elites detailed elsewhere in her piece.

Bosnia, of course, is a state where the international community through the Office of the High Representative and EU accession negotiations exert significant supervisory functions over domestic politics. The dynamics at play in Lamont’s presentation of transitional



justice in post-Qadhafi Libya suggest an even more limited influence enjoyed by liberal-legalist conceptions of justice in states where there is little international leverage over domestic politics. While Lamont is concerned to illustrate that the teleology of international transitional justice models was illegitimate in the eyes of communities within Libya (which he does very well), one important additional implication is not fully teased out, namely that these international conceptions of justice were entirely subordinated to domestic visions of justice and political logic. As Lamont (2016, 383, 388) describes, Libya experienced a highly distinctive (and noticeably non-liberal and non-secular) emphasis on martyrs as a distinct and symbolic form of victimhood, a one-sided Transitional Justice Law that offended liberal rule of law principles and saw the prioritization of forms of administrative justice primarily oriented around the exclusion of certain individuals and groups (sometimes internationally supported) from power in the post-Qadhafi state. However, to picture this process primarily as a challenge to international legal norms or as a ‘conflict between Islamists and an external community of professionalized rule of law practitioners who sought to transpose Euro-centric notions and vocabularies of democratization and justice to Libya’s transition’ (Lamont 2016, 393) is to repeat the tendency of critics of liberal interventionism to foreground the West and the liberal in analysis at the neglect of the domestic political economy. The relevant struggles over the framing of justice in Libya were not primarily domestic versus international, but rather between different domestic factions in a civil war in which the international community’s preferred policy preference (ICC trials of a few Qadhafi regime remnants), are not so much illegitimate as irrelevant as it lacks any ability to fundamentally empower realignments in the fluctuating political order amidst an ongoing civil war. In those areas where there is a clash, namely between international vetting practices—outlined by the UN and politically exclusionary purges preferred by the domestic Governing National Council, the relatively shallow resolve of interveners failed against determined local opposition (Lamont 2016, 395).

Arnould’s survey of DR Congo again illustrates the salience of domestic elite-level politics in determining the boundaries of justice. The possibility of international criminal justice was initially raised by Laurent Kabila’s government in 1999 in the interests of deterring actors from neighbouring states from further invasion and by his son’s self-referral to the ICC in 2004 to use as a bargaining chip against rebel factions. Other mechanisms like a truth commission (promoted by global civil society) and domestic civil trials (promoted by statebuilders) did not get sufficient support from Kinshasa to make these enterprises worthwhile, or suffered political interference when they risked implicating the government (Arnould 2016, 327–328, 330). Commitment to ICC prosecutions has oscillated depending on the progress of the national peace process. Though the UN was complicit in the Congolese government’s inconsistent approach, in the clash between the national leadership’s view of transitional justice as a retractable arm of conflict management and the UN’s vision of it as a form of liberal statebuilding, the former approach has always exerted the greater influence.

Two things in particular are worth noting about Arnould’s contribution and those of Hronešová, Lai and Lamont. The first is that the models of justice promoted by the international community were either ignored or successfully instrumentalized by emerging politico-military elites for other political purposes—to secure the hegemony of veteran groups and war profiteers in Bosnia, to bolster the ideology of martyrdom and political exclusion in Libya, to serve as both carrot and stick in DR Congo’s internal securitization.



This reality calls into question the notion that the parameters for transitional justice and peacebuilding are predominantly or entirely ‘defined’ by the international community (Lai 2016, 363). The second thing worth noting follows naturally from the first—that where liberal-legalist impulses were subordinated to endogenous policy formation over justice, what emerged was not a commitment to socio-economic justice, social services, redistribution of wealth or a revision of unequal structures. This is important because the contemporary critique of transitional justice consistently implies that if the liberal-legalist lens was removed, greater space would emerge for more redistributive, welfarist or egalitarian approaches to arise organically (Turner 2013, 206; Dancy and Wiebelhaus-Brahm 2015, 58). This argument is essentially correct—transitional justice practice has generally ignored socio-economic injustice—but this only tells half the story. The limitations and structured invisibilities of transitional justice are as much the product of post-conflict political economy as they are of international liberal hubris. As O’Reilly (2016, 433) puts it, ‘maldistribution is produced through the boundaries of political community, which work to exclude particular groups and individuals from being entitled to make claims for just distribution’. The above examples illustrate that domestic actors are often willing to aggressively regulate those boundaries through endogenous iterations of transitional justice in exclusionary fashion that significantly depart from exogenous blueprints.

### Towards a new research agenda

As the contributions to the special issue suggest, greater attention to the nexus of peacebuilding and transitional justice must compel attention to transitional justice as it really is on the ground. It means eschewing the discourse of technical legalism that obfuscates the underlying politics of its interventions (Sharp 2013, 150). It means rejecting a policy-oriented research agenda which fits with a pro-market liberal peacebuilding model that disavows more radical structural analysis of conflict or more egalitarian means of organizing society (Franzki and Olarte 2013, 201, 202). It means destabilizing traditional conceptions of transitional justice and challenging its existing *modi operandi* to reveal concealed interests, ideological limitations and repetition of historical patterns of class domination obscured by its rhetoric. However, greater attention to the nexus of peacebuilding and transitional justice *also* means treating domestic politics as more than mere constraints on prefabricated liberal-legalist justice. Instead, as this special issue illustrates, what we see is a dyadic relationship between domestic and international actors based on a mix of conflictual and co-operative strategies which explain why grand designs for socio-economically transformative iterations of justice must give way to the types of bargaining and compromise that often leave pre-war societal structures largely untouched. Because of the absence of centralization and bureaucratic reach beyond the metropolis, ‘the post-civil war state frequently lacks the capacity to translate its decisions into authoritative rules applicable to society as a whole ... It therefore often has little option but to negotiate with powerful class and identity group leaders to achieve system goals’ (Rothchild 2002, 120). While domestic political leaders may wish to avail themselves of the material and symbolic benefits of transitional justice or use it to exclude other groups in society, they are likely to resist broader conceptions of justice because they fear these might undermine their security, power or economic interests. Transitional justice actors lack social or political power to veto the actions of domestic

actors, draft laws or constitutions or to bypass governments to enforce proposed measures. They operate under time, resource and commitment constraints. As a result, they are completely dependent on the co-operation or lack of obstruction from national and sub-national stakeholders if the projects they promote are to be realized effectively. Consequently, if transitional justice actors or peacebuilders aspire to secure some or all of their goals and if domestic elites simultaneously aspire to preserve some or all of their objectives, they must bargain over the type of justice they wish to secure.

Of course, the discourse of transitional justice has long been seen by critics as empowering elites at the expense of the most disempowered in society, and as diverting attention from the beneficiaries of the existing social system (Aguirre and Pietropaoli 2008, 367). The question this literature has not grappled with, however, is whether forms of justice can attain any efficacy in the absence of support from those ‘privileged local voices’ that dominate policy-making debates (Hronešová 2016, 340). This is important because even those transitional justice scholars favourably disposed to more transformative conceptions of the field have acknowledged that while a strong case has been made for integrating socio-economic rights within the transitional justice framework, there is little analysis of the ways and means of putting it into practice (Haldemann and Kouassi 2014, 504). The field has yet to develop non-ideal theories of justice that incorporate the most pervasive barriers to change in those ‘burdened societies’ that lack the political and cultural traditions, human capital or material resources to establish just institutions (Fuller 2012, 372) or explain ‘why the societal actors that supported physical violence to secure economic interests would now subscribe to a societal consensus that puts their profits in danger’ (Franzki and Olarte 2013, 211). Bottom-up and everyday conceptions of justice are commonly posited as an alternative to top-down, state-driven transitional justice (e.g. Balint, Evans, and McMillan 2014). The Women’s Court for the Former Yugoslavia is exemplary in terms of localization, sensitivity, non-coerciveness, flexibility and independence from government. However, as O’Reilly (2016, 421, 435–436) notes, its focus on the micro-level means it has little ‘trickle-up’ potential to achieve transformative change to those cultures of (male) veteran dominance and war economy endurance sketched elsewhere in the special issue.

As a response to these dilemmas (and the self-referential debates in both fields of inquiry), the significance of this special issue lies in the way it critically highlights and then actively bridges the gap between the transitional justice and peacebuilding literatures. In so doing, it advances a holistic understanding of the potential convergences and divergences between more expansive forms of transitional justice and the realities of contemporary peacebuilding. This is a necessary first step in explaining why ‘peace’ and ‘justice’ as formulated at headquarters level by international peacebuilders and donors seldom take this on the ground, but one which scholars in the field have either not recognized or consciously ignored. In highlighting how official bodies supported by the international community are inaccessible and often undesired in Sierra Leone (Martin 2016), how gender justice was marginalized in Bosnia-Herzegovina (O’Reilly 2016) and how state-centric transitional justice in Libya essentially revolved around weak institutions that lacked popular legitimacy (Lamont 2016), the contributions demonstrate the ways in which the interpretative frames attached to peace and justice condition the positions of international actors on transitional justice practice in unhelpful ways. It is clear that international actors engaged in peacebuilding promote institutions and foster forms of

governance that are uncondusive to meaningful transitional justice. In response, the special issue consciously foregrounds how local actors and everyday practices for addressing the past can serve as a source of justice. However, the contributions also break new ground in recognizing the dangers of viewing all resistance to transitional justice purely as a rejection of ‘our’ liberal norms, concluding instead that local resistance to projects advanced by INGOs and experts might better be understood as attempts to advance alternative political orders. The contributions illustrate that many of the barriers to justice lie in endogenous debates over its meaning, scope and beneficiaries. As such, it highlights the risks of asserting **that** the international community ‘creates’, ‘mandates’ or ‘imposes’ certain visions of justice—the practice revealed in these contributions reveals a much more mediated, improvised and altered series of interactions. The editors of the special issue correctly conclude that the forms of politics that emerge from peacebuilding and transitional justice ‘inadvertently privilege those with social, political or economic capital—that is, those who are able to navigate its structures and hierarchies by playing the correct game’ (Obradović and Vochnik 2016, 295). What the articles herein make clear, and what the transitional justice literature they build on hitherto have not, is that there are distinct impediments to altering the rules of this game which lie as much in **the** domestic politics of contestation as they do in the rationalities and pathologies of liberal interventionism.

Transitional justice has developed along specific lines and has privileged certain meanings and goals over others not only the basis of the exogenous ideologies of interveners, but also on account of the parameters established endogenously by ascendant post-conflict elites and prevailing social mores that benefit those with political or military power (Islamists in Libya, veterans in Bosnia) more than those that do not (women, rural communities, the urban poor). Millar and Lecy (2016, 316) are correct in arguing that transitional justice actors have hitherto failed to interrogate the ontological, epistemological and methodological biases of the field and the ways this has obscured a proper understanding of the problems facing post-conflict societies and solutions thereto. However, it is not enough to interrogate external conceptions of those problems and the limits of liberal projects as responses if we accept that external normative frameworks become fundamentally modified, co-opted or ‘bent’ at first contact with the relevant domestic interlocutors. The adequate conceptualization of harms and design of appropriate measures for rendering **the** more meaningful justice that O’Reilly (2016, 422) demands are a necessary condition of a more holistic, sensitive and emancipatory transitional justice, but will remain insufficient in the absence of political will on the part of domestic actors. The extent to which emerging theories of transitional justice do and do not grapple with the incentives created and paths closed off by elite power and wealth retention suggests the limits of the field’s utility for catalysing emancipatory change.

### Disclosure statement

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### Notes on contributor

**Padraig McAuliffe** is a senior lecturer in the School of Law and Social Justice in the University of Liverpool. His primary research interest is transitional justice. He is the author of *Transformative*

*Transitional Justice and the Malleability of Post-Conflict States* (Edward Elgar, 2017) (p.g.mcauliffe@liverpool.ac.uk).

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