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The Scope and Selectivity of Comparative Area Studies: Transitional Justice Research

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Abstract

The paper discusses how current methodological debates on the potential of comparative area studies intersect with current trends in transitional justice research. As the field of transitional justice studies is approaching saturation, academic efforts in this field are increasingly focused on empirical as well as theoretical generalization. The challenge of comparative transitional justice research is less to weigh the national impacts of policies than to incorporate a more historicized conception of causality that includes complex long-term processes and global interdependencies. From the perspective of comparative area studies, the case of transitional justice studies testifies to the need to combine the local, national, transnational, translocal, and global levels of analysis.

Keywords: area studies, comparative area studies, transitional justice, comparison

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The Scope and Selectivity of Comparative Area Studies: The Case of Transitional Justice Research

Anika Oettler

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1 Introduction

Discerning trends in academic fields is a difficult undertaking, as some paradigms come into fashion and disappear quickly while others last.¹One such trend is the field of transitional justice studies, which emerged in the late twentieth century. The invented term (or signifier) “transitional justice” refers to a set of judicial and nonjudicial instruments for dealing with past human rights violations (narrow sense) or to the broad and long-lasting process of coming to terms with mass violence (broader sense). The concept of transitional justice is closely

1 I would like to thank Bert Hoffmann and Thorsten Bonacker for their helpful comments and suggestions.

associated with the political changes of the 1980s and 1990s, when the demand for both punishment and truth led to the implementation of truth commissions and other restorative justice mechanisms. Since then the rapid proliferation of transitional justice mechanisms with ever-increasing degrees of professionalism has provided a nurturing environment for an academic enterprise that has required expertise from diverse disciplines. The flourishing field of transitional justice studies now attracts scholars from diverse countries and influences public debate all over the world.

This paper contends that the evolution of transitional justice studies is best described as a bell-shaped curve divided into several stages: formation, growth, maturity, and, presumably, decline. The notion that transitional justice research has passed through a (product) life cycle suggests that the evolution of patterns of scholarly debate is linked to the needs and structure of a global academic market characterized by rivalries and competition. Accordingly, it seems appropriate to presume that the history of transitional justice ideas has reached a stage of maturity, with intensified competition and declining academic “profits.” As more and more competitors enter the field of transitional justice research, the prospects for recognition and career gradually fade away. The competitive dynamic within transitional justice research, as described below, has led to an accelerated search for unsolved puzzles, new cases, and innovative theories. Current synthesizing efforts are often (though not always) connected to quantitative approaches that aim to measure the impact and/or effectiveness of transitional justice. In general, macro perspectives on transitional justice processes are closely related to comparative approaches.

The field of transitional justice research is currently intersecting with the methodological vogue of comparative area studies. In recent years, the “classical” controversy between area studies and disciplinary social science (Pye 1975) has lost momentum as many researchers have become aware of the global interconnectedness of social phenomena. Comparative methods have been enhanced in response to the subjective as well as objective dimensions of globalization. As Robertson (2000: 8) stated, the term globalization “refers both to the compression of the world and the intensification of consciousness of the world as a whole.” It seems appropriate to presume, though, that real-world changes as well as certain discursive attitudes have led to growing methodological concern about the analysis of complex causal interactions both within and across cases. Accordingly, there has been renewed debate regarding case-selection techniques (Seawright and Gerring 2008; Liebermann 2005; Mahoney 2007) and small-N comparative research designs based on (or even transcending) most similar/most different systems (Przeworski and Teune 1970; Berg-Schlosser and De Meur 1994; Sartori 1991). Within methodological debates, the idea of fuzzy set/qualitative comparative analysis (QCA) has attracted considerable interest (Ragin 2000). Based on Boolean algebra, this method allows researchers to analyze multiple sets of variable combinations and to describe complex causal effects. Seen from the angle of area studies, however, the approach of comparative area studies (Basedau and Köllner 2007; Ahram 2011) seems to be most promis-

ing, as it comprises intraregional comparisons, interregional comparisons, cross-regional comparisons and thick case studies.

This paper uses the case of transitional justice research to demonstrate the potential and pitfalls of comparative area studies. While this approach has tremendous potential for studies dealing with moderate numbers of cases, quantitative applications tend to produce abstract models with little connection to complex social realities. In what follows, I describe some factors that may undermine the attractiveness of *quantitative* comparative area studies.

In the following section, I briefly summarize the concept of comparative area studies, then turn to the interactional field of transitional justice. The third section of the paper outlines the evolution of transitional justice practices, while the fourth section deals with the evolution of the academic field of transitional justice. Section 5 reflects critically on the scope and selectivity of comparative transitional justice studies, focusing on the following key questions: What is a case of transitional justice? How do we avoid oversimplification when comparing cases? Or, seen from a different angle, how do we produce a case study that is both thick and comparable? How do we select cases for comparative analysis? The concluding section discusses adequate ways of navigating between Scylla and Charybdis – that is, between the logic of simplifying probabilistic analysis and the logic of historiographical particularity, uniqueness, and singularity.

2 Background: The Idea of Comparative Area Studies

Certainly since the institutionalization of post-World War II area studies in the United States, academia has been divided over the meaning and significance of the discipline and its more recent transformations. The term “area studies” entered the vocabulary to describe multidisciplinary research programs whose essential task is to produce systematic knowledge about “other” regions of the world. This knowledge refers to a wide range of subject matters, including language, culture, religion, political systems, geology, history, taxation, media landscapes, gender relations, and so on. The understanding of social, political, and historical contexts requires both language skills and significant real-life experience in the regions at stake. Area experts are usually familiar with the cultural contexts of a handful of countries, and their expertise is based heavily on their disciplinary training (humanities, linguistics, social sciences). Sometimes they are experts in subfields of international politics such as public health, security, or poverty reduction, with a strong understanding of certain policy issues in “their” region.

Yet what exactly does “region” (or area) mean? As many critics have pointed out, the demarcation of specific areas (e.g., Latin America, sub-Saharan Africa, East Asia, Europe, Russia) is always linked to ideological conceptions of the world. Wallerstein et al. (1996: 94) turned their attention to the evolution of the scientific field, defining it as being “divided into a specific set of relatively standard disciplines in a process that went on between the late

eighteenth century and 1945." Within this disciplinary division of labor, anthropology was established to deal with "the savage other," while development economics, the sociology of development, comparative politics, and area studies were thought to deal with modernization and the "take-off into self-sustained growth" (Rostow 1956) in a postcolonial world. The "areas" of Cold War area studies, however, are now viewed as arbitrary constructs emanating from the epistemological history of colonization and imperialism. Areas were seen as social entities "with more or less durable historical boundaries and with a unity composed of more enduring properties" (Appadurai 2001: 6). But, as many critics have argued, how many similarities with regard to culture, language, values, economic structures, and political institutions do sub-Saharan countries actually share? Where do we draw the boundaries between East Asia, South Asia, and Southeast Asia? Is Russia an area? Where is the Middle East?

As Appadurai (2001: 7) has noted:

These apparent stabilities are themselves largely artefacts of the specific trait-based idea of "culture" areas, a recent Western cartography of large civilizational landmasses associated with different relationships to "Europe" (itself a complex historical and cultural emergent); and a Cold War-based geography of fear and competition in which the study of world languages and regions in the United States was legislatively configured for security purposes in a reified map of geographical regions.

The discursive act of demarcating areas seems to be intrinsically linked to the geostrategic interests of "the West." The European colonial past as well as more recent US foreign policy concerns have left their imprint on institutionalized area studies, particularly as established in the United States after 1945 (Szanton 2003). After World War II, powerful foundations such as Rockefeller, Carnegie, and Ford were key players in creating area studies programs at US universities. In Europe, the trajectory of area studies, generally shaped by colonialism and subsequently the Cold War, differed from country to country. In West Germany there were also some attempts at accumulating knowledge about regions that were of vital diplomatic and economic interest to the Teutonic phoenix rising from the ashes of war. The German Overseas Institute (Deutsches Übersee-Institut), founded in 1964, was restructured and renamed in 2006, the tracks of its geostrategic past thus semantically covered up. This high-profile research institute, now called the GIGA German Institute of Global and Area Studies, has direct ties to German foreign policy institutions; its research agenda, however, is developed according to academic needs and adopts critical perspectives on world affairs as well as alternative political postures.

The evolution of this European institute's focus suggests that area studies has moved beyond traditional Cold War area studies by questioning the spatial boundaries associated with world regions and by introducing innovative methods. While many critics perceive area studies to be anachronistic in a globalized era of world politics, others have pointed out that global events have renewed the demand for regional expertise and foreign-language skills.

Increased critical awareness of global complexities has paradoxically led to the Janus-faced appearance of area studies. On the one hand, there is renewed complicity with European or North American security concerns emanating from so-called global threats such as 9/11, transnational organized crime, and undocumented migration. On the other hand, the revival of area studies has been associated with major transformative efforts, which have resulted in what might be called critical area studies. This field of critical area studies focuses on geographies of power and takes into account intersectional perspectives as well as the debate on white supremacy and positionality. It adheres to Appadurai's (2001: 6–7) claim that "we need an architecture for area studies that is based on process geographies and sees significant areas of human organization as precipitates of various kinds of action, interaction, and motion – trade, travel, pilgrimage, warfare, proselytization, colonization, exile, and the like."

Based on the idea "that all 'areas' also conceive or produce their own 'areas'" (ibid.: 8), current area studies transcends the spatial boundaries traditionally associated with "areas." What critical area studies and modernized area studies (as described by Basedau and Köllner 2007) have in common is that both approaches emphasize the need for both profound knowledge of local contexts and the systematic analysis of global issues, usually using comparative approaches.

Comparison is at the heart of social research and means that researchers essentially search for similarities or differences when contrasting patterns of social life within or across cases, within space, and across time. The ultimate goal of systematic empirical evidence is to describe constant or stable patterns of human behavior and, simultaneously, to generate universal categories, typologies, and theories. Ever since the pioneers of social research started thinking about the essential elements and techniques of social science (observation, experimentation, classification, explanation, and generalization), there has been a lively debate on comparative methods, particularly on the units, extent, and scale of comparative analysis. While the macro comparisons and conceptual contributions of Marx, Weber, and Parsons have been a matter of some theoretical debate (Vallier 1971), other authors have been engaged in discussions about small-N versus large-N paradigms and the problem of adequately detecting causal inference. More recently, various academics have attempted to overcome the micro/macro and quantitative/qualitative divide. Ragin and Rubinson (2009: 15) have noted the following:

Comparative research can bridge the divide between qualitative, case-oriented research and quantitative, variable-oriented research. Like case-oriented methods, comparative methods maintain the integrity of cases; like variable-oriented methods, comparative methods examine patterns of relationships among variables. Comparative methods, then, may be used for both theory development and hypothesis testing.

It is crucial to note that Ragin and Rubinson have one particular comparative method in mind: qualitative comparative analysis (QCA), which is, as noted previously, based on Boolean algebra and so-called truth tables. This method, typically applied to a moderate number

of cases, creates a bridge between classical small-N comparisons (which focus on complex patterns of causation) and large N-comparisons (based on abstract multiple regression analysis). This method has been widely applied within the subfield of comparative politics; for instance, De Meur and Berg-Schlosser (1994) developed and applied a QCA method to analyze the similarities and dissimilarities of political systems.

QCA, however, is just one method of doing comparative research. There are many other comparative research strategies, mostly linked to “academic tribes” (Becher and Trowler 2001) and their respective languages and cultures of inquiry. After decades of basically fruitless methodological struggle, more recent debates have been able to overcome some of the deepest divisions within the social sciences – between inductivism and deductivism, and between thick description and correlational analysis. The current move to mixed-method designs coincides with the rising popularity of comparative area studies. Both trends overlap in their approaches to social reality, whose sheer complexity demands a multifaceted analytical approach. It is crucial to note that “Area Studies and Comparative Area Studies do not constitute ends in themselves. They must serve a purpose” (Basedau and Köllner 2007: 112). As Basedau and Köllner explain, area studies and comparative area studies serve an important function by providing data and descriptions (based on in-depth knowledge of local realities) as well as context-sensitive explanations and social theories. As such, they have come to the forefront of innovative social research. Comparative area studies avoids oversimplifying causal chains and ignoring both history and context. As Ahram (2011: 84) states, the emphasis on induction “maintains the integrity of region-specific knowledge about the multiple layers and multiple iterations of impacts that generate the concrete forms of social changes observed in the world today.”

The degree of innovativeness of comparative area studies may depend on whether the particular research project compares social phenomena within, between, or across areas (Basedau and Köllner 2007; Mehler and Hoffmann 2011). While some research designs may still be closely linked to traditional area studies, others contribute to a research agenda that proposes an alternative to Eurocentric and Americanized social science. Comparative studies across regions (including those of the North) are best suited to deal with phenomena perceived as global concerns. Moreover, cross-regional studies enhance the dialogical benefits of bringing “Southern” theory to “Northern” academic worlds (Connell 2007; Comaroff and Comaroff 2012). The following section uses the case of transitional justice research to describe both the potential of comparative area studies and the hierarchies ingrained in the global academic marketplace.

3 Seven Decades of Transitional Justice

The ethical imperative to deal collectively with past atrocities came into being after World War II. Shortly after their victory over the Nazi regime in May 1945, the Allied forces initiated

a policy of demilitarization, denazification, and reeducation (Taylor 2011). The denazification process aimed to eliminate the remnants of National Socialism from postwar society. This process, carried out by the Allies, was fragmented and uneven, comprising a broad spectrum of mechanisms including the detention, arrest, and interrogation of those believed to have been involved at any level with the Nazi regime. In West Germany, the results were less than satisfactory because many high-ranking Nazi officials managed to either flee the country or to be classified as “followers” (and, thus, to be rehabilitated). Another strategy consisted of “reeducating” Germans by exposing them to visual evidence of mass violence. Hannah Arendt (1950: 348) considered this shock therapy “the gravest single error in the American denazification policy,” because it helped strengthen individual defense mechanisms instead of tugging at the conscience of ordinary Germans.

The Nuremberg Trials, however, came to be known as the most important precedent for what is now called transitional justice (Tomuschat 2006; Reginbogin and Safferling 2006). The trial of 24 high-ranking officials and Nazi collaborators before the International Military Tribunal was the first trial in history for crimes against humanity. Moreover, a series of trials against 164 members of the Nazi elite – including judges, lawyers, medical doctors, directors of banks and companies, officials of *Reich* ministries, commanding officers of the Protection Squadron (*Schutzstaffel [SS]*), and high-ranking members of the military forces – took place. Postwar West German society generally challenged the legitimacy of the trials and rejected the verdicts as unjust victor’s justice (*Siegerjustiz*), carried out to satisfy a desire for revenge (Burchard 2006: 812–813). The majority of Germans did not deal with questions of guilt and responsibility and were rather critical of the notion of collective guilt. During the occupation period, tens of thousands of suspected war criminals and Nazi collaborators were arrested, thousands of suspected perpetrators of crimes against humanity were tried, and hundreds of thousands of Germans were subjected to screening.² Despite (or because of) these mechanisms, public discourse came to be permeated by an intense sense of defensiveness regarding guilt. This defensiveness contributed to making discussions about the complicity of ordinary Germans in the Holocaust a taboo.

It was precisely this climate of rejection, denial, and taboo that made Adorno profoundly uncomfortable after his return from exile. In his famous 1959 essay, he stated that the term “working through the past”

has become highly suspect during the last years. In this usage “working through the past” does not mean seriously working upon the past, that is, through a lucid consciousness breaking its power to fascinate. On the contrary, its intention is to close the books on the past and, if possible, even remove it from memory.

(Adorno 1998: 89)

2 The screening questionnaire was published by Kritz (1995: 412–416).

This statement reflects an understanding of the underlying problems in postconflict societies that is linked to key concepts of psychoanalysis (Laplanche and Pontalis 1996; Jelin 2012: 47–50). While the term “psychological working over” or “working out” describes how the psychic apparatus transforms energy, the term “working through” is associated with the arduous task of breaking through the surface of a forgotten past in order to “discover the repressed instinctual impulses which are feeding the resistance” (Freud 1950: 155). The related term “work of mourning” is intrinsically linked to the painful process of dealing with the loss of a loved object, with countless memories being brought up before libidinal desire becomes liberated again.

During the first decades after World War II, those who tried to intervene in public discourse drew on a discursive repertoire tied to both psychoanalysis and political theory (Mitscherlich and Mitscherlich 1967; Giordano 1987; Arendt 2006; Adorno 1998a; Améry 1980; Levy 1996). The particular way in which they framed the challenges of postwar societies heavily influenced subsequent social struggles, which took place in the broader political context of the “third wave” of democratization (Huntington 1991). The question of how to deal with past atrocities was treated as a key problem of political transition. While human rights movements dreamed of and fought for both the revelation of truth and judicial prosecutions of those responsible for the crimes, transitional elites (whether or not they had been involved in the crimes of the former regime) were primarily afraid of a return to dictatorship or of internal war. In their view, the main task was “settling a past account without upsetting a present transition” (O’Donnell and Schmitter 1986: 28).

Among the recommendations made by Huntington in his “guidelines for democratizers” was one for dealing with the “torturer problem”: “the least unsatisfactory course may well be: do not prosecute, do not punish, do not forgive, and, above all, do not forget” (Huntington 1991: 231). Many transitional elites, though, resorted to a pragmatic truth-but-no-trials policy. They thereby responded to the “torturer problem” in such a way that the most urgent needs expressed by human rights organizations were met first. In many countries, the practice (or tolerance) of forced disappearances was a key element of state repression, leaving entire families in a liminal state because it was unclear what had happened to the victims. Uncertainty about the whereabouts of loved ones made it impossible to perform burial rituals, thus leading to disturbed mourning. In Argentina, as in many other countries around the globe, there were intractable rumors that the disappeared were still alive (Robben 2005). When the Madres de Plaza de Mayo (the mothers of disappeared) appeared publicly in 1977, one of their most controversial slogans was *Aparición con Vida!* (Reappearance Alive). The Madres and other groups representing the victims of state repression demanded that the military regime publicly disclose the whereabouts of the disappeared. Moreover, they called for judicial prosecutions of those responsible for abduction, killing, and torture. The political opportunity structures of many Latin American democratization processes contained basic elements favorable for the implementation of new mechanisms of transitional justice.

The synergetic effects of elite pragmatism, psychological needs, and strategic choices made by human rights movements gave transitional justice as much dramatic power as democratization itself. These threads were woven together with the spirit of Christian reconciliation and thus eventually led to the proliferation of truth commissions. These temporary bodies, set up to investigate past human rights violations as well as acts of violence,³ symbolized the “move from the courtroom to the healing room” (Teitel 2003: 83) that took place in the 1980s. Since then there have been officially authorized or significant nonstate truth-finding projects in many countries of the world.

On the one hand, a handful of *flagship truth commissions* have been the cornerstones in the transnational process of establishing the procedural as well as the substantial norms of transitional justice. In general, these commissions have received international attention and recognition, and increasing international support.⁴ On the other hand, the more such commissions were established in the 1980s and 1990s, the more complex and ambiguous the picture became. In addition to a number of less widely known, but also substantial, truth commissions,⁵ there were some *failed truth commissions* (which never came into being or were disbanded before they submitted a final report⁶) as well as several single-issue truth commissions.⁷ Finally, the landscape of investigatory efforts involves some second-generation truth commissions that either tried to come to terms with past atrocities in a deeper way than their predecessors had done or focused on specific crimes excluded from former truth-finding efforts.⁸ Meanwhile, in some cases, truth-finding efforts have begun before an end of “the past” is even foreseeable. The official Colombian *Comisión Nacional de Reparación y Reconciliación* (since 2006) and the nonofficial Miami-based *Task Force on Memory, Truth and Justice* (which deals with Cuban history) constitute *preemptive truth-finding efforts*.

3 For a comprehensive definition, see Hayner 2001: 11.

4 Argentina, 1983–1984: *Comisión Nacional para la Desaparición de Personas*(CONADEP); Chile, 1990–1991: *Comisión Nacional para la Verdad y Reconciliación*; Republic of South Africa, 1995–1998: Truth and Reconciliation Commission; Guatemala, 1997–1999: *Comisión para el Esclarecimiento Histórico de las Violaciones a los Derechos Humanos y los Hechos de Violencia que han Causado Sufrimientos a la Población Guatemalteca* (CEH); East Timor, 2001–2005: *Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste*; Peru, 2001–2003: *Comisión de la Verdad y Reconciliación*; Sierra Leone, 2002–2004: *Truth and Reconciliation Commission*.

5 Some examples are Chad, 1991–1992: *Commission d'Enquête du Ministère Chadien de la Justice sur les Crimes du Régime de Hissène Habré*; El Salvador, 1992–1993: *Comisión de la Verdad para El Salvador*; Uruguay, 2000–2003: *Comisión para la Paz*; Haiti, 1995–1996: *National Commission for Truth and Justice*; Panama, 2001–2002: *Comisión de la Verdad*; Ghana, 2003–2004: *National Reconciliation Commission*; Paraguay, 2003–2008: *Comisión de Verdad y de Justicia*; Liberia, 2005–2010: *Truth and Reconciliation Commission*.

6 Bolivia, 1982–1983; Ecuador, 1996–1997; Jamaica; Suriname; Fiji; Philippines.

7 Some examples are Honduras, 2010–2011: *Comisión de Verdad* (focusing on the coup d'état of June 2009); Canada, 1991–1996: *Royal Commission on Aboriginal Peoples*; Canada, 2008: *Indian Residential Schools Truth and Reconciliation Commission*; United States 1980–1983: *Commission on Wartime Relocation and Internment of Civilians*(1942–1945).

8 Chile, 2003–2004: *Comisión Nacional sobre Prisión Política y Tortura*; Uruguay, 2000–2003: *Comisión para la Paz*.

While more and more officially authorized truth commissions and nonstate truth-finding projects have been established in different parts of the world, a parallel “trend towards and expansion of transnational judicialisation” (Teitel 2010: 13) has taken place. Although there was still significant subsequent debate over procedural as well as substantial norms, the 1998 Rome Statute (providing for the establishment of the International Criminal Court (ICC)) signaled the beginning of a new era in which dictators and war criminals were more likely to face judicial prosecutions. In Annan’s words, the Rome Statute, which provided for the creation of a permanent tribunal to judge genocide, crimes against humanity, and war crimes, was a “gift of hope to future generations, and a giant step forward in the march towards universal human rights and the rule of law.”⁹ Moreover, the establishment of the ICC in 2002 was a jurisprudential milestone in the evolution of international criminal procedure, with the harmonization of different legal traditions (Common Law, Civil Law) remaining a major jurisprudential challenge (Safferling 2001).

The turn to legal mechanisms for dealing with the past was expressed through some symbolically important temporary institutions such as the ad hoc International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), the hybrid Special Court for Sierra Leone (SCSL), and the Extraordinary Chambers in the Courts of Cambodia (ECCC). Additionally, numerous national courts have attempted to prosecute perpetrators of mass violence according to the principle of universal jurisdiction (Hall 2003). The 1999 extradition proceedings in Spain against former Chilean dictator Augusto Pinochet were widely perceived as an important step towards universal human rights and the rule of law. Yet because of diverse legal obstacles and practical problems, many observers have expressed concern about the rapid, uncontrolled, and arbitrary proliferation of the principle of universal jurisdiction (Amnesty International 2011: 1, Slaughter 2004).

Although there are many differences between the fields of international criminal law and institutionalized truth-finding, they exhibit similar evolutionary characteristics. First, the trend towards networked professional learning in both fields has prompted the discursive proliferation of the politics of expertise. Since the late 1990s, the global marketing of ideas and “lessons learned” has been increasingly bound to the expansion, acceleration, and densification of social relationships within global expert networks (Arthur 2009; Subotić 2012). Second, instead of getting stronger, the semantic connection between “transition” and “justice” has become looser and more undifferentiated. The contemporary phase of “steady-state transitional justice” (Teitel 2003: 89) is characterized by routinization – that is, the transformation of transitional justice into lasting collective mechanisms for dealing with mass violence. Rather than being a condition *sine qua non* for the application of transitional justice, political transitions (from civil war or authoritarian rule to democratic regimes) have become

9 UN Press Release L/2890, 20 July 1998, online: <www.un.org/News/Press/docs/1998/19980720.L2890.html>.

one goal among others. While many preemptive¹⁰ and postponed “transitional” justice efforts have taken place, more recent debates have expanded the set of potential goals to be achieved by transitional justice. More wide-ranging debates (whether critical or not) now take into account development-related issues (Mani 2008; Duthie 2008; Colvin 2008; Muvingi 2009; de Greiff and Duthie 2009) as well as “subsistence harms” (Sankey 2014).

4 Transitional Justice Research and the Quest for Scientific Innovation

Similarly to the historical stages of international practice, the scholarship examining the moral foundations, institutional settings, and political impacts of transitional justice has evolved through successive stages. As mentioned above, the evolution of the burgeoning field of transitional justice studies resembles a classical product-life-cycle curve divided into four stages. According to the product-life-cycle model, originally presented by Raymond Vernon (1966), competitive pressures are low during the formative stage. From the late 1940s until the mid-1990s, the body of both empirical studies and normative contributions grew slowly but continuously. That was the time when the term “transitional justice” was not even in use¹¹ and debates centered mainly on psychological needs and normative claims (see above). The subsequent invention and rapid proliferation of truth commissions attracted growing scholarly interest in different parts of the world. In the mid-1990s, the ambitious project of the South African Truth and Reconciliation Commission (TRC) and ongoing debates on accountability and historical clarification in Latin America made “transitional justice” a topic of major interest for social scientists, lawyers, and psychologists. These debates set the scene for the subsequent stage of growth in the discipline, including the publication of diverse, and now classic, contributions on the idea of transitional justice. The years around the turn of the millennium saw significantly more contributions on normative issues (e.g., Crocker 1999; Elster 2004; Rotberg and Thompson 2000; Minow 1998; Nino 1996; Weschler 1998). In another vein, fundamental questions about variation in time and across space framed early comparative debates (e.g., Hayner 2001; Kritz 1995; Barahona de Brito, González Enríquez and Aguilar 2001).

International media coverage, public debates within various political spheres, and a growing number of cultural representations of mass violence created a nurturing environ-

10 A recent example is the United Nations Human Rights Council’s (UNHRC) report on human rights violations in the Democratic People’s Republic of Korea. The UNHRC concludes that the “United Nations must ensure that those most responsible for the crimes against humanity committed in the Democratic People’s Republic of Korea are held accountable. Options to achieve this end include a Security Council referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal by the United Nations” (UNHRC 2014: 366).

11 Ruti Teitel claims to have coined the term in her 1991 application to the United States Institute of Peace (Teitel 2010, supranote 1).

ment for academic research. During the growth stage of transitional justice research, the academic output began to expand exponentially, more and more scholars entered the academic market, and powerful nodes emerged within global expert networks. Although major conceptual issues remained unresolved and open to continued debate, there were diverse efforts to initiate a process of canonization. Since the late 1990s, an ever-increasing number of conferences and edited volumes had produced a vast body of arguments that each member of the “TJ community” was expected to be familiar with. In the collecting, composing, and editing of publications, it was paradoxically the members of that same “TJ community” who decided who was to be included in the canon of transitional justice research and who was not. Perhaps the most important contribution to the field was the myriad of case studies covering well-known cases such as South Africa, Chile, and Argentina as well as a large number of lesser-known, deviant, or even neglected cases.

With the veritable explosion of publications on transitional justice, two general trends have been accelerated. First, the trend towards concentration has further fostered powerful nodes within the global expert network (such as the International Center for Transitional Justice, and the International Journal of Transitional Justice, see Arthur 2009; Subotić 2012). At the same time, more and more academic centers and networks have entered the competition for international visibility. Key institutions include the Transitional Justice Institute (University of Ulster), the African Transitional Justice Research Network, Oxford Transitional Justice Research, and the Essex Transitional Justice Network. This has in turn led to the second general trend: the movement towards a hierarchical (Anglo-American) internationalization.

The field is now entering a stage of maturity, with the academic market approaching saturation. The overwhelming number of publications has made it extremely difficult to have a good overview of potentially relevant findings. The Transitional Justice Bibliography, compiled by Andrew G. Reiter and his Transitional Justice Data Base Project, contains 2,497 entries, which represent a selection of relevant literature. There is increasing “brand” competition, and marginal competitors face serious obstacles in getting their voices heard at the national as well as the international level.

This situation requires research strategies whose key components are empirical generalization, theoretical refinement, or the discovery of new domains. The latter usually involves either comprehensive case studies or comparisons between two or more cases, undertaken with the aim of providing new insights into the social dynamics of dealing with the past. These case-oriented strategies represent holistic approaches to complex realities, and tend to shed light on historical particularities. By using qualitative social research methods (whether explorative or not), they contribute to a multifaceted understanding of transitional justice processes.¹² The strategy of theoretical refinement (which often emanates from empirical research) focuses on providing new conceptual insights into the dilemmas as well as the dy-

12 The list of relevant works is extensive. I have attempted to avoid canonization and its exclusionary effects wherever possible.

namics of transitional justice. More recent contributions using this line of inquiry underscore the fact that “the field remains tremendously undertheorized” (de Greiff 2012: 32). Whether there is a lack of theory or not remains open to debate, but it should be noted that “approaches to conceptualis[ing] the phenomenon can be manifold and highly diverse, and can at times be in tension with each other” (Buckley-Zistel et al. 2014: 4). Although the main problem might be a “thin consensus” (see de Greiff 2012: 32) on the characteristic features of transitional justice, there have been some thought-provoking efforts at grand theory in recent years. The third strategy, empirical generalization, is generally associated with research methods from comparative politics (Backer 2009; Kim and Sikkink 2013). This body of research is based on variables rather than cases, and deals with the extent to which independent variables influence the dependent variable. In contrast to qualitative case studies, this approach promotes a broader understanding of transitional justice processes that transcends the boundaries of time and space. This vein of inquiry, however, can lead to new (and even dissonant) answers to a basic question: What is the value of comparison?

5 How Do We Select Cases for Comparative Transitional Justice Studies?

David Backer has promoted the utility of cross-national comparative analysis combining longitudinal large-N studies with qualitative small-N studies. A useful research strategy, according to Backer (2009: 55), “is a panel survey that captures relevant information on the same set of respondents at multiple points in time. For higher levels of aggregation, the requisite source is time-series data on various indicators of interest, capturing snapshots both before and after the implementation of relevant transitional justice measures.” It is important to note that the ultimate goal of the research strategy Backer proposes is to identify the factors that affect the selection of transitional justice mechanisms and to detect their “macrolevel outcomes” (Backer 2009: 51) as well as “microlevel effects” (ibid.). On the other hand, Backer (2009: 24) refers to a set of “hurdles” in undertaking comparative research. First, cases tend to be too different to establish common variable-based categories. Second, the “information asymmetry” (ibid.: 58) with regard to well-known and less documented cases contributes to the reproduction of distorted global memories of transitional justice processes. Third, the real impact of transitional justice processes “can be difficult to ascertain or quantify, because 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” (ibid.: 59). There is, of course, more than one way out of this dilemma. Backer (ibid.: 60) proposes devoting particular effort “to establishing clear causal links among variables that are amenable to analysis.” In general, he opts to apply quantitative methods “to more accurately assess differences across countries in outcomes such as patterns of governance and the evolution of attitudes” (ibid.: 63).

Another solution to this methodological dilemma would be to abandon the search for an authoritative global assessment of past and recent impacts of transitional justice mechanisms. Instead, theory building based on comparative analysis should move back from the top of the pyramid to its bottom and reconsider the following basic question: What is a case of transitional justice?

There is one main challenge when selecting cases in comparative transitional justice research. Consider, first, that many comparative research projects remain connected to the scholarly tradition of what Beck and Sznaider have named “methodological nationalism.” Apparently, the larger N gets, the greater the probability that national societies or national states will be used as the unit of comparative analysis. Some of the most thorough comparative studies on transitional justice (Backer 2009; Olsen, Payne and Reiter 2010a,b,c; Kim and Sikkink 2013; Payne and Sikkink 2014) testify to this trend. Although these authors are highly aware of both de-territorialized social processes and transnational political spaces (Keck and Sikkink 1998), their comparative work is often inclined to national units of research. The globalized character of world affairs, however, requires a multiperspectival lens through which to view the entangled processes for coming to terms with mass violence. As Beck and Sznaider (2010: 398) have noted, a “single phenomenon ... can, perhaps even must, be analysed both locally and nationally and transnationally and trans-locally and globally.” To mention but one of many examples, the current politics of memory in Spain is so intrinsically linked to transnational political spaces that the most important unit of analysis should transcend national borders (Capdepón 2011; Elsemann 2012; Golab 2008). At the other end of the spectrum, there are many cases where local forces are isolated from (or even diametrically opposed to) national politics.¹³

In general, transitional justice research is concerned with the development of “interactional fields” (Abott 2001: 124) that are embedded in and constituted through time and space. These interactional fields can vary greatly in space, shape, and inner structure. Social practices for dealing with the past have contributed to the expansion of social places in the shrinking world of global interdependencies. Social exchange and interaction implies changing spatial relationships between interactional fields, and thus the creation of an ever-shifting *mélange* of overlapping norms and practices. Research practices adapted to this multifaceted scenario should apply case-selection strategies open to local, national, transnational, translocal, and global cases.

To complicate things even further, cases not only transcend national boundaries but also constitute “fuzzy realities with autonomously defined complex properties” (ibid.: 144) that constantly interact with their environment. This complex understanding has two major implications for comparative research. The first is that a “given event has many immediate an-

13 Examples are Peru (Burt 2006; Theidon 2006), Guatemala (Oettler 2006), and Mexico. Sylvia Karl has recently completed her PhD thesis on the Mexican dirty war and the social movement made up of relatives of the disappeared in Guerrero, where Lucio Cabañas led a small guerilla movement in the 1970s.

tecedents, each of which has many immediate antecedents, and conversely a given event has many consequents, each of which has many consequents" (ibid.). This "too-many-variables" problem, in turn, leads to a cross-cultural global historiographic approach focused on the "network character of historical causality" (ibid.). The second implication of understanding cases as fuzzy realities is to alternatively set the limits of cases. Instead of equating cases with countries, comparative transitional justice research may focus on social groups (e.g., perpetrators, victims, judges), events (e.g., ceremonial events such as the release of truth reports or public sentences), institutions (e.g., International Criminal Court, truth commissions), or networks (transnational advocacy networks, intergovernmental networks).

6 Conclusion

This article has presented two intersecting lines of argument, each of which deals with the evolution of scholarly debates over time. The first line of argument claims that comparative area studies is best suited to providing thick descriptions as well as context-sensitive explanations of complex social phenomena in the world today. The second line of argument refers to the shifting and interdependent centers of gravity of both transitional justice research and transitional justice practice. As described above, these fields met at the beginning of the twenty-first century, when transitional justice research entered a stage of maturity and social research, in general, became more aware of global interdependencies.

We may draw two lessons from these two descriptions of scholarly debates:

- 1) From the perspective of transitional justice research, the debate within comparative area studies reminds us of the importance of combining profound area-specific knowledge with generic knowledge on the macro-level patterns of social organization. The context-sensitivity of area studies implies a thorough understanding of local languages, histories, cultural representations, and symbolic worlds. This is especially important because transitional justice is a collective response to mass violence and its devastating effects. In a broader sense, transitional justice refers to the obstacles to mourning in complex and often violent postconflict situations. As such, transitional justice studies must use both close observation and hermeneutic approaches in order to understand the meanings of specific constellations of religious, political, cultural, economic, and gendered power. This leads to another aspect of comparison, which is the geography of transitional justice. Further attention needs to be paid to reconsidering the spatial registers traditionally associated with comparative social research. There have been various attempts to question the national focus of research (Hinton 2010; Sriram and Ross 2007), and a myriad of case studies have been published since the mid-1990s. However, comparative efforts often remain unsystematic and embryonic, even when they aim to generate generic theories. One of the main challenges of comparative area studies (and this also applies to transitional justice research) is to generate "the kind of middle-range theory that is context-sensitive but yet manages to capture important causal effects" (Basedau and Köllner 2007: 14).

2) From the perspective of comparative area studies, the field of transitional justice serves as a paradigmatic example of the limitations of comparative research. The idea and methodological principles of comparative area studies are best suited for analyzing social phenomena with clear lines of demarcation. A recent article on presidential strategies for building legislative coalitions (Chaisty, Cheeseman and Power 2014) is but one of many examples of fruitful cross-regional research. There are other examples of rigorous research designs, based on the rationale of hypothesis testing, that aim to provide explanations of causal relations by putting even less clearly demarcated subjects into a wider historical context. Consider, for example, the QCA study by Basedau and Richter (2013) that seeks to clarify the nexus between specific oil-production conditions and the outbreak of civil war. The case of transitional justice research, however, is somewhat different from these research questions. Because transitional justice is such a diverse phenomenon, the possible effects and consequences are virtually endless. As noted above, transitional justice practices respond to the experience of trauma and collective suffering, and therefore address unconscious articulations. As such, they are deeply associated with transgenerational social processes linked to cultural trauma and collective memory. In general, there is a lack of scholarly consensus on the scope and structure of transitional justice policies, and even greater uncertainties arise from the lack of consensus on causal factors and outcomes. Because the elements and effects of transitional justice are not easy to operationalize, researchers face overwhelming obstacles in generating generic concepts and theories. To summarize, the challenge of comparative transitional justice research is less the measurement of the national impacts of more than 800 transitional justice mechanisms implemented in more than 150 countries (Olsen, Payne and Reiter 2010a) than it is the acceptance of a more historicized conception of causality that includes complex long-term processes as well as global interdependencies. As Barahona de Brito, González-Enríquez, and Aguilar (2001: 17) have underlined, “transitional accountability policies are not born in a vacuum. They are historically grounded and thus peculiar to each country.” Many authors have in fact demonstrated that “national context” is an important variable in transitional justice processes. Nonetheless, transitional justice practices unfold gradually through a series of local, national, and global events, with each variation flowing from one area to the other. Comparative transitional justice research should, therefore, insert the close observation of local histories into both large-N analysis and the analysis of the evolution of global interactional fields.

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