

The International Journal of Human Rights

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/fjhr20

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To cite this article: Sean Molloy (2022): Conceptualising the transformative justice potential of peace processes, The International Journal of Human Rights, DOI: 10.1080/13642987.2022.2109017

To link to this article: https://doi.org/10.1080/13642987.2022.2109017

Published online: 03 Aug 2022.

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THE INTERNATIONAL JOURNAL OF HUMAN RIGHTS
https://doi.org/10.1080/13642987.2022.2109017

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Conceptualising the transformative justice potential of peace processes

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ABSTRACT

Proponents of transformative justice articulate an approach to dealing with the past that seeks to change pre-conflict structures in ways that make society more inclusive and equal in the future. However, a criticism arises that transformative justice has been better at diagnosing the limitations associated with transitional justice rather than defining solutions and pathways to achieve its primary objectives. This paper examines the potential for peace agreement processes- understood to comprise peace agreements, peace negotiations, and peace agreement implementation- to advance the core aims transformative justice. In theory, peace agreement processes offer a sense of tangibility to the transformative justice project, existing as critical junctures where the underpinnings of structural violence can be addressed. At the same time, transformative justice offers a lens through which to interrogate the actuality of peace agreement processes, highlighting the challenges associated with realising their transformative justice potential in practice. The paper ultimately argues that greater attention could be paid to the potentially mutually reinforcing relationship between peace agreements and transformative justice.

ARTICLE HISTORY
Received 23 September 2021
Accepted 28 July 2022

KEYWORDS
Transformative justice; peace agreements; peace processes; human rights; peace negotiations; peace agreement implementation

1. Introduction

The field of transitional justice emerged against the backdrop of the transitions from authoritarian rule in Eastern Europe and Central America in the late 1980s and early 1990s.[1] Alongside a suite of mechanisms and expansion to cover transitions from conflict to peace, it has since developed a sense of 'fieldhood', what Bell describes as a "paradoxical moment' … where the notion of the 'field' … is on a typical trajectory from establishment and acceptance to expansion to self-critique'.[2] This includes a 'scholarship characterised by a willingness to interrogate some of the foundational blind spots and limitations of the field',[3] with transformative justice emerging as one of the offshoots of this critical turn. Proponents of transformative justice advocate an approach to dealing with the past that goes beyond the supposed preoccupation of transitional justice with addressing the consequences of conflict, often violations of civil and political rights linked to bodily integrity, to also engaging with the socioeconomic underpinnings of

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violence. In particular, a primary objective of the transformative justice project is addressing structural violence, which is described by some as 'historically given (and often economically driven) processes and forces that conspire- whether through routine, ritual, or, as is more commonly the case, the hard surfaces of life – to constrain agency'.[4] In addition, proponents of transformative justice promote an approach to addressing structural violence that utilises local solutions, through inclusive participation in processes designed to change pre-conflict structures in ways that make society fairer and equal.[5] What remains uncertain, however, is how those promoting transformative justice see it working in practice. Addressing structural violence is a multi-faceted process, the complexity of which stems from multi-dimensional nature of the systems of marginalisation and discrimination that both precede and result from it. It requires challenging, amongst other things, the balance of political power, how that power is utilised, and the built-in, institutional structures that embed forms of inequality. Yet, others see transformative justice existing as a critique of transitional justice without offering a workable alternative.[6] Indeed, its supporters concede that 'the significant challenge facing all transformative approaches is the difficulty of translating their breadth and ambition into policy and practice'.[7]

Against this backdrop, this paper examines how peace processes- understood here to encompass distinct but interrelated phases of peace negotiations, peace agreements, and peace agreement implementation- might contribute to the goals and aspirations of transformative justice in those contexts undergoing transitions from conflict to peace. This qualification is important. The idea of transformative justice is not limited to transitioning societies. Rather, it can occur anywhere, particularly in those contexts where socio-economic inequalities are rampant. This paper limits the discussion to those societies emerging from periods of conflict recognising as it does its application elsewhere and the important contributions that have been made in non-conflict-affected settings.[8] This paper suggests that in theory, each of the phases in a peace process, individually and collectively, offer unique opportunities not only in addressing structural violence but also doing so in an inclusive and bottom-up manner. At the same time, the theoretical potential of peace processes to achieve transformative justice objectives is often hampered. Negotiations can remain exclusionary and peace agreement outcomes can reflect priorities of elite-level actors rather than those of wider society. Even where greater levels of participation are evident, this may not translate into impact. Inclusive outcomes can also fail to materialise due to obstacles associated with implementation. Moreover, despite the potential for implementation efforts to be inclusive of wider society, they can remain limited in their participation and outreach. In short, the promise of peace agreements as windows of opportunity for transformation and addressing structural violence is often not realised.

Holding peace agreement processes up as potentially beneficial to, and facilitative of the goals of transformative justice only to be undermined by impediments to realising this potential, might seem futile and of little academic or practical relevance. However, the discussion has purchase on two levels. Firstly, the lens of peace processes and their distinct and interrelated phases offers a sense of tangibility to transformative justice. The ambitions of addressing structural violence require change at different levels-national, territorial and local, often through alterations to the political, economic, constitutional and legal reform landscape. Peace processes offer an opportunity to consider

how the complex objective of addressing structural violence might be achieved in a specific set of circumstances. The negotiations that produce agreements and efforts to implement what is agreed upon offer opportunities for local, bottom-up participation. Perhaps most importantly, examining peace processes provides a sense of reality: often, the objectives of transformative justice must be balanced against the harder realities of negotiating the respective conflict's end. This includes grappling with tensions and trade-offs that inevitably accompany peacebuilding processes. Secondly, when approached from the perspective of how transformative justice might impact peace processes, the former provides a lens through which to analyze the latter, including what is often an exclusionary process in substance and form. It provides a benchmark against which to strengthen calls for more inclusive, participative, and equitable processes in pursuance of a sustainable peace on one hand, while also providing a way to assess the impact of implementation beyond whether and the extent to which an agreement is implemented, on the other. Ultimately, this paper attempts to draw theoretical connections between transformative justice and peace processes in order to advance the proposition that those working on transformative justice and peace processes have much to offer each other and that greater effort must be directed towards examining the two in tandem. It seeks to lay the foundations for further empirical research, which could test the transformative justice potential of peace agreements and the utility and impact of adopting a transformative justice lens through which to view peace processes.

The remainder of this paper is organised as follows. Section 2 contextualises transformative justice, situating it as an offshoot of a critical strand of scholarship on transitional justice, which identifies, unpacks and seeks to reform the omission of socioeconomic issues from the field. Section 3 considers how peace processes might help address structural violence in inclusive, bottom-up ways. Section 4 then unpacks some of the difficulties associated with realising the transformative justice potential of peace processes before considering the potential of transformative justice to serve as a lens through which to interrogate peace processes and basis upon which argue about doing things differently in section 5. The paper offers a series of concluding remarks about how best to move forward in section 6.

2. Tracing the emergence of transformative justice

The concept of transformative justice exists as part of, and in response to, a strand of critical scholarship examining the omission of socioeconomic issues from transitional justice processes. Scholars have demonstrated not only the field's relative disengagement with socioeconomic matters vis-à-vis civil and political issues but also the reasons behind this marginalisation and the potential consequences that flow from this omission. In situating the emergence and distinctiveness of transformative justice from transitional justice more generally, it is necessary to briefly engage with this body of literature addressing transitional justice's omission of the socioeconomic.

2.1. The omission of socioeconomic issues from transitional justice

Transitional justice has largely subordinated socioeconomic-related aspects of conflict. Transitional justice mechanisms, which include but are not limited to trials, truth

commissions and reparations programmes, rarely engage with economic crimes like large-scale corruption, harmful forms of rent seeking, or the 'spoliation of a country's resources committed by people holding public office'.[9] In the main, these mechanisms also tend to overlook 'economic policies, which might be designed to support and sustain authoritarian regimes or conflict and war'.[10] Frequently functioning in the same restrictive manner as corruption, the accumulation of odious or illegitimate debts can cripple societies, often long after those responsible for the accumulation of these debts have left office.[11] Relatedly, the mechanisms of transitional justice often 'omit violations of economic, social, and cultural rights, such as the right to an adequate standard of living – food, water, sanitation, and housing; the right to health; and work'.[12] They also ignore socioeconomic rights violations that flow from conflict like those that amount to international crimes, such as forced displacement[13] or activities that amount to subsistence harms; 'deprivations of the physical, mental and social needs of human subsistence'.[14] Transitional justice has, therefore, prioritised a particular subset of rights and issues, often to the detriment of socioeconomic-related aspects of conflict and oppression.

The supposed reasons for the omission are numerous. Some see the exclusion of socio-economic rights as an extension of the subordinating tendencies within the parent field of human rights.[15] Previously and perhaps even still, many states have chosen to give a higher status to civil and political rights. This is, according to Cahill-Ripley and Hendrick, 'partially due to the historical development of international human rights treaty law, with liberal states objecting to the accommodation of socio-economic rights on an equal footing with civil and political rights'.[16] Socioeconomic rights are perceived as 'second generation rights and thus aspirational, non-justiciable, programmatic, and overly cumbersome in respect of implementation.[17] This 'bias' has extended, so it is suggested, into the sphere of transitional justice in what Miller has termed a 'constructed invisibility'.[18] For others, the exclusion of socioeconomic issues within transitional justice is a result of parallel developments of related fields. Waldorf, for example, notes that the transitional justice has been largely shaped by the concomitant development of international criminal law and international humanitarian law respectively, domains primarily dealing with civil and political rights linked to bodily integrity.[19] Others like Muvingi and Sririam highlight the proximity and often conflation of transitional justice with liberal peace building through processes, which seek to re-establish the rule of law, effect economic liberal reforms, and institute electoral democracy.[20] For their part, Laplante and McDougal respectively direct attention specifically on the economic aspects of liberal peacebuilding arguing that this particular strand, with its emphasis on restricted state interference and the promotion of market driven operations, curtails the focus of transitional justice measures in favour of the 'liberal democratic ideal'.[21] Consequently, according to McAuliffe, 'the critique of liberal peace-building 'parallels' that of transitional justice – one in which Western liberal democracy, consisting of institutional guarantees of civil and political rights, dominates the conceptualisation of possible change, and marginalises concerns for economic violence and social justice'.[22] Other scholars highlight the predominance of the legalist paradigm, which 'mask' other projects neglected in the effort to 'describe or construct the new liberal state'.[23] Vinjamuri and Snyder[24] note, therefore, that the 'appropriate' legalist perspective reconciles the contested nature of justice[25] in favour of a delimiting narration of 'violence and

remedy'.[26] For Lundy and McGovern, this narrowness is an 'inevitable consequence of the liberal paradigm elevating legalism and political rights at the expense of including economic and cultural issues'.[27]

In addition to identifying the omission of socioeconomic issues and the reasons that underpin this marginalisation, the literature also unpacks the potential implications associated with failing to engage in matters outside of the civil and/or political sphere. Arbour, for instance, argues from an instrumental perspective that transitional justice will not have a sustainable impact if it ignores economic, social and cultural rights:

> Given transitional justice's additional objective of bringing about social transformation that will prevent a resurgence of conflict, it is not only important to build dispute resolution institutions, but perhaps even more effective to attack the sources of the legitimate grievances that, if unaddressed, are likely to fuel the next conflagration.[28]

Others assess that the inclusion of socioeconomic issues in transitional justice processes is also pertinent as a result of assisting in establishing what happened and why. Albin-Lackey contends, for instance, that transitional justice is a 'powerful way to describe the real human impact of abuses',[29] while Sharp advocates expanding the scope of transitional justice to cover 'economic violence,' including socioeconomic rights, but also array of 'depredations (corruption, looting of natural resources, kleptocracy) that stymie successful transition from conflict'.[30] If socio-economic issues are not discussed and addressed, only half of the story is told. This ommission, according to Sharp, 'shapes a distorted and one-dimensional narrative of conflict'.[31] Some focus on potential linkages between transitional justice and development and the adverse consequences on the latter when socioeconomic issues are ignored by those mechanisms tasked with, amongst other things, understanding why conflict emerged and the necessary steps to ensure that the past is adequately addressed.[32] Hecht and Michalowski note that omitting socioeconomic issues can 'limit the discussion of development plans by quarantining them within the state and the executive rather than making them part of the transitional justice conversation'.[33] Duthie adopts a narrow understanding of transitional justice, which does not include among its objectives protection or redress of violations of economic, social and cultural rights.[34] However, he does claim that 'transitional justice measures that engage with development issues, whether as a specific focus of their mandate or as contextual factors, may draw attention to those issues in a positive way, generating momentum behind needed reforms'.[35] Still again, some direct their attention towards the needs and rights of victims, noting how ignoring socioeconomic issues can have a detrimental impact on those that have suffered as a result of conflict. Neglecting socioeconomic injustice 'could impair post-conflict security and access to justice,[36] go against victims' expectations and demands,'[37] doing more harm than good. [38] Moreover, for some, transitional justice processes 'risk losing their legitimacy and credibility among the people they serve if they do not account for how war economies, social injustices and unmet development needs intersect with demands for justice by victim-survivors and their communities'.[39]

2.2. The emergence of transformative justice?

Transformative justice emerges in this space of omission, positioned by some as an 'outgrowth of and response to transitional justice work'.[40] Proponents of transformative justice concur that transitional justice has failed to pay due regard to socioeconomic-

related aspects of conflict and support analyses regarding why this omission has occurred. They adhere to the view that addressing socioeconomic issues is central to achieving and sustaining peace and, in some cases, identify transitional justice mechanisms as at least part of the solution. Yet, proponents of transformative justice promote a holistic approach to dealing with the past, one that grapples with deeper, structural systems that produce inequalities and forms of discrimination. Advocates of transformative justice identify addressing structural violence as the core objective of the project. According to McGill '[s]tructural violence occurs when unequal power relationships in societal structures lead to unequal life chances, harming individuals and collectives by preventing them from meeting their basic needs'.[41] It shapes everyday patterns of behaviour by differently affecting the life chances of groups and individuals.[42] In contrast to 'personal or direct violence where the actor(s) and object(s) of violence are readily identifiable' structural violence is indirect in that 'there may not be any person who directly harms another person in the structure. The violence is built into the structure and shows up as unequal power and consequently as unequal life chances'.[43] As Khan notes:

> It is similar to social exclusion, which is also multidimensional: it encompasses social, political, cultural and economic dimensions, and operates at various social levels. It is dynamic, in that it impacts people in various ways and to differing degrees over time. It is also relational: it is the product of unequal power relations in social interactions.[44]

Thus, while some support the inclusion of socioeconomic issues by transitional justice mechanisms, transformative justice goes further in seeking to promote processes and methods by which socioeconomic inequalities are actively addressed, namely structural violence. The ambition of addressing structural violence is, however, an arduous and complex one, not least given its multifaceted nature and the horizontal, vertical and built-in institutional forms of exclusion. Structural violence stems from horizontal exclusion, relating to the limited number of elites who hold power. As Ho assesses, 'human agency is implicated through structures that reflect an unequal distribution of power'.[45] She furthers that 'the inequalities that exist in terms of disproportionate life chances … are directly caused by an unequal distribution of resources but the underlying problem is that 'the *power to decide over the distribution of resources* is unevenly distributed'.[46] What some term limited access order or exclusionary political settlements refer to concentrated distributions of political power in the hands of one or a few elites.[47] In order to address structural violence, it is necessary to engage with how political power is held challenging 'unequal and intersecting power relationships and structures of exclusion at both local and global levels'.[48]

Exclusion is also vertical and relates to the relationship between political power holders and wider society. In some cases, those holding political power can actively discriminate against specific sections of society. Groups, primarily those affiliated with individuals holding office, have their rights guaranteed while others are marginalised. Some have access to such things as land, property, healthcare, education, while others are excluded. Exclusion can also be ingrained into the institutions and culture of the state and more indirect in nature. Farmer contends, for instance, that 'suffering is structured by historically given (and often economically driven) processes and forces that conspire – whether through routine, ritual, or, as is more commonly the case, the hard surfaces of life – to constrain agency'.[49] Scholars of historical institutionalism often refer to path

dependency, that is, when 'an institutional choice/decision has been made or informed and sustained/consolidated over time, it sets the pattern and gets 'locked in'.[50] Proponents of transformative justice note that beyond tackling how power is held, addressing structural violence often requires also engaging and working to counteract the vertical exclusion that results from horizontal exclusion. Vertical exclusion can also manifest in other ways. For instance, central governments can exclude individuals at a sub-national level, often leading to claims for independence of greater autonomy. Similarly, at sub-national levels, patterns of horizontal exclusion can lead to the marginalisation of non-dominant minorities in these sub-national contexts.[51] In addition, proponents of transformative justice are not only concerned with what to address but also the processes by which to do so. Pursuant to a transformative justice approach, any efforts to address structural violence must be locally led and informed. According to Gready and Robins:

> Transformative change should be locally driven because such change is most likely to be informed by the local and particular needs of people in communities where legacies of violence play out. Securing popular access to and participation in all aspects of transitional justice processes (design, implementation, evaluation), and encouraging culturally resonant mechanisms that resist global models, can be seen as an opportunity to challenge a range of exclusions and power relations at both the local and the international level.[52]

A transformative justice approach, therefore, seeks to contend with how power is held and how it is used. It is concerned with overt and implicit marginalisation, the latter emerging from built-in inequalities in a state's institutions. It focuses on these practices at multiple levels- national, territorial and local, and requires an inclusive, bottom-up and locally owned process through which to tackle these issues. Yet, it is the very complexity of addressing structural violence that raises ambiguities around the idea of transformative justice. For McAuliffe, transformative justice is 'defined not by what it is but what it is not and is more of a 'critical response' to transitional justice's inattention to broader issues such as poverty'.[53] He furthers that 'little of the transformative justice literature precisely spells out how to generate structural change'.[54] For McGill, transformative justice has been better at diagnosing problems-in transitional states and in transitional justice-than offering solutions to these problems.[55] One of the significant challenge facing transformative approaches is then the difficulty of translating the breadth and ambition of the project into policy and practice.[56] Against this backdrop, the remainder of this paper considers how peace processes might offer opportunities to progress towards the objectives of addressing structural violence. The intention is not to argue in favour of this approach but rather, as a conceptual and theoretical exercise to consider possibilities, limitations and then, perhaps, potential opportunities for future research.

3. The potential of inclusive peace processes for addressing structural violence

Peace agreement processes, as understood here, encompass three distinct, but necessarily interrelated phases: peace agreements, their negotiation and implementation. Peace agreement processes are often a central aspect of the much wider peace processes that occur in the contexts in which an agreement is brokered. As noted, structural violence is often built into institutions, resulting from and leading to path dependency. However, scholars also refer to 'critical junctures', defined as the 'occasional points or

periods of time when political and/or economic processes present (virtually unexpected) windows of opportunity for departures from the existing institutional set-up'.[57] These are moments that' allow for political agency and choice to play a decisive causal role in setting an institution on a certain path of development'.[58] Peace agreement processes are one such moment, where transformation, on multiple grounds and in various directions is often the underlying objective of political negotiation. At the heart of peace agreement processes is the issue of inclusion- who is included in negotiations, what is included in peace agreements, and who and to what extent these commitments are included in the post-conflict society. As will be developed, the supposed transformational potential of peace agreements processes is often under-realised. Indeed, many are quick to point out that in many cases, peace agreements fail to hold, frequently leading to a relapse of war. Nevertheless, the discussion below embarks on a conceptual mapping, one that seeks to draw attention to the possibilities associated with peace agreement process for addressing aspects of structural violence, recognising as it does that there is frequently a significant chasm between opportunity and actuality.

3.1. Inclusive peace agreements?

Peace agreements are 'formal, publicly available documents, produced after discussion with conflict protagonists and mutually agreed to by some or all of them, addressing conflict with a view to ending it'.[59] The outcomes of peace agreements refer to the content of commitments contained therein. By including a range of commitments to reform they can, in theory, go some way to helping address structural violence. These include provisions on such issues as political power sharing, constitutional reform and economic and social empowerment, which attempt to counteract horizontal, vertical and built-in institutional exclusion. The discussion below highlights a number of areas where peace agreements can potentially assist in addressing structural violence. While the reality of the transformational potential of peace agreement provisions is markedly different from their theoretical contribtions, it is nevertheless possible, against the backdrop of the multi-dimensional nature of structural violence, to map out some of the potential transformational qualities associated with brokered political settlement.

3.1.1. Addressing horizontal exclusion

The concentration of political power in the hands of a limited number of elites can serve as one of the underpinnings of conflict and origins of structural violence. Structural violence manifests itself, in part, when political elites utilise their political power in a repressive manner. Addressing structural violence, therefore, necessitates contending with and bringing about a change in political configurations. To this end, peace agreements can attempt to redistribute political power, often through forms of power sharing.[60] Although an ill-defined concept, Bell and McNicholl assess that it 'tends to involve the dispersal of authority between members of antagonistic communities'.[61] These arrangements provide security and political guarantees to minority groups in peace processes by enabling their participation in public institutions. Political power-sharing in the form of 'consociational government',[62] for instance, is a form of political power redistribution whereby ministerial seats are allocated to different parties in a mandatory coalition, with responsibilities distributed in similar ratios to that in which they are found in the

legislature.[63] Political power sharing can also take the form of the transferring of competences from the centre state to sub-state units. At a sub-national level, for instance, Bell identifies that power sharing can be used to address a sub-state conflict: 'these arrangements involve political power sharing related to sub-national or localised devolution of power as a territorial power sharing attempt'.[64] In other cases, peace agreements, while not directly including power sharing provisions, can promote changes to existing political configurations in other ways. They can include provisions on suffrage or the integration of former combatants as political parties. Alternative, peace agreements can promote constitutional reforms aimed at addressing corruption in elections or provide for monitoring mechanisms to facilitate fair and transparent elections. For instance, an agreement in Zimbabwe provides that 'the principles of good governance, which bind the State and all institutions and agencies of government at every level, include … '(b) an electoral system based on- (i) universal adult suffrage and equality of votes; (ii) free, fair and regular elections; and (iii) adequate representation of the electorate; and (c) the orderly transfer of power following elections'.[65] Scholars have shown that power-sharing provisions in negotiated settlements positively impact durable peace.[66] While any claim that peace agreements, in attempting to alter the balance of political power, could contribute to the goals of addressing structural violence, must be examined empirically and in context, it is at least in theory possible that these agreements can help redistribute political power in ways that are more inclusive and equal and which address aspects of structural violence. As critical junctures, they offer opportunities for reconfiguring the balance of political power in ways that can alter structural problems that stem from the allocation and execution of political power.

3.1.2. Addressing vertical inclusion

While provisions addressing horizontal exclusion have the potential to redefine how political power is held, it is also necessary to address vertical exclusion. Peace agreements, through their outcomes, can also address the relationship between state and society, including a range of commitments aimed at promoting government action in some areas, such as promoting fairer economies, while curtailing discriminatory practices, on the other. While all contexts will have their own unique challenges and thus areas of reform, the discussion below focuses on a number of potential areas where structural violence can be addressed through peace agreement outcomes.

3.1.2.1. Institutional and constitutional reform. The reform of state institutions involved in human rights abuses can be an important component of transitioning from periods of violence or repression and, indeed, addressing structural violence. Public institutions-such as the police, military, and judiciary – can be co-opted by ruling elites and utilised to bring about repression and systemic violations of human rights. When transitions to democratic government occur, reform of such institutions is often a central and necessary component of efforts to move from violence to peace. Institutional reform, according to the International Centre for Transitional Justice, 'is the process of reviewing and restructuring state institutions so that they respect human rights, preserve the rule of law, and are accountable to their constituents'.[67] These are also important components of tackling structural violence. Judicial reforms, for instance, can help to enhance the rule of law and address the systematic abuse of legal processes to discriminate against

certain sections of society. Peace agreements can include provisions that target judicial reform in various ways. In Burundi, for instance, an agreement provides for '[r]eform of the judicial machinery at all levels, inter alia with a view to correcting ethnic and gender imbalances where they exist'[68] and '[r]eform of the Judicial Service Commission so as to ensure its independence and that of the judicial system'.[69] Strengthening the parliamentary oversight functions can, in theory, reduce tensions that could escalate into violent conflict. When acting within the law, political representatives can promote the rule of law and prevent against its arbitrary use by those in power. To this end, constitutional reform is particularly important. Although performing numerous functions, constitutions 'define various institutions of government; prescribe their composition, powers and functions; and regulate relations between them. Almost all constitutions establish legislative, executive and judicial branches of government'.[70] Constitutional reform then, can serve a distinctly transformational purpose. As Turner notes:

> The transitional constitution will define the boundaries of politics and justice in the new order, and as such does not simply reflect an existing national unity, but rather plays a crucial role in the construction of the new society. It will 'delineate the normative basis for executive government' and will ensure the participation of previously excluded or marginalized political and social groupings.[71]

Again, in theory, peace agreements can serve to bring about these broad-level changes in societies emerging from conflict. They frequently include provisions on constitutional reform. For example, in Bahrain, the provides that the 'constitution of the country shall be amended in such a way as to allow making use of other democracies' experiences in broader participation in government and administration, including their putting in place of a bicameral system'.[72] Other agreements can be interim constitutions, as was the case with the 1993 agreement in South Africa. Some new constitutions are annexed to peace agreements like the 1995 Dayton Agreement in Bosnia while in other cases, peace agreements serve as constitutional blueprints, with Northern Ireland's Good Friday Agreement serving as a useful example.

Police reforms are equally important both for reconstruction in post- conflict countries and addressing structural violence since police forces are often the most visible manifestation of state power. Peace agreements often focus on a state's security apparatus, frequently in response to the role of police and military actors prior to and during a conflict. An agreement in the Central African Republic, for instance, highlighted '[t]he need to implement a strategy to reform and restructure the defence and security sector of the Central African Republic, including all elements of the defence and security forces (army, police forces, justice personnel)'.[73] In some cases, reform of security services is linked to constitutional reform. In El Salvador, for instance, an agreement provided for constitutional reforms aimed at the creation of a National Civil Police for the maintenance of peace, tranquillity, order and public safety in both urban and rural areas, under the control of civilian authorities.[74] This agreement further stipulated that the 'National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries'.[75] While just a few examples, peace agreements, as critical junctures, can provide an opportunity to reform and reconfigure the types of institutions, relationships and wider structure of society that underpins structural violence. In theory then, institutional reform through peace agreements can

serve as the basis for counteracting systems of discrimination in ways that can, in theory, respond to forms of structural violence. When considered alongside power sharing reforms, these provisions can serve to address some of the underlying systems of marginalisation.

3.1.2.2. Socioeconomic provisions and reforms. Peace agreements can also include provisions that seek to address structural issues in other ways.[76] For instance, peace agreements can include equality provisions, which are a vital component in societies attempting to transition from systems of marginalisation to an equal society. They can include provisions prohibiting discrimination on the grounds of, for instance, political affiliation, religion, caste, or ethnicity. A particularly novel approach to equality-based provisions can be seen in the context of the 2016 Colombian Peace Agreement, which addresses LGBTI rights.[77] The Agreement commits to parties to 'promote non-stigmatisation of groups in vulnerable circumstances or discriminated against, such … the LGBTI population'.[78] Peace agreements can also include provisions on socioeconomic rights. As examples, in Yemen, a peace agreement provides that 'The people in Yemen shall freely determine their political status, and freely and peacefully pursue the achievement of their economic, social and cultural development through institutions of government at each level in accordance with the International Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights'.[79] More specifically, peace agreements can include provisions on the right to such things as health,[80] education,[81] property,[82] work,[83] and cultural life.[84]

Peace agreements can attempt to empower marginalised groups in other ways.[85] One of the central criticisms of liberal peacebuilding is that it focuses primarily on free market reforms. However, peace agreements can also attempt to orient economic reform in ways that are not necessarily free-market promoting but rather empowering of previously marginalised groups. As an illustration, sector-oriented interventions can use the business reform process to target previously marginalised or excluded groups. In the Democratic Republic of Congo, the 2003 Sun City Act outlines the need to 'set up appropriate and specific structures, which can enable women to gain access to credit, microfinance and the business world'.[86] In El Salvador, an agreement provides for microbusiness loans for demobilised people as an issue of priority.[87] In Yemen, the 2014 National Dialogue Conference Outcomes Document stresses the importance of supporting farmers through finance mechanisms.[88] In Guatemala, commitments are included to promote an eco-tourism programme with the broad participation of communities, which have received appropriate training.[89] In Central African Republic, an agreement states the need for an authentic employment policy targeting young people, women and vulnerable populations.[90] In addition, although peace processes occur most visibly at the national level, there are additional forums where peace processes occur.[91] Agreements resulting from local peace processes vary in content. However, Wise et al note that they often include common approaches such as addressing the grievances driving intercommunal conflict. These can relate to 'access to water and pasture, cattle-rustling, and community feuds or tit-for-tat killings',[92] as well as 'efforts aimed at managing or ending the conflict and reversing its impact, such as ceasefires, opening routes, and returning abductees and internally displaced persons (IDPs) to conflict affected areas'.[93]

Thus, because addressing structural violence necessitates grappling with who holds power and how that power is utilised, peace agreements, in theory, hold some promise in addressing multifaceted elements that combine to produce structural violence. For some then peace agreements are 'moments of transition',[94] and 'specific opportunities'[95] where broad reforms that respond to specific contexts can occur. As will be developed in due course, having potentially transformational provisions on paper and positively effecting change from these commitments in practice, are two very different things. Many of the examples outlined above stem from peace agreements that have been largely unsuccessful in curbing violence. These examples offer an initial glimpse into the chasm that often emerges between the transformational potential of peace agreements and the realities that subsequently stem from them. As will be developed further below, there is a spectrum of reasons why the potential of peace agreements is not realised. However, for present purposes, it is enough to observe that, in theory, peace agreements can help to address many facets of structural violence at the horizontal, vertical and institutional levels.

3.2. Inclusive negotiations and implementation

The negotiations that produce agreements and implementation efforts that flow from them can also be inclusive and potentially transformational. The discussion below develops how, in theory, inclusive negotiations and implementation might offset the elite-nature of peace agreements.

3.2.1. Inclusive negotiations

Proponents of the latter emphasise the salience of inclusivity, not only in outcomes, but in process as well. Because peace agreements often arise from peace talks that exclude wider sections of the population, they can perpetuate the same forms of exclusion that often belie transitional justice mechanisms and contribute to structural violence. Some scholars assess that peace agreement outcomes are often far from inclusive and transformational, primarily because of the exclusive negotiations that produce them.[96] For others, however, successful peace agreements require inclusive processes. For instance, the inclusion of civil society representatives can raise the profile and acceptability of peace agreements, particularly where they are understood as encompassing not only political elites buts wider society.[97] Public representation enables local knowledge and context-specific insights to negotiations, which supports provisions at the local level. Broader inclusion is also fundamental even at the pre-negotiation stage in order to ensure that 'outcome inclusion is facilitated within the political settlement and reflected in those documents that give legal formality to political settlements'.[98] One of the findings from Paffenolz's research on broadening participation in peace processes is that 'who participated in the process determines the outcome and, by implication, exclusion from processes can negatively impact on how and whether rights and entitlements are subsequently protected'.[99] Notwithstanding what is often the elite-focused nature of negotiations, inclusion can be achieved in a range of alternative and often indirect ways. Schernbeck and Vimalarajah distinguish between direct and indirect two forms of participation:

> Direct participation can take various forms and fulfil different objectives, ranging from full empowerment and collaboration during peace talks to victims providing regular or incidental input during certain rounds of the negotiation process … .[100] Indirect participation in peace talks is, by definition, less focussed on the direct integration into the negotiations, thereby limiting the space and possible effects of shaping negotiation outcomes through direct exchange between interests, concerns and needs that are likely to be divergent. Nonetheless, indirect forms such as collaboration, observation or consultations may still provide meaningful input.[101]

Colombia offers a useful example of space to influence peace talks can be carved out. In contrast to the idea of outcomes leading to inclusion, scholars such as Herbolzheimer contend that it was well understood that deep political and cultural change would not 'trickle down from the negotiating table'.[102] As this author continues, 'it was agreed on the need to design a process that paid attention to the views and groups who were affected by the conflict but were not party to the negotiations. This included the adoption of an incremental approach to address each of the five items on the agenda: rural development, political participation, illicit crops, victims and conflict termination'.[103]

To this end, there were conferences in Colombia convened jointly by the UN and the National University where the wider public were encouraged to articulate their desires, worries and recommendations.[104] These inputs then informed the peace negotiations in Havana. Elsewhere Herbolzheimer examines how women's and lesbian, gay, bisexual, transsexual and intersex (LGBTI) organisations were also invited to the peace talks: 'Following significant pressure from women's organisations, on September 2014 the Colombian government and FARC agreed to create a gender sub-commission tasked with reviewing all documents issued as part of the peace process and ensuring that they contained gender-sensitive language and provisions'.[105] Colombia's peace agreement is also particularly innovative in its inclusion of LGBTI issues. In addition, Colombia's small, diverse and very active population of indigenous peoples along with 'Afro-descendants' formed a joint lobby to 'ensure the peace agreement would respond to their specific rights and requests, which resulted in an 'ethnic chapter' of the peace agreement'.[106] The example of Colombia demonstrates the possibility of more inclusive negotiations, albeit via indirect channels utilised to influence formal peace talks. To this end, Paffenholz offers nine models of participation, which can take place either in parallel or sequentially, as they are not mutually exclusive. Drawn from empirical examples, these different pathways to negotiation demonstrate that, exclusion from negotiations notwithstanding, there are opportunities for promoting inclusion in the talks that produce agreements. These include involving the citizens through 'public hearings, opinion polls, town hall meetings or signature campaigns (e.g. Northern Ireland, Colombia) official consultations, and less formal consultations without official endorsement (e.g. Kenya) before, parallel to or after official negotiations'.[107] In this way, wider sections of populations can influence the outcomes of negotiations. Approached from a transformative justice perspective, inclusive negotiations and agreement outcomes, can promote local-level involvement in transformational processes.

3.2.2. Implementing inclusive outcomes and inclusive implementation

The implementation of peace agreements refers to a stage of a peace process, where conflict parties have signed an accord and the materialisation of post-war political

settlements takes place.[108] Research shows that the substance of an accord and how and the extent to which it is implemented is a particularly strong indicator for durable peace.[109] Most obviously, implementing inclusive outcomes such as socioeconomic reform can help address structural violence. In this way, implementation efforts can give life to inclusive outcomes, which may help address structural violence. Yet, even with exclusive negotiations and outcomes that are limited in their transformational potential, opportunities emerge for broader forms of inclusion during the process of implementation.[110] A basic example is the use of referendum. In Northern Ireland, for example, negotiators agreed to hold a referendum in the midst of the peace process, soon after all political parties signed the 1998 Good Friday Agreement. In the referendum, they asked the public to vote either 'yes' in favour of the agreement and continuation, or 'no' to stop the process. Seventy-one percent of votes in Northern Ireland and 94 percent in the Republic of Ireland were 'yes'. This gave the negotiators a mandate to continue the talks and ensured that extremists could not use the public as an excuse to sabotage the process.

Implementation processes can be opened up to other groups in society by various means. For instance, civil society actors can be included alongside conflict protagonists in mechanisms designed to translate the content of an agreement into practice. In the Philippines, an agreement provides for a Committee, which is to be composed of three members chosen by the GRP Panel and three members chosen by the NDFP Panel.[111] It goes on to state that 'Each Party shall nominate two representatives of human rights organisations and to sit in the committee as observers and to do so at the pleasure of the nominating Party'.[112] The Angolan Government's Peace Plan of 2002 said that the implementation of the humanitarian effort should be 'with the effective participation of churches, NGOs, and others in civil society'.[113] In Sierra Leone, the 1996 Abidjan Accord provided for a consortium of local human rights groups to assist in monitoring human rights observance.[114] Peace agreements can also adopt various approaches to ensure that implementation reaches local levels. Most obviously, local-level agreements – that is agreements negotiated locally to address a local conflicts or disputes – can include localised implementation mechanisms. For instance, the 2007 Peace Agreement between the Sa'ad and Saleman sub-clans in Somalia states that: 'For effective sustainability and implementation of this historic agreement, the two sub-clans agree to establish a joint elders' council, a joint local police committee and a joint local judiciary committee authorised to extend this agreement in all the respective areas'.[115] Another Somalia agreement provides that 'Community elders shall administer the implementation of the mediating committee's recommendations.'[116] In South Sudan, the 1999 Wunlit Dinka Nuer Covenant and Resolutions created a local Council to support the implementation of the agreement. It further stipulated that the Council should consider ways to involve the local communities in supporting implementation.[117] Even when not relating to local agreements, peace agreements can directly target local actors designating responsibilities for overseeing aspects of the implementation process. In Sierra Leone, an agreement provides that 'Disputes … shall be brought to the Council of Elders and Religious Leaders for resolution … '.[118] In contexts like Central African Republic (CAR) and Croatia, national monitoring committees are required to establish regional and local sub-committees to help ensure implementation at different levels.[119]

Implementation processes also offer the potential for renegotiating the content of an agreement. Schernbeck and Vimalarajah assess, for instance, that '[i]nstrumental approaches follow the understanding that the agreement itself is only one step in a much longer process, emphasizing the paramount need to maintain momentum and consensus building through gradual accommodation between the peace agreement and the realities on the ground'.[120] This is similar to Bell and Pospisil who argue that negotiation processes often produce not a stable political settlement, but rather a formalised political unsettlement.[121] Arrived at through the use of a threat of the use of violence, negotiations and agreements reached do not constitute political settlements in the literature sense of the phrase. Political unsettlement creates a state with political and legal institutions that 'contain as much as resolve the conflict, by establishing group membership and enabling continuing processes of negotiating as much as substantive shared values'.[122] Because the formalised political unsettlement is characterised by political and institutional fluidity it can offer opportunities and tools for re-working and revising the political settlement that enables groups that have lost out to the central deal even at the moment of the peace agreement, to push for greater inclusion over time. For example, peace agreements can create mechanisms tasked with constitutional reform where actors beyond those involved in peace negotiations can participate and shape the subsequent amendments that emerge from these processes.

Thus, peace processes that are inclusive in negotiations, outcomes and implementation offer opportunities for addressing structural violence, in line with the objectives of transformative justice, in ways that give a sense of tangibility to the transformative justice project. Yet, despite the transformational potential of peace processes in theory, in practice, they are often rather more limited. The next section examines some of the perils associated with peace processes and considers what role transformative justice might play in responding to these limitations.

4. The peril of peace processes and the place of transformative justice

As presented thus far, peace agreement processes might be interpreted as offering important and potentially impactful opportunities to achieve the aims of transformative justice. The reality, however, is that the theoretical merits of peace agreements and related processes to be genuinely transformational is frequently far-removed from practice. In the first instance, and as noted above, many of the peace agreements in such places as Yemen, Somalia, and the DRC have failed to put an end to ongoing violence. In other cases, even where violence ends, the sense of hope for transformation that might initially accompany the brokering of a peace accord, is often short-lived, and with it the supposed theoretical possibilities for addressing the socioeconomic underpinnings of violence. As developed in due course, the failure of peace agreements to hold might be due, in part, for their failure to adequately address the deeper, structural violence-related issues.[123] As will also be suggested, arguably, the lens of transformational justice could be useful in shaping the issues that must be tackled as part of the peace process. The opportunities associated with adopting a transformational justice lens can be understood against the backdrop of the many challenges peace agreements being genuinely transformational.

For instance, although, in theory, peace agreement outcomes can be inclusive, this is often dependent on how inclusive the negotiations that produce them are. In reality, and

notwithstanding the potential for more inclusive discussions, peace negotiations are often highly exclusionary in nature. There is a preoccupation with negotiations being only inclusive enough to ensure that a settlement holds. Lindemann, for example, has noted that while 'inclusive elite bargains' foster political stability, 'exclusionary elite bargains' are more likely to lead to conflict.[124] A similar position is that advanced by Bell and Zulueta-Fülscher who assess that, where any constitution-building process is initiated without sufficient elite buy-in to the political settlement process, public participation will not be enough to build a political settlement.[125] This coincides with some of the findings advanced by the Berghof Foundation's research on inclusive political settlements. Based on empirical investigations into a number of case studies, the authors of a central paper of the project concur that the primary factor explaining the absence of violent relapse by former power contenders is undoubtedly their political inclusion within post-war political settlements.[126] In this way, limiting participation to elite-level actors capable of undermining or spoiling a peace process is promoted as the primary objective. There are different reasons for why elites might wish to keep participation in negotiations restricted. For McAuliffe, it is the 'failure rates of peace agreements within the first two, five and ten years of signing, that explains the desire on the part of all parties to retain the economic and political wherewithal to defend themselves in future is understandable'.[127] To this McAuliffe also adds 'the equally obvious problems of leaders' and factions' desire to enrich themselves and the need to dispense wealth to buttress political power in neo-patrimonialist state cultures'.[128] De Waal's idea of the political marketplace, understood as 'a contemporary system of governance in which politics is conducted as the exchange of political services or loyalty for payment or licences', reinforces this view'.[129] The political marketplace is characterised by 'pervasive monetised patronage, in the form of exchange of political loyalty or cooperation for payment. In the political marketplace, political businessmen seek to increase revenue'.[130] Whereas inclusive negotiations can lead to inclusive outcomes, exclusive negotiations, limited by a desire to maintain economic opportunities through political power, can lead to a curtailment of wider forms of inclusion in peace negotiations so that elites do not forego access to economic resources and rents. The implications of exclusive negotiations can be that the outcomes of negotiations are equally exclusionary such that issues that create structural violence are largely ignored in practice. An example in this regard is provisions on transitional justice. Sharp has noted that 'the law and legalism associated with transitional justice may serve to obfuscate the very real power dynamics and contested political choices at the heart of any set of transitional justice mechanisms'.[131] Similarly, McAuliffe notes that:

> 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.[132]

These authors usefully draw attention to the relationship between political settlements and the particular nature of transitional justice mechanisms that are negotiated as part of elite-level agreements. Jamar, for instance, in a review of peace agreements and provisions on victims, has found that little regard is often paid to the definition of victims.[133] This author continues that 'inclusion of victims is often framed and

implemented without consideration for the political and socio-cultural tensions which surround attempts to define and include victims, in particular' and that 'efforts to include victims are often based on status equality categories, such as gender, age, ethnicity or group belonging, which do not account for the fluid social and political identities of the victims and the individuals that represent them, yet these identities will often constrain or empower the participation of particular groups of victims'.[134] These limited definitions stem, one might argue, from the exclusion of wider populations with could help elaborate on appropriate and more encompassing understandings of what a victim is. Similarly, the elite-level nature of negotiations can mean that efforts to address the past are often sidelined in favour of protecting those responsible for human rights violations. Mallinder notes, for example, that 'over 49 per cent of comprehensive peace agreements adopted in the same period provided for amnesty, and 83 per cent of peace agreement amnesty commitments were implemented.[135] She identifies an important tension highlighting that there 'there is a consensus in existing literature drawn from large-N comparative studies that amnesties introduced as part of negotiated peace settlements are likely to have a positive effect on the sustainability of peace'.[136] The ways in which transitional justice issues are addressed in peace agreements helps illuminate that elite-level actors, rather than pursuing peace agreement outcomes that benefit wider sections of society, can often limit any reform in ways that suit their individual interests.

Even inclusive outcomes can nevertheless have exclusionary consequences. For instance, while political power sharing can, in theory, redistribute power, it is often alleged to have the potential to impact negatively on the inclusion of women, as well as other non-dominant minorities.[137] Bell and McNicholl assess that 'the interests of communities that cut across the major divisions in society can dictate the nature of government designed to secure an agreement between the conflicting factions in the face of radical disagreement'.[138] The detrimental impact on women and other non-aligned groups can be twofold: 'citizens are incentivised to vote for those parties that hold veto powers, rather than those that do not specifically represent a particular side in the conflict' and 'political discussion tends to be dominated by debates between the major groupings, thus creating what Finlay describes as a governmentality that freezes subgroup identities'.[139] Both these issues mean that 'power-sharing can lock-in the identities and ideologies at the heart of the conflict, rather than broadening and transcending them'.[140] In other words, while provisions on things like power sharing can help promote some forms of inclusion, they can also be exclusionary to groups not aligned with elites negotiating these terms. Also, many of the examples provided above refer to 'provisions on paper' only but whether the prescriptions in the DRC, Myanmar, El Salvador, Yemen, and other societies for allowing micro-credit options for women, providing eco-tourism business opportunities, etc., have actually worked to make any of these societies more socially and economically inclusive is uncertain. These examples do indicate how peace processes provide 'moments of transition' and 'opportunities' to expand the agenda of equality but is there any evidence that these 'moments' have resulted in actual shifts in governance and more equal opportunities?

Although implementation can give life to inclusive outcomes and, at times, facilitate more inclusion through the process of translating an agreement into practice, the relationship can work in reverse. Inclusive outcomes without implementation are

relatively futile and various obstacles can hinder or derail efforts to implement peace agreements.[141] As Molloy and Paladini-Adell note:

> The translation of the peace accord – a political and ideological document – into norms, institutions, laws, policies, programmes and concrete actions is a long and uncertain path. Unrealistic timeframes exacerbate anxiety among the parties and affected society. As enthusiasm diminishes, international support can also dwindle. Lack of trust among negotiating parties can compromise their adherence to commitments. Spoilers can undermine progress. Elites can resist the conditions of inclusion in the peace process and reject the reality of sharing power. These impediments are exacerbated by the continued legacies of war (war economies, mistrust and polarisation), and changes in national and international priorities and configurations of power-holders. Belligerents are often unable to create credible commitments to disarm and demobilise.[142]

Moreover, there are difficulties associated with identifying which groups to include. For instance, while civil society groups can, in theory make implementation mechanisms more inclusive, what particular civil society actors are included? All of these difficulties demonstrate some of the perils associated with trying to use peace processes as critical junctures through which to negotiate more inclusive and transformed societies.

5. Viewing peace processes through a transformative justice lens

When the objectives of transformative justice are recognised as being, in part, aimed at addressing structural violence, the multidimensional nature of peace processes, coupled with the spectrum of relationships, issues and dynamics that they seek reform, can offer a sense of tangibility to the transformative justice project. In other words, as critical junctures in the history of a country, they offer a space and process in and through which the complex range of matters that comprise transformative justice can be tackled. Yet, when the challenges associated with peace agreements being genuinely transformative are identified, the lens of transformative justice could itself contribute positively to peace agreement processes: rather than something to be achieved, transformative justice can provide a lens with which to understand and respond to many of the aforementioned limitations associated with peace agreement processes.

For instance, a transformative justice lens could help to diagnose the underlying causes of conflict, drawing attention to the multifaceted nature of structural violence. This can help shed light on the vertical, horizontal, and institutional forms of inequality that precipitate violent conflict and help to inform the negotiating agenda, shining a light on the issues to be addressed and the potential impacts of failing to engage with particular issues. As an illustration, if conflict emerges, in part, as a result of a health care or education systems that largely ignore certain sections of society- a symptom of structural violence- transformative justice-based diagnoses could help ensure that these issues are addressed in a peace agreement. Similarly, by diagnosing the impacts of a free market system on growing inequalities, peace negotiations might seek to promote a more interventionist response, one that empowers marginsalised groups economically by targeting specific sectors or industries. A transformative justice lens might also inform how certain issues are addressed Such is the nature of peace agreements that multiple actors are often vying for provisions that address those areas deemed most important to the respective advocates. This can lead to provisions that are strong on, for example, women's rights

but which fail to identify the impacts of societal norms on how those rights can be realised. A transformative justice lens can help to place proposed reforms in their wider context, recognising the potential impact of existing conditions on the likely effect that any reforms might have. For instance, notwithstanding peace agreement provisions that seek to empower women economically in Yemen, women there continue to be viewed as second-class citizens, denied many basic rights that are fundamental to women's empowerment elsewhere. Economic empowerment, in the absence of equality in other areas, is likely to render any proposed changes as relatively meaningless. Similarly, provisions from the Central African Republic that target youth employment, are unlikely to be effective if there is not a more comprehensive approach to the conscription of youth into state and non-state armed forced.[143] A transformative justice approach- one that adopts a holistic understanding of structural violence- can help to diagnose the multiple areas of reform needed in order for distinct provisions to have the type of meaningful impact that could allow peace agreements to be understood as genuinely. transformational. This wider vantage point, which connects seemingly discrete issues, can in turn, inform the multitude of issues to address. That is to say, adopting a transformational justice perspective empowers different constituents to promote the salience of widespread, structural reform by identifying the limitations of addressing discrete areas in the absence of deeper transformation.

With this diagnostic and prescriptive potential, transformative justice also offers a way to analyse impact. In recent years, there has been a significant effort to quantify the extent to which peace agreement provisions are implemented. Yet, this is different from understanding the impact that implementation efforts have. One of the difficulties associated with measuring impact is understanding what to measure and how to measure it. Indeed, some critics of the liberal peace ideal identify that measurements are often based on technocratic, standardised indicators, which fail to capture local.[144] In response, projects now look to local peace indicators.[145] Transformative justice, could provide a further voice to the salience assessing impact according to locally defined metrics and understandings. Firstly, in diagnosing the various components of structural violence and the issues to address, this can provide a set of indicators against which to assess the outcomes of a peace agreement. If, for instance, a diagnostic identifies systems that directly and indirectly marginalise the rights of women, children or persons with disabilities, an analysis of peace agreement outcomes could be framed around assessing how the commitments in a peace agreement respond to these issues. Secondly, the focus of transformative justice on local, bottom-up participation could identify inclusion in implementation as a vector of success. In other words, in highlighting the importance of local involvement, a transformative justice not only adds to advocacy efforts in pursuance of this aim but also a creates a benchmark against which to examine both negotiations and implementation. Thirdly, perhaps more importantly, through this participation, measurements informed and driven by local actors could help to conceptualise what it is that is to be measured, targeting more locally informed peace indicators.[146] In this way, transformative justice could help shed light on the underlying issues that cause conflict but instead of leading to technocratic indicators or benchmarks could also lead to subsequent processes of conceptualising and developing appropriate targets and measurements to gauge success.

At its most extreme, the lens of transformative justice might be also useful in promoting alternative approaches to negotiating peace settlements. Emerging concepts like complexity theory and systems analysis are illuminating the need for adaptability, local ownership and resilience.[147] The concept of transformative justice might serve as a useful tool with which to challenge the ability of peace agreement processes to facilitate the necessary types of reform instead pointing to local solutions and encouraging international intervention that facilitates local empower and solutions to end violence. Others interpret peace agreements as constituting a formalised political unsettlement- through a series of reforms, the conflict continues but through political means and via institutions designed to thwart the return to violence.[148] If peace agreements processes do in fact produce a formalised political unsettlement, the lens of transformative justice could help to steer the design and operation of these institutions in ways that create spaces where discussion over structural underpinnings of conflict can be debated, and reforms proposed. This could include, for instance, defining the mandates of these bodies to include socioeconomic issues, and requiring a broad, inclusive and representative composition of actors that are to comprise these institutions. In this sense, if peace agreements are incapable of addressing structural violence, a transformative justice lens could help to advocate in favour of the creation of mechanisms that can. Still again, others are focusing more on the practice of local peace agreements- those settlements reached at the micro-level but which can ultimately feed into macro-level peace processes.[149] A transformative justice perspective, which advocates not only addressing structural violence but the local level, inclusive process by which this is achieved, could be utilised to advocate for greater use of these more granular processes.

In short, a transformative justice perspective could help to inform, influence and measure peace processes in different ways. Thus, while peace processes might offer useful sites for proponents of transformative justice to promote the multiple shifts that are necessary to address structural violence, the lens of transformative justice offers a useful and potentially impactful way to address, examine and advocate more meaningful reforms as part of a peace process.

6. Concluding remarks: a reciprocal relationship?

The ambition of addressing structural violence is important for transitioning to a sustainable or positive peace. Yet, unpacking structural violence and its many dimensions reveals that any project must address the origins of violence on multiple fronts. Locally focused transformative projects must exist within broader political, socioeconomic and legal structures. Without simultaneously addressing the macro-level, any efforts to transform the local and sub-national are likely to be limited if power structures continue to dominate policy from above. Transitions thus must contend with who holds power, often at different levels- national, subnational and local. Transitioning societies must confront how that power is exercised, including by different arms of the state- judiciary, security and legislative-, as examples. It must grapple with socioeconomic conditions, practices and policies, to name just a few. Peace agreements, as critical junctures can, in theory, serve as moments of transition or transformation where a litany of issues are addressed. They can attempt to address political, social, legal, constitutional, social and cultural issues. While a far from perfect solution, the complexity of

peace agreement provisions corresponds with the same complexity of necessary responses required to address structural violence. It is possible, therefore, to advance the position that peace agreement processes can, in theory, provide a credible space and vehicle through which the objectives of transformative justice might be realised. In addition, although peace agreements can be exclusionary, existing as an affront to the more inclusive and participatory ideals of transformative justice, this is not always the case. Examples from such contexts of Colombia demonstrate the possibility of more inclusive and bottom-up negotiations and implementation efforts. In short, when structural violence is understood as requiring multiple interventions, at different levels, addressing a variety of ills and to different ends, the notion of a purely local project seems both unappealing and unrealistic; because structural violence requires political reform at the highest levels, it must necessarily also engage with political elites.

At the same time, what peace agreement processes might achieve in theory is often hampered by what they facilitate in practice. They are often exclusive or pay mere lip service to the idea of inclusivity. Peace agreement outcomes can serve the interests of elites while through, for example, power sharing arrangements, minority groups can be ignored or re-marginalised within a new political configuration. The promise of socioeconomic change can be sidelined in favour of neoliberal programmes and more research is required to examine the real-life impacts of economic reform processes that purport to target the marginalised. Even where seemingly inclusive or transformational provisions are included, they frequently occur in contexts where existing structures continue to marginalise certain sections of society. Approaching peace processes through the lens of transformative justice can help to identify not only the specific issues that need addressed but also the wider environments of repression and marginalisation that, if they continue, are likely to hamper the impact of proposed reforms. This lens can provide a counter-perspective and position to the interests of elites, challenging their narratives that they seek to represent the interests of wider society. In doing so, the lens of transformative justice becomes an advocacy tool, one that those marginalised or repressed can use to challenge existing power structures, which often manifest themselves in the peace process. This lens could be used to shape the content of agreements in ways that seek to address the root of socioeconomic inequalities pushing beyond narrow conceptualisations focused on group identity to shining a spotlight on class inequalities, while at the same time supporting efforts to make negotiations more inclusive. It could be used to promote and support efforts for inclusive implementation and offer a way to conceptualise and measure the impact of implementation. Owing to the ongoing nature of implementation efforts, it might also help to inform real-time changes to how an agreement is materialising.

Of course, transformative justice is not merely a prescriptive tool. There are multiple examples of projects, for example, in post-conflict Northern Ireland where bottom-up change is being achieved through local level projects. But, this paper suggests, without the broader, macro-level approaches that have preceded them, their impact would likely be much less. Whereas peace processes must impact on multiple levels and sites, so too must transformative justice seek to influence not only the local but also these wider sites of transition which ultimately influence the reach of bottom-up approaches. In conclusion, rather than making an empirical claim as to the transformative justice potential of peace processes, this paper suggests that scholars of transformative justice

might broaden their attention from transitional justice mechanisms, which often emerge after negotiated settlements, to instead engaging with these processes. Not only can peace processes offer a sense of tangibility to the transformative justice project, but the project can itself play important roles in utilising the opportunities presented by these critical junctures to address the multifaceted components that comprise structural violence. At the same time, it is possible that there are unique and important opportunities associated with adopting a transformative justice approach throughout a peace agreement process. This could not only help to diagnose the underpinnings of conflict but help to connect proposed reforms with the wider issues that could hinder their impact. The opportunities and challenges associated with connecting peace agreement processes and the transformational justice project likely extend well beyond the modest contribution of this article. It is hoped, however, that the discussion above might serve as part of the foundations for further empirical research examining this relationship in greater detail. Until then, it is only possible to conceptualise the potential benefits, while also acknowledging the many pitfalls and challenges, that merging discussions on peace processes and transformative justice invokes.

Notes

1. Transitional Justice is defined by the United Nations (UN), as the 'full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses of human rights' United Nations, Guidance Note of the General Secretary. United Nations Approach to Transitional Justice (2010), 2, http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf (accessed November 26, 2019). See Catherine Turner, 'Deconstructing Transitional Justice', *Law and Critique* 24 (2013): 193–209; Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly* 31 (2009): 321–67; Ruti Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2009); Ruti Teitl, 'Transitional Justice Genealogy', *Harvard Human Rights Journal* 16 (2003): 69.
2. Christine Bell, 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non Field"', *International Journal of Transitional Justice* 3 (2009): 13.
3. See generally, Dustin N. Sharp, 'Interrogating the Peripheries: The Preoccupations of Fourth Generation Transitional Justice', *Harvard Human Rights Journal* 26 (2013): 149–78. See also Dustin N. Sharp, 'What Would Satisfy Us? Taking Stock of Critical Approaches to Transitional Justice', *International Journal of Transitional Justice* 13 (2019): 570–89.
4. Paul Farmer, 'On Suffering and Structural Violence: A View from Below', *Race/Ethnicity: Multidisciplinary Global Contexts* 3, no. 1, Race and the Global Politics of Health Inequity (2009): 261–83.
5. Paul Gready, Jelke Boesten, Gordon Crawford and Polly Wilding, 'Transformative Justice – A Concept Note' (Unpublished manuscript, October 2010): 1, https://wun.ac.uk/files/transformative_justice_-_concept_note_web_version.pdf (accessed April 14, 2020).
6. See, for discussion, Lauren Marie Balasco, 'Locating Transformative Justice: Prism or Schism in Transitional Justice?' *The International Journal of Transitional Justice* 12 (2018): 368–78.
7. Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice', *The International Journal of Transitional Justice* 8 (2014): 355.
8. See, for discussion, Mia Mingus, 'Transformative Justice: A Brief Description', *TransformHaRM*.
9. Ruben Carranza, 'Plunder and Pain: Should Transitional Justice Engage with Corruption and Economic Crimes?' *International Journal of Transitional Justice* 2 (2008): 311.

10. Lisa Hecht and Sabine Michalowski, 'The Economic and Social Dimensions of Transitional Justice', *EJTN Concept Paper* (2012), 5.
11. See Carranza, 'Plunder and Pain'.
12. Amanda Cahill-Ripley, 'Foregrounding Socio-Economic Rights in Transitional Justice: Realising Justice for Violations of Economic and Social Rights', *Netherlands Quarterly of Human Rights* 32 (2014): 183–213.
13. Evelyn Schmid, 'War Crimes Related to Violations of Economic, Social and Cultural Rights', *Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrech*, 2011, http://www.zaoerv.de/71_2011/71_2011_3_a_523_542.pdf (accessed February 25, 2020). See also Evelyn Schmid, *Taking Economic, Social and Cultural Rights Seriously in International Criminal Law* (Cambridge: Cambridge University Press, 2015).
14. Diana Sankey, 'Towards Recognition of Subsistence Harms: Reassessing Approaches to Socioeconomic Forms of Violence in Transitional Justice', *International Journal of Transitional Justice* 8 (2014): 121.
15. Louise Arbour, 'Economic and Social Justice for Societies in Transition', Second Annual Transitional Justice Lecture hosted by the Center for Human Rights and Global Justice at New York University School of Law and the International Centre for Transitional Justice (New York University Law School, New York, October 25, 2006); Louise Arbour, 'Economic and Social Justice for Societies in Transition', *New York University Journal of International Law and Politics* 40 (2007): 1–27.
16. Amanda Cahill-Ripley and Diane Hendrick, 'Economic, Social and Cultural Rights and Sustaining Peace: An Introduction', *Friedrich-Ebert-Stiftung, Quaker United Nations Office, and Lancaster University* (2018): 17.
17. See Ellen Wiles, 'Aspirational Principles or Enforceable Rights? The Future for Socio-Economic Rights in National Law', *American University International Law Review* 22 (2006): 35–64.
18. Zinaida Miller, 'Effects of Invisibility: In Search of the "Economic" in Transitional Justice', *International Journal of Transitional Justice* 2 (2008): 266–91.
19. Lars Waldorf, 'Anticipating the Past: Transitional Justice and Socio-Economic Wrongs', *Social & Legal Studies* 21 (2012): 173.
20. Ismael Muvingi, 'Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies', *International Journal of Transitional Justice* 3 (2009): 163–82; Chandra Lekha Sriram, 'Liberal Peacebuilding and Transitional Justice: What Place for Socioeconomic Concerns?' in *Justice and Economic Violence in Transition*, ed. Dustin N. Sharp (New York Heidelberg Dordrecht London: Springer, 2014).
21. Lisa J. Laplante, 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework', International Journal of Transitional Justice 2 (2008): 331–355; Topher L. McDougal, 'The Trilemma of Promoting Economic Justice at War's End' in Justice and Economic Violence in Transition, ed. Dustin N. Sharp (New York Heidelberg Dordrecht London: Springer, 2014).
22. Padraig McAullife, 'Weighing Domestic and International Impediments to Transformative Justice in Transition', *London Review of International Law* 3 (2015): 178.
23. See Kieron McEvoy, 'Beyond Legalism: Towards a Thicker Understanding of Transitional Justice', *Journal of Law and Society* 34 (2007): 422–40. See also Rosemary Nagy, 'Transitional Justice as Global Project: Critical Reflections,' *Third World Quarterly* 29 (2008): 283.
24. Leslie Vinjamuri and Jack Snyder, 'Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice', *Annual Review of Political Science* 7 (2004): 345–62.
25. Bell, 'Transitional Justice, Interdisciplinarity'.
26. Naomi Roht-Arriaza and Javier Mariezcurrena, eds., *Transitional Justice in the Twenty-first Century: Beyond Truth versus Justice* (Cambridge: Cambridge University Press, 2006).
27. Patricia Lundy and Mark McGovern, 'Whose Justice? Rethinking Transitional Justice from the Bottom Up', *Journal of Law & Society* 35 (2008): 274.
28. Louise Arbour, 'Economic and Social Justice for Societies in Transition'.

29. Chris Albin-Lackey, 'Corruption, Human Rights, and Activism: Useful Connections and Their Limits', in *Justice and Economic Violence in Transition* ed. Dustin N. Sharp (New York Heidelberg Dordrecht London: Springer, 2014), 139.
30. Dustin Sharp, *Rethinking Transitional Justice for the Twenty-First Century* (New York: Cambridge University Press, 2018).
31. Dustin N. Sharp, 'Introduction', in Justice and Economic Violence in Transition, ed. Dustin N. Sharp (New York Heidelberg Dordrecht London: Springer, 2014), 11.
32. Pablo de Greiff and Roger Duthie, eds., *Transitional Justice and Development: Making Connections* (New York: Social Science Research Council, 2009); Roger Duthie, 'Toward a Development-Sensitive Approach to Transitional Justice', *International Journal of Transitional Justice* 2 (2008): 292–309.
33. Hecht and Michalowski, 'The Economic and Social Dimensions'.
34. Roger Duthie, 'Toward a Development-Sensitive Approach to Transitional Justice', *International Journal of Transitional Justice* 2 (2008), 294–95.
35. Duthie, 'Toward a Development-Sensitive Approach', 306.
36. Christine Chinkin, 'The Protection of Economic, Social and Cultural Rights Post-Conflict', Paper series commissioned by the Office of the High Commissioner of Human Rights (2009), www2.ohchr.org/english/issues/women/ … /Paper_Protection_ESCR.pdf (accessed August 23, 2019).
37. Waldorf, 'Anticipating the Past', 175.
38. Gready and Robins, 'From Transitional to Transformative Justice'.
39. Rama Mani, 'Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development,' *International Journal of Transitional Justice* 2 (2008): 253–65.
40. McAullife, 'Weighing Domestic and International Impediments', 167.
41. Daire McGill, 'Different Violence, Different Justice? Taking Structural Violence Seriously in Post-conflict and Transitional Justice Processes', *State Crime Journal* 6, no. 1 (2017): 79–101.
42. McGill, 'Different Violence, Different Justice?' 82.
43. Johan Galtung, 'Violence, Peace, Peace Research', *Journal of Peace Research* 6, no. 3 (1969): 171.
44. Seema Khan, Emilie Combaz. and Erika McAslan Fraser, *Social Exclusion: Topic Guide*. Revised ed. (Birmingham, UK: GSDRC, University of Birmingham, 2015), 3.
45. Kathleen Ho, 'Structural Violence as a Human Rights Violation', *Essex Human Rights Review* 4, no. 2 (2007): 3.
46. Galtung, 'Violence, Peace, Peace Research', 171.
47. Douglass C. North, John Joseph Wallis and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge: Cambridge University Press, 2009).
48. Gready and Robins, 'From Transitional to Transformative Justice'.
49. Paul Farmer, *Pathologies of Power* (Berkeley: University of California Press, 2005), 40.
50. Adrian Leftwich, 'Analysing the Politics of State-Business Relations: A Methodological Concept Note on the Historical Institutionalist Approach', Institutions and Pro-Poor Growth, Discussion Paper No. 23, 2009, 8.
51. See Laura Wise, 'Setting Aside the "Others": Exclusion Amid Inclusion of Non-dominant Minorities in Peace Agreements', *Nationalism and Ethnic Politics* 24, no. 3 (2018): 311–23.
52. Gready and Robinsy, 'From Transitional to Transformative Justice', 349.
53. McAuliffe, 'Weighing Domestic and International Impediments', 167.
54. Ibid., 4.
55. McGill, 'Different Violence, Different Justice?' 90.
56. Gready and Robins, 'From Transitional to Transformative Justice', 355.
57. Henry G. Chingaipe Ng'oma, 'Business and the State in Malawi: The Politics of Institutional Formation, Maintenance and Change' (PhD thesis, University of York, Department of Politics), 13–14.

58. Charles Ackah, Ernest Aryeetey, Joseph Ayee and Ezekiel Clottey, 'State-Business Relations and Economic Performance in Ghana', Discussion Paper Series, Research Programme Consortium for Improving Institutions for Pro-Poor Growth, Manchester, UK, No. 35, 10.
59. Christine Bell and Sanja Badanjak, 'Introducing PA-X: A New Peace Agreement Database and Dataset', *Journal of Peace Research* 56, no. 3 (2019): 2.
60. Christine Bell, *Political Power-Sharing and Inclusion: Peace and Transition Processes* (PA-X Report, Power-Sharing Series). Edinburgh: Global Justice Academy, University of Edinburgh, 2018.
61. Christine Bell and Kevin Mcnicholl, 'Principled Pragmatism and the "Inclusion Project": Implementing a Gender Perspective in Peace Agreements', *feminists@law* 9, no. 1 (2019): 33.
62. Arend Lijphart, 'Consociational Democracy' *World Politics* 21, no. 2 (1969): 207–25.
63. Bell and Mcnicholl, 'Principled Pragmatism and the "Inclusion Project", 33–34.
64. Bell, *Political Power-Sharing*, 6.
65. Zimbabwe, Constitution of Zimbabwe Amendment (No 20) 2013, 19 March 2013, art. 3.
66. Caroline Hartzell and Matthew Hoddie, 'Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management', *American Journal of Political Science* 47, no. 2 (2003): 318–32.
67. International Centre for Transitional Justice, 'Institutional Reform', https://www.ictj.org/.
68. Burundi, Arusha Peace and Reconciliation Agreement for Burundi, 28 August 2000, art 7 (18)(b)
69. *Ibid.* art. 7 (18)(d).
70. Elliot Bulmer, 'What is a Constitution? Principles and concepts International IDEA Constitution-Building Primer 1', International Institute for Democracy and Electoral Assistance (International IDEA) Second edition (2017), 4.
71. Catherine Turner, 'Transitional Constitutionalism and the Case of the Arab Spring', *International & Comparative Law Quarterly* 64, no. 2 (2015): 271.
72. Bahrain, National Action Charter of Bahrain, 15 February 2001, p. 4.
73. Central African Republic, Pacte Républicain pour la paix, la réconciliation nationale et la reconstruction en la République Centrafricaine, 11 May 2015.
74. El Salvador, New York Agreement, 25 September 1991.
75. *Ibid.*
76. See Christine Bell and Kimana Zulueta-Fülscher, *Sequencing Peace Agreements and Constitutions in the Political Settlement Process* (PSRP Report in Cooperation with IDEA) (Stockholm: International IDEA, 2016).
77. See Fidelma Ashe, *Reimaging Inclusive Security in Peace Processes: LGB&T Perspectives* (PSRP Report) (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
78. Colombia, Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, 24 November 2016, art. 2.2.
79. Yemen, National Dialogue Conference Outcomes Document, 25 January 2014, at 7.
80. Sudan/Darfur, Darfur Peace Agreement, 5 May 2006, art. 17; Angola Cabinda, Memorandum of Peace and Understanding in Cabinda Province, 1 August 2006.
81. Iraq, Law of Administration for the State of Iraq for the Transitional Period, 8 March 2004, art. 14; Nepal, Constitution of Nepal 2015, 20 September 2015, art. 31.
82. Bosnia and Herzegovina/ Yugoslavia (former), General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement), 21 November 1995, Annex 4, art. 3(k); Cambodia, Agreement on a Comprehensive Political Settlement of the Cambodia Conflict (Framework for a Comprehensive Political Settlement of the Cambodia Conflict or Paris Accords), 23 October 1991, Annex 4, art. 4
83. Central African Republic, Transitional National Charter (Interim Constitution), 18 July 2013, art. 9.
84. Philippines/ Mindanao, Framework Agreement on the Bangsamoro, 15 October 2012; Myanmar, The Nationwide Ceasefire Agreement (NCA) between The Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations (EAO), 15 October 2015, art. 1.

85. Sean Molloy, *Business and Peace Agreements* (PA-X Report, Economic Series) (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
86. Democratic Republic of Congo, Intercongolese Negotiations: The Final Act ('The Sun City Agreement'), 2 April 2003.
87. El Salvador, Agreement of the Tripartite Meeting Spanish: Acuerdo de la Reunión Tripartita, 8 September 1993.
88. Yemen, National Dialogue Conference Outcomes Document, 25 January 2014.
89. Guatemala, Agreement on the Social and Economic Aspects and Agrarian Situation, 6 May 1996.
90. Central African Republic, Pacte Républicain pour la paix, la réconciliation nationale et la reconstruction en la République Centrafricaine, 11 May 2015.
91. Laura Wise, Robert Forster and Christine Bell, *Local Peace Processes: Opportunities and Challenges for Women's Engagement* (PA-X Report, Spotlight Series) (Edinburgh: Global Justice Academy, University of Edinburgh, 2019).
92. Ibid., 2.
93. Ibid., 4.
94. Alina Rocha Menocal, *Inclusive Political Settlements: Evidence, Gaps, and Challenges of Institutional Transformation* (International Development Department, University of Birmingham, 2015), 22.
95. Pilar Domingo et al., *Assessment of the Evidence of Links between Gender Equality, Peacebuilding and Statebuilding: Literature Review* (Overseas Development Initiative (ODI), 2013), 17.
96. Alina Rocha Menocal, *Inclusive Political Settlements*.
97. Roberto Belloni, 'Civil Society in War-To-Democracy Transitions', in *From War to Democracy: Dilemmas of Peacebuilding*, ed. Anna K. Jarstad, and Timothy Sisk (Cambridge: Cambridge University Press, 2010).
98. Thania Paffenholz et al., *Making Women Count– Not Just Counting Women: Assessing Women's Inclusion and Influence on Peace Negotiations* (Geneva: Inclusive Peace and Security Transition Initiative, 2016).
99. Paffenholz et al., *Making Women Count– Not Just Counting Women*, 7.
100. Nico Schernbeck and Luxshi Vimalarajah, *Negotiating Transitional Justice. A Strategic Framework* (Berlin: Berghof Foundation). Copyright Berghof Foundation, 2017, 10.
101. Schernbeck and Vimalarajah, *Negotiating Transitional Justice*.
102. Kristian Herbolzheimer, 'Negotiating Inclusive Peace in Colombia', in *Navigating inclusion in peace processes*, ed. Andy Carl (PSRP Report, Accord) (London: Conciliation Resources, 2019), 49.
103. Herbolzheimer, 'Negotiating Inclusive Peace in Colombia'.
104. Ibid.
105. Kristian Herbolzheimer, 'Innovations in the Colombian Peace Process', NOREF Report, 2016.
106. Sergio Jaramillo, 'Inclusion and the Colombia Peace Process Conversation with Sergio Jaramillo', in Andy Carl, Navigating inclusion in peace processes (Accord) [PSRP Report, Accord]. Conciliation Resources.
107. Thania Paffenholz, 'Broadening Participation in Peace Processes: Dilemmas & Options for Mediators', Centre for Humanitarian Dialogue (Mediation Practice Series, 2014).
108. Schernbeck and Vimalarajah, *Negotiating Transitional Justice*, 3.
109. Madhav Joshi and Jason Quinn, 'Is the Sum Greater than the Parts? The Terms of Intrastate Peace Agreements and the Commitment Problem Revisited', *Negotiation Journal* 31, no. 1 (2015): 7–30.
110. Sean Molloy and Christine Bell, *How Peace Agreements Provide for Implementation* (PA-X Report) (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
111. Philippines, Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines, 16 March 1998.

112. Ibid., art. 2.
113. Angola, Angolan Government's Peace Plan, 13 March 2002, p. 3.
114. Sierra Leone, Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone, signed at Abidjan ('Abidjan Accord'), 30 November 1996, art. 20.
115. Somalia, Peace Agreement between the Sa'ad and Saleman sub-clans, 18 February 2007, art. 6.
116. Somalia, Adadda Peace Agreement, 15 May 1997, preamble.
117. South Sudan, Wunlit Dinka Nuer Covenant and Resolution, 8 March 1999, art. 3.
118. Lome Agreement, 07 July 1999, art. 6.
119. Central African Republic, Accord de cessation des hostilités en République Centrafricaine, 23 July 2014; Croatia/ Yugoslavia (former), Ceasefire Agreement of 29 March 1994), 29 March 1994.
120. Schernbeck and Vimalarajah, *Negotiating Transitional Justice*, 3.
121. Christine Bell, and Jan Pospisil, 'Navigating Inclusion in Transitions from Conflict: The Formalised Political Unsettlement', *Journal of International Development* 29, no. 5 (2017); Edinburgh School of Law Research Paper No. 2017/04.
122. Ibid., 5.
123. M. Berdal, 'The Afterlife of Peace Agreements', in *International Law and Peace Settlements*, ed. M. Weller, M. Retter, and A. Varga (Cambridge University Press, 2001); R. Badran, 'Intrastate Peace Agreements and the Durability of Peace', Confl. Manag. Peace Sci. 31 (2013): 193.
124. Stefan Lindemann, 'Do Inclusive Elite Bargains Matter? A Research Framework for Understanding the Causes of Civil War in Sub-Saharan Africa', Crisis States Research Centre Discussion Paper 15 (London: LSE, 2008).
125. Christine Bell and Kimana Zulueta-Fülscher, 'Sequencing Peace Agreements and Constitutions in the Political Settlement Process' (2015) IDEA Policy Paper No. 13, 7.
126. Véronique Dudouet and Stina Lundström, 'Post-war Political Settlements: From Participatory Transition Processes to Inclusive State-building and Governance', Research Report (Berlin: Berghof Foundation, 2016), 58.
127. Padraig McAuliffe, 'Weighing Domestic and International Impediments to Transformative Justice in Transition', *London Review of International Law* 3, no. 1 (2015): 169–197, 186.
128. McAuliffe, 'Weighing Domestic and International Impediments'.
129. Alex De Waal, 'Introduction to the Political Marketplace for Policymakers', JSRP Policy Brief 1, 2016.
130. Alex De Waal, *The Real Politics of the Horn of Africa: Money, War and the Business of Power* (Polity, 2015), 21.
131. Dustin N. Sharp, 'Emancipating Transitional Justice from the Bonds of the Paradigmatic Transition', *International Journal of Transitional Justice* 9, no. 1 (2015): 156.
132. Padraig McAuliffe, 'Reflections of the Nexus between Justice and Peacebuilding', *Journal of Intervention and Statebuilding* 11, no. 2 (2017): 253.
133. Astrid Jamar, '"Victims" Inclusion and Transitional Justice Attending to the Exclusivity of Inclusion Politics', PA-X Report, Transitional Justice Series (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
134. Jamar, '"Victims" Inclusion and Transitional Justice Attending'.
135. Louise Mallinder, *Amnesties and Inclusive Political Settlements* (PA-X Report, Transitional Justice Series) (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
136. Mallinder, *Amnesties and Inclusive Political Settlements*, 1.
137. See for example, Bernadette C. Hayes and Ian McAllister, 'Gender and Consociational Power-Sharing in Northern Ireland', *International Political Science Review* 34, no. 2 (2013): 123–39.
138. Bell and McNicholl, 'Principled Pragmatism and the "Inclusion Project".

139. Andrew Finlay, *Governing Ethnic Conflict: Consociation, Identity and the Price of Peace* (Routledge, 2010) cited in Bell and McNicholl, 'Principled Pragmatism and the "Inclusion Project".
140. See Padraig McAuliffe, 'Peace Agreements and Power-Sharing as Barriers to Minority Rights', in *Ethno-Cultural Diversity and Human Rights* (Leiden: Martinus Nijhoff, 2017), 337–369; Padraig McAuliffe 'Dividing the Spoils: The Impact of PowerSharing on Possibilities for Socioeconomic Transformation in Postconflict States', *International Journal of Transitional Justice*, 11, no. 2 (2017): 197–217.
141. Stephen John Stedman and Donald Rothchild, 'Peace Operations: From Short-Term to Long-Term Commitment', *International Peacekeeping* 3, no. 2 (1996): 18.
142. Sean Molloy and Borja Paladini Adell, 'More inclusive monitoring of peace agreement implementation: Barometer Initiative in Colombia' in Navigating inclusion in peace processes ed. Andy Carl (PSRP Report, Accord). London: Conciliation Resources, 33.
143. Central African Republic, Pacte Républicain pour la paix, la réconciliation nationale et la reconstruction en la République Centrafricaine, 11 May 2015.
144. Sean Molloy, *Assessing and Influencing Progress in Peace Processes*, Workshop Report (PSRP Report) (Edinburgh: Global Justice Academy, University of Edinburgh, 2018).
145. Roger Mac Ginty, 'Indicators +: A Proposal for Everyday Peace Indicators', *Evaluation and Program Planning* 36, no. 1: 56–63.
146. Mac Ginty, 'Indicators +'.
147. Jan Pospisil, 'Peacebuilding and Principled Pragmatism', in *Navigating Inclusion in Peace Processes*, ed. Andy Carl (PSRP Report, Accord) (London: Conciliation Resources).
148. Christine Bell, and Jan Pospisil, 'Navigating Inclusion in Transitions from Conflict: The Formalised Political Unsettlement', *Journal of International Development* 29, no. 5 (2017); Edinburgh School of Law Research Paper No. 2017/04.
149. British Academy, *Local Peace Processes* (London: The British Academy, 2021).

Disclosure statement

No potential conflict of interest was reported by the author(s).

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