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FROM TRANSITIONAL JUSTICE TO TRANSFORMATIVE AGRARIAN JUSTICE

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INTRODUCTION

In December 2018, the UN General Assembly adopted the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP). The Declaration protects and recognises new and existing human rights for people living and working in rural areas, such as rights to land and other natural resources; access to the means of production; and the right to food sovereignty. UNDROP comes at critical moment for the field of transitional justice, which is characterised by two recent and significant developments: new recognition and understanding of the forms of violence experienced by particular communities and groups, such as indigenous peoples and women and the need to respond to these; and recognition of the social and economic aspects of transition and the conditions for achieving sustainable peace. These are relevant because while peasants have participated in transitional justice mechanisms what the field has yet to fully consider is how the peasant position of victims is often a determinant of experiences of violence and violations. Transitional justice is yet to acknowledge or tackle in practice the kinds of social, economic and political issues that UNDROP was designed to address and the agrarian structures and processes that underlie experiences of violence for peasants.

This research and practice brief summarises insights from a recent framing paper in *The Journal of Human Rights* (Hoddy, 2021).¹ It summarises a) the key social and economic issues peasants experience and how these are tied to structures and processes in rural society and economy; b) the consequences these have for the settings where justice-promotion work is undertaken; and c) what demands these put to the field of transitional justice, drawing on recent contributions in the field around the need for more transformative modes of practice (Gready and Robins, 2014; 2017). The overall aim of this brief is to set out a need for a shift in thinking and practice, from transitional justice transformative ‘agrarian’ justice.

THE UN DECLARATION ON THE RIGHTS OF PEASANTS

Quite unlike most other international human rights instruments, UNDROP was requested and developed with social movements and organisations representing rural people, such as the transnational peasant movement La Via Campesina (LVC). The Declaration’s origins have been traced back to 1990s Indonesia, where a resurgence in activism and advocacy accompanied the collapse of the Suharto regime (Claeys, 2015; Fakhri et al., 2003). Through community workshop sessions with local groups, a peasant rights charter was created that claimed 61 new rights in response to the negative impacts of agricultural policies and rural repression in the country. That initial charter informed the drafting of LVC’s ‘Declaration on the Rights of Peasants – Women and Men’ in 2008 for generating support for a new universal declaration. UNDROP was eventually adopted by the Human Rights Council in September 2018 and by the UN General Assembly in December that year (Edelman and James, 2011).

UNDROP captures the core rights issues that arise in rural contexts, which are characterised by complex processes of change and continuity. The document expresses deep concern that peasants suffer disproportionately from

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poverty, hunger and malnutrition and from structural discrimination, including rural women, who are routinely “denied tenure and ownership of land, equal access to land, productive resources, financial services, information, employment or social protection, and are often victims of violence and discrimination in a variety of forms and manifestations”. The document also expresses alarm at peasant evictions and displacement and a concern that uneven power relations in food systems “impair the enjoyment of human rights” of peasants. Among the more novel features of the Declaration is the individual and collective basis of the right to land, viewed as means for accessing other rights. The right to food and to food sovereignty also establishes the basis for peasants to determine their own food and agriculture systems. It also resasserts rights to participation and to form and join rural organisations, and duties on states to protect peasants from exploitation, evictions, displacement and violence.

UNDROP AND AGRARIAN CHANGE

The content of UNDROP can be said to reflect an understanding that violence and violations do not occur in a structural vacuum but are rather embedded in structures and processes of rural change. In the Global South, common development trajectories that emphasise a stronger role for the market economy and the replacement of agriculture with industry and services are pertinent. In recent decades, these ‘agrarian transitions’ have been given new shape and direction through neoliberal globalisation (Bernstein, 2010) which has seen the financialisation of agriculture and increasing control by corporate actors over various aspects of farming (Clapp and Isakson, 2018; Bernstein, 2010; McMichael, 2013; Borras 2009; Akram-Lodhi and Kay, 2009; Hubert, 2019). Three components of agrarian change have given shape to the Declaration in a strong way: the way peasant farmers and been turned into wage labourers through forms of dispossession, such as the loss of land; the way land has been turned into a commodity; and the subordination of peasant farmers to more powerful economic actors, for example through mechanisms of contract farming and perpetual indebtedness. These global processes have been assisted by the withdrawal of state support for peasant farming in line with neoliberal restructuring, the abandonment of national policies on rural development at the state level, and through interventions and programs funded by large development actors whose approach to poverty reduction is to make peasants more entrepreneurial and integrate them more deeply into markets. For rural livelihoods, the consequences have been frequently disastrous – reflected for example in the global phenomenon of ‘depeasantisation’ which has seen peasants lose their livelihoods, land and identities, and forced to relocate to the urban peripheries where they join the swelling ranks of the urban poor.

FOUR TRENDS FOR TRANSITIONAL JUSTICE

With the above in mind, four rural trends highlight why pursuing agrarian justice is needed in justice interventions in transitional and post-conflict settings. These trends also put demands to research and practice.

1) **The persistence of direct and indirect non-war violence**

Peasants remain exposed to direct and structural and systemic forms of non-war violence in post-transition settings. This includes in societies where responses to poverty and inequality were included in democracy- and peace-building processes. The pervasiveness of violence in such settings reflects the wider political economies of transition. Development imperatives, policy decisions taken, state retreat and adaptive rural elites have meant violent structures remaining intact across transition trajectories. In Brazil for example, the impact of work at land reform has been minimal in the country’s democratic period. This is owing to an agribusiness-friendly development model, promoted by governments of the left and right, which has prioritised the production of cash crops for export and led to new practices and patterns of land concentration (Robles, 2018; Sauer and Mészáros, 2017).

2) **Agrarian protest**

Justice interventions may be expected in societies marked by agrarian protest. Agrarian issues played a role in the 2010-11 Arab Spring uprisings for example, such as in Tunisia where deep tensions and grievances in the interior agrarian regions led to an “explosion of demands for social justice in rural areas” (Gana, 2012, p.210). Beneath calls for ‘employment, freedom and dignity’ were legacies of agrarian restructuring that created new winners and losers in farming; the promotion of large-scale

farming and the neglect of smaller farms and employment; and the phenomenon of indebtedness caused by rising production costs and falling subsidies. Much of the transition and post-transition period in Tunisia has seen the renewal of social activism and protest around ongoing social problems and the failure of new economic opportunities to emerge.

3) The agrarian roots of violent conflict

Justice interventions may be required in societies where there are large numbers of rural victims. In Peru and Nepal for example, transitional justice processes have been applied in response to conflict legacies where peasants have been among the main victims and perpetrators. Conflicts such as these and mass violence may be rooted in structures and processes of rural society and economy. Among the rural drivers of conflict are issues of “access to and control of land and labour, as well as financial capital” and how these might challenge “established and institutionalized patterns of access and control” (Cramer and Richards, 2011, p.280). “These changes”, Cramer and Richards indicate,

may be driven by demographic pressures and increasing land scarcity, sometimes artificially accelerated by new forms of foreign investment [...] or by immigration and shifts in labour markets, or greater integration into global markets. Central to most of these changes, and the tensions they may generate, are policies: policies regulating property rights, investment in rural infrastructure, establishing sectoral change in productive activities and so on.

Overall, the transitional justice field is yet to respond to the agrarian roots of conflict or develop effective responses - a possible reflection of the field’s neglect of the extensive conflict studies literature about why conflict happens (Kostovicova, 2019).

4) The agrarian roots of authoritarian populism

And finally, rural grievances and social conflict are helping fuel the global rise of authoritarian populism which “circumvents, eviscerates or captures democratic institutions, even as it uses them to legitimate its dominance, centralise power and crush or severely limit dissent” (Scoones et al., 2018, p.3). Rural support for authoritarian populist governments and movements has been a “recurrent phenomenon” (Bello, 2018, p.21) in many Global South settings, such as in the Philippines and in Indonesia, and more recently in the Global North. In the case of the Philippines for example, the country’s poor record on agrarian reform has been suggested as a key reason why Duterte enjoyed rural support in the 2016 elections. In the United States, the rise of authoritarian populism has been attributed to rural grievances associated with economic restructuring and financialisation that “hollowed out the heartland” over several decades (Edelman, 2019, p.1). In earlier research in Tunisia conducted in 2015-2016 by this author (Hoddy, 2021), poor farmers expressed frustration with the new state and a desire to return to the old order:

In the past it was better than now, in the period of Ben Ali. We hope that Ben Ali comes back, we want Ben Ali and the ruling of Ben Ali, and the system of Ben Ali. ...for us, the minority and the poor people, we didn't get any benefits [from the Revolution]. The only other outcome [of the Revolution] is [our] being punished. We didn't benefit from this Revolution. We are being suffocated even more. To speak about freedom and the freedom of citizens... there is no freedom!

TOWARDS A TRANSFORMATIVE PRACTICE

The emerging practice agenda on ‘transformative justice’ may provide a framework for justice-focused interventions that can engage with agrarian violence and its consequences and causes. Although there remains little in transformative justice in terms of practice and programming, the agenda is concerned to radically reform the “politics, locus and priorities” of transitional justice (Gready and Robins, 2014a, p.2). Policy, programming and practice are required to become more ambitious, participatory, and able to begin responding to structural and systemic violence (Table 1). The agenda indicates a need to move significantly beyond transitional justice

mechanisms in favor of a more comprehensive set of interventions and practices for securing justice and for subverting obstacles to change (Gready and Robins, 2017).

TRANSITIONAL JUSTICE	TRANSFORMATIVE JUSTICE
Change delivered through state-centric institutional mechanisms	Emphasis on community-based practice as an entry point for producing change
Judicial and non-judicial mechanisms, legal in emphasis	Social and political processes in the main, multidisciplinary and multi-sector (development, peacebuilding etc.).
Grounded in international law, human rights	International law, human rights as reference points; emphasis on community priorities
Emphasis on civil and political rights	Indivisibility of rights, equal consideration of economic and social rights
Addresses direct, physical violence against individuals and groups	Focus on structural and systemic violence; intersection of direct, physical violence and structural violence

Table 1. Transitional and transformative justice (adapted from Gready and Robins, 2014b).

In terms of the demands this puts to research, one priority area is to develop new knowledge about the nature and scope of agrarian violence in concrete settings, including its causes, for supporting policy, practice and the design of transitional justice mechanisms and processes (Hoddy and Gready, 2020). Questions might include how violence can change or is reproduced and sustained across transition trajectories, and why?; how do class and gender structures shape experiences of violence?; what to peasants prioritise from justice interventions?; what alternative futures do they envisage?

For responding to agrarian violence, the community-based practice emphasis transformative justice prioritises rural activism and advocacy, such as undertaken by rights-based movements and organisations in transitional and post-transitional settings. These actors often adopt explicit justice frames in their work and support, facilitate and initiate organised community action around human rights issues in local settings. These activities may involve, for example, critical consciousness-raising among peasant farmers about their rights; direct action, such as occupying vacant land for pressing the state to redistribute it; initiating new development projects that prioritise peasant wellbeing and equitable relationships; and advocating for new policies and legal change, such as on land reform and social protection. The Landless Workers' Movement (MST) in Brazil, founded in 1984, is one such example of a group that has engaged in such activities to challenge the unequal distribution of land and the consequences this had for rural poverty and violence in a transitional setting. While the country did not undertake a process of transitional justice process at the time, the movement drew on human rights as a normative reference point and framed its work around challenging rural legacies of colonialism, dictatorship and new forms of marginalisation and exclusion generated in the post-transition period (Hoddy and Ensor, 2018).

Social movements and organised groups and networks such as these that are engaged in contentious politics have tended to be ignored or downplayed in transitional justice (Gready and Robins, 2017) and in proximate fields such as peacebuilding and mainstream development. Global practitioners and organisations might find ways of supporting local initiatives for securing justice or helping enable new ones in collaboration with local partners. Existing transitional justice mechanisms may play a supporting role, such as by having truth commissions contribute to national debates about economic models and policies for protecting and fulfilling peasants' rights. Knowledge developed about the rural structural and relational sources of harm may assist the design of reparations programmes so that they become more 'structurally sensitive' and promote genuine transformations in circumstances (Manjoo, 2017).

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