1. About the Newsletter

This newsletter has been designed to inform our members and the wider community of some of the ETJN activities on transitional justice within the University of Essex and beyond, and as a forum for discussion of transitional justice.

The issue opens with an interview of Pablo de Greiff, Special Rapporteur on the Promotion of Truth, Justice, Reparation and guarantees of non-recurrence, where he reminds us of some of the most pressing challenges in the field.

It also considers the significance of the judgment by the Inter-American Court of Human Rights in the case of Garcia Lucero and others v. Chile, where members of the ETJN and students supported REDRESS in the litigation of the case.

The issue also looks at publications in the field of transitional justice at Essex as well as at other activities carried out by the ETJN during 2012-2013.

Some reflections on Nelson Mandela’s work on transitional justice are also shared to mark his contributions to peace and reconciliation in South Africa and beyond.

We hope you enjoy reading our first issue. It would not have been possible without the work of two of our frontrunners: Doriane Hardy and Anuta Musat, and that of other members of the Network, including Sarah Wacey, Prof. Sabine Michalowski, Dr. Fabian Freyenhagen and Dr. Sanja Bahun.

Dr. Clara Sandoval
Director of the ETJN
To what extent do you consider that the emergence of the field of Transitional Justice has improved the pre-existing mechanisms that it encompasses?

Pablo: That is a tough question. Historically, the field was not characterized by conceptual innovation, or devising mechanisms that were entirely new. The existence of truth commissions comes closest to that, but these truth commissions had historical precedents in commissions of inquiry, developed in different systems and in different contexts. What is actually new is putting together these mechanisms as part of a comprehensive policy. The power of precisely that type of integration (not only aggregation) should not be underestimated. It makes up for the weakness of each of the measures considered individually.

Having said this, the links between the four different measures continue to be an issue at the programmatic level. I think that there is now much more consensus at the conceptual level about the need to establish those links. Nonetheless, it is one thing to achieve consensus at the conceptual level and quite another to establish the right programmatic links.

There is a need to reflect, and again I go back to my own work, on the persistence of the temptation on the part of governments to think about measures as if they were part of a catalogue of options among which they can choose. And, believe me, this tendency is not receding; it is as present today as it was fifteen or twenty years ago. Hence, I think that working out the proper links between the measures is very important and is one of the challenges of my mandate.

Do you see a role for transitional justice concepts or processes in pre-transitional settings? In particular States, and civil society groups, both in and outside the State, are gathering documents and evidence in anticipation of the time when a transition will occur. Can TJ mechanisms contribute to this?

Pablo: I think, if one examines the history or origins of this notion [i.e. transitional justice], there is a sense in which our perceptions of time play a trick on us. We tend to forget that the notion emerged slowly, polemically, and out of practice. We also forget that the practice in most of the countries in which the notion emerged, for example Chile and Argentina, is one that very much included the sort of thing that you have mentioned in your question. So decades before transition, civil society organizations were doing precisely the sorts of things that you are talking about – collecting evidence, trying to preserve it, building up cases – so that when the transitions happened people were not starting from scratch. And now we take it for granted, in a certain sense, that there is such a thing as “transitional justice”: that it starts from a particular point in time, typically after a political transition has taken place. But it never happened that way in reality.
So the short answer to your question is yes, I think that there’s a lot of very important preparatory work that has always been a part of the process and that we should by all means encourage. Not just with respect to prosecutions, but with respect to all the transitional justice measures.

Having said that, the actual implementation of transitional justice measures prior to a transition presents particular challenges. I think that there is an issue about timing and sequencing, which the field has not nailed down completely. It has almost been assumed that we can start implementing these measures whenever the opportunity arises. But think about some of the difficulties that countries like Colombia have encountered in establishing transitional justice programs before a transition has actually taken place. I think that this is a trend that requires a bit more reflection from this perspective.

**What are the key areas in transitional justice that need further research?**

Pablo: In my first report to the Human Rights Council I announced three strategic areas of concern. One of them is the link between the four different elements of my mandate: truth, justice, reparation and guarantees of non-recurrence. As I mentioned before, I think that this really remains to be worked out in detail at the programmatic level. What does it mean, for example, to establish sound links between judicial processes and truth commissions? This was the subject of very serious discussions in Sierra Leone when the Special Court and the Truth Commission were operating simultaneously. There were some very intelligent conversations about this and it turned out to be less problematic than people anticipated. However, that had a lot to do with various peculiarities of the case, and by that I mean the small number of cases the Special Court was running. There are countries in which the judicial measures would be much more ambitious and where the potential clash with truth commissions would need to be worked out differently. Similarly, what is a sound way of establishing a relationship between judicial measures and reparations programmes?

Secondly I think that there is a link between transitional justice and other policy interventions with which transitional justice usually co-exists. These include security policies and development programmes, and in these cases virtually all the questions about proper linkages remain open. The third topic that I announced in the report to the Human Rights Council, which is absolutely crucial, is how to improve the effectiveness of the measures in post-conflict contexts that operate under severe strain. In relation to these points, there are huge challenges that the field has not fully resolved.
3. 2013 Annual ETJN Workshop and Lecture

On 7 May 2013, the Essex Transitional Justice Network held its third Annual Workshop and Lecture with Pablo De Greiff as its distinguished speaker. De Greiff is the first UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

The day started with a closed-door workshop on “The mandate of the Special Rapporteur: Knowledge challenges faced”.

His remarks reflected on the state of the field and he called academics to:

1. Explore the role of civil society in transitions and 2. Consider ways to follow up on the work of transitional justice mechanisms, their recommendations and reports.

The attendees to the workshop engaged in a discussion about the practice and shared their views on how to use the mandate strategically.

During the lecture “Taking stock of transitional justice: challenges and opportunities”, Pablo De Greiff stated that one of the great success stories related to transitional justice is its consolidation as a field in such a short period of time, and that it has become part of the policy package that countries undergoing transitions are expected to consider.

De Greiff also talked about some of the challenges faced by transitional justice. Two intrinsic to it: how to keep the four Transitional Justice pillars together and understanding the way in which transitional justice could achieve the aims attributed to it.

He stressed the need to engage in explanatory research in the field of transitional justice to understand by what means transitional justice measures achieve the aims that are attributed to them.

N.B: Information on our next Annual Lecture can be found on page 11 of this newsletter.
4. Essex Publications on Transitional Justice and related fields

*Corporate Accountability in the Context of Transitional Justice* edited by Professor Sabine Michalowski, Chair of the Economic and Social Dimensions of the ETJN.

This edited collection, counting among its authors some ETJN members, is the product of discussions that took place in two international seminars funded by the British Academy and supported by the ETJN, the Essex School of Law and the Universidad de Palermo, Argentina.

The book explores the possible integration of corporate accountability and transitional justice, in both theory and practice. It furthers an understanding of the role of corporations for successful transitions, and of adequate processes through which corporate accountability can be achieved in the context of transitional justice.

Chapters in the book by members of the ETJN include:


Van Ho, T., “Transnational Civil and Criminal Litigation”, pp. 52-72.

5. LLM students support REDRESS litigation before the Inter-American Court

LLM students in International Human Rights Law volunteered to assist the anti-torture charity REDRESS as it ended more than a decade of litigation before the Inter-American System of Human Rights in the case of Garcia Lucero and Others v. Chile. The LLM volunteers helped REDRESS' lawyers Lorna McGregor and Clara Sandoval prepare for the Hearing in the case before the Inter-American Court during its sessions in Medellin (Colombia) in March of this year. Students were provided with a unique oppor-
tunity to take part in international litigation and to understand more about how the Inter-
American System works.

The case concerns a Chilean torture survivor and political prisoner Leopoldo García Lucero, his wife and three daughters. After the torture and arbitrary detention of Garcia Lucero during Pinochet’s dictatorship, he was expelled from the country with his family in 1975, arriving to the UK. Despite the fact that Chile returned to democracy in 1990, Garcia Lucero and his family continued wait-
ing for justice and adequate reparation.

The LLM students involved in the case were: Maria Valles, Josephine Wragge, Alvaro Amaya, Santiago Featherston, Patrick Timmons, Estela Casajuana, Roberto Zuppa, Theresa Lankes and Jeremy Bloom. Other LLM students from previous cohorts provided support to REDRESS such as Monica Zwaig, Rita Lami and Louise Finer.

6. Summer school II —Dealing with land issues in transitions

The Essex Transitional Justice Network held its Second Summer School at Colchester campus between 9 and 13 September 2013. It brought together an amazing group of PhD students, Masters students and practitioners dealing with land related issues in periods of transitions. They were taught by leading international experts in transitional justice, conflict resolution, and international human rights law, with expertise in various parts of the world such as Bosnia and Herzegovina, Kosovo, Colombia, South Africa, Sierra Leone, Chile, Myanmar and Palestine, among others. They included Yasmin Sooka, Rhodri Williams, Massimo Moratti (former LLM at Essex), Anne Massagee (former LLM at Essex), Scott Leckie (former LLM at Essex), Camilo Sánchez, Pilar Domingo, Sabine Michalowski and Clara Sandoval.

N.B: Information on our next Summer School can be found on page 12 of this newsletter
7. Remembering Nelson Mandela

5 December 2013

The ETJN mourns the passing of Nelson Mandela, former president of South Africa.

As the first black president of South Africa, he played a tremendously important role in dismantling the Apartheid regime, by fighting against inequality and poverty and fostering racial toleration.

Mandela’s approach to Transitional Justice has also been a unique and inspiring one. He oversaw the formation of a Truth and Reconciliation Commission in South Africa, to investigate the crimes of the Apartheid regime. To prevent the investigation from entrenching racial hatred, the Truth Commission had powers to grant individual amnesties if perpetrators confessed the full truth of what they had done. The Truth Commission also had other powers in relation to reparation and prevention of such crimes in the future. Mandela was one of the few politicians to recognize the importance of forgiveness in such contexts. As he famously declared, ‘courageous people do not fear forgiving, for the sake of peace’.

In July 1997, the University of Essex had the honour of hosting Nelson Mandela and his wife, Graça Machel, herself a political activist who was awarded a Honorary Degree by the University, in recognition of her work with the UN for children’s rights.

His visit at our Colchester Campus made a lasting impression not only on students, but also on members of the ETJN who have dedicated their lives to defend human rights such as Professor Sir Nigel Rodley. He remembers that, upon visiting Robben Island, where Mandela was detained for 27 years, he wondered ‘how the genial, tolerant man I met could have emerged from that experience as the moral giant who could bring true reconciliation to a country that had been so cruelly and arbitrarily divided’.

Dr Jeremy Krikler from the Department of History, an expert on South Africa in the twentieth century, greatly prizes Mandela’s contribution to the transition from separateness and hatred to unity and community: ‘his sacrifice, bravery, his abilities as a leader, and that colossal dignity and refusal to be embittered despite the persecution he suffered, give him global historical stature: Mandela stands with Martin Luther King and Mahatma Gandhi as one of the great symbols of the twentieth century struggle for the rights of citizenship’.

Mandela’s courage and kindness render him, without a doubt, one of the few politicians whose death has impoverished the world.

Anuta Musat, ETJN frontrunner
8. Abel Chikomo’s release
22 November 2013

Abel Chikomo, Human Rights and transitional justice activist in Zimbabwe and former LLM student in International Human Rights Law at Essex (2005), was acquitted and released on 22 November 2013 by a Harare Magistrate. Chikomo, the director of the Zimbabwe Human Rights NGO Forum was arrested in 2011 for allegedly running an unregistered organization that was conducting a transitional justice survey in Harare’s Highfield suburb, which was in contravention to the Private Voluntary Organizations Act. Since his arrest, his trial was postponed several times and it took almost three years for it to actually start.

Chikomo’s release has been encouraging and seen as very good news by people working on transitional justice. However, his arrest and the subsequent three years of harassment remind us of the dire and dangerous conditions in which human rights defenders work. Unfounded charges against people like Chikomo are meant to intimidate civil society and suppress any lawful attempts to call for social change and for the protection of rights.

9. Panel discussion—Latin America week at the University of Essex
19 November 2013

A group of panelists discussed the significance of the Inter-American Court of Human Rights’ judgment on the case of García Lucero and others v Chile, upholding the right to justice and reparation for an exiled torture survivor from Pinochet’s dictatorship. Mr. and Mrs. García, REDRESS director Carla Ferstman, Dr. Clara Sandoval, Director of the Essex Transitional Justice Network, and Lorna McGregor, Director of the Human Rights Centre, both of them lawyers on the case, shared their views with the audience.

Carla Ferstman welcomed the judgment and emphasized the importance of recognizing that torture survivors in exile still have the right to justice, in spite of living outside their country. She also expressed that “REDRESS work does not finish here. There is a lot to be done now to get Chile to implement the decision promptly, and this includes not only the financial reparation but also all the other measures ordered by the Court.”
Mr. and Mrs. García discussed the harmful impact of the violations on their lives. Mr. García stated that “Even if the amount of money will not compensate the suffering we experienced, I am satisfied that the Court ordered Chile to pay and complete the investigations. I also hope to leave this case as a legacy for humanity, a written and registered precedent that can help other victims fight for justice and prevent similar events from happening again in the future.”

During the second part of the panel, Clara Sandoval and Lorna McGregor noted that the significance of the judgment lies in the recognition of the right to reparation and the duty to investigate, prosecute and punish the perpetrators. They indicated that this case also reminds us that litigators should continue to engage with justice and reparation in Chile, ensuring that domestic remedies to challenge the reparations system for victims of Pinochet’s dictatorship are adequate and effective.

10. TJ AND THE ARTS

The Essex Transitional Justice Network co-organised, together with the Department of Literature, Film and Theatre Studies and the Essex Collection of Art from Latin America, the exhibition of Guatemalan-Dominican artist, David Pérez Karmadavis (10 October 2012 -10 March 2013). His work addresses the challenges faced by Guatemalan society in the period of transition, as well as the taxing situation in Hispaniola (Haiti and Dominican Republic).

The exhibition, which was seen by more than 11,000 people, innovatively included the constant presence of “art officers” who informed the public about transitional justice and the ETJN.

In November 2012 the exhibition hosted a day dedicated to the transitional justice issues in Guatemala. We had the privilege of hosting Guatemalan activist Maritza Urrutia who talked about transitional justice in the context of her legal struggle against the Guatemalan state for her arbitrary detention and psychological torture. The documentary Granito, by Pamela Yates, was also screened at Firstsite. The end of the exhibition Karmadavis: Art, Justice, Transition, was marked on Saturday 9 March 2013 by a one-day symposium at Firstsite Gallery, Colchester. Pérez Karmadavis joined the symposium from Guatemala via Skype. Other participants included Bridget Wooding, OBE, Coordinator of the Caribbean Migrants Observatory programme (OBMICA), Professor Maria Cristina Fumagalli, University of Essex, Professor Andrew Leak, University College London, Dr Sanja Bahun (University of Essex, ETJN Coordinator of the Arts and TJ) and Leah Gordon, curator of numerous exhibitions and art activities in and around Haiti.

See more at: http://escala.org.uk/events/symposia-conferences/karmadavis-art-justice-transition-symposium#sthash.zttoO30K.dpuf
11. FORTHCOMING EVENTS

FILM SERIES: The Network is currently preparing a thematic film series for the Summer Term. Make sure you check our website regularly for updates.

http://www.essex.ac.uk/tjn/

12. 2014 ANNUAL ETJN WORKSHOP AND LECTURE

The Essex Transitional Justice Network is organizing the fourth Annual Lecture, which is taking place on 6 May 2014. We are very pleased to have Professor Sir Paul Collier as our guest for this occasion.

Sir Paul Collier is a Professor of Economics and Public Policy at the Blavatnik School of Government, University of Oxford and a Fellow at St Antony’s College and Co-Director of the Centre for the Study of African Economies. Between 1998 and 2003 he worked as the Director of Research Development at the World Bank. In 2008 he was appointed Commander of the Order of the British Empire for his valuable research and scholarship on development and policy change in Africa.

His research focuses primarily on governance in low-income countries, economic growth, economics of civil war, as well as the issue of poverty and aid. His whole body of work acknowledges the tight relationship that exists between development and successful transitions. Collier is looking especially at the case of African countries to investigate how policy can be tailored so that countries can avoid relapsing into conflict. He claims that generally, factors that cause and fuel conflict – such as inequality, lack of transparency, poverty or the existence of ‘loottable’ resources – are not properly dealt with during transitions, so that countries remain ripe for conflict.

In books like *Greed and Grievance in Civil War* and *On Economic Causes of Civil War* (both co-authored with Anke Hoeffler) he looks at poverty and the possibility of ‘doing well out of war’ as some of the potential causes of conflict, which are often more important in fuelling violent fighting than grievances or ethnic fragmentation of societies. Taking these evidence-based findings into account, in his most famous book, *The Bottom Billion*, Collier offers policy recommendations that are to lead to development and prevent the reoccurrence of conflict. These recommendations focus primarily on establishing a system of checks and balances, transparency and sustainable generation of jobs. Drawing on issues related more closely to justice, he also emphasizes the significance of an inclusion agenda, so that society is not divided in winners and losers who play a zero-sum game.

Professor Sir Paul Collier will be giving a lecture on the connection between transitional justice and development that is going to be particularly interesting for people working at the intersection of fields such as law, politics, economics and ethics. We will announce the title of the lecture shortly.

Further details will be available soon at http://www.essex.ac.uk/tjn/events/Annual-lecture/lecture2014.shtml

For more information you can also contact etjnfo2@essex.ac.uk.
12. Summer School III—Setting Accounts: The role of businesses in societies emerging from conflict and authoritarian rule

18-21 September 2014

Building on the success of the ETJN Summer School II, the Summer School 2014 will survey the complexities transitional contexts add to corporate accountability and the additional policy choices and regulations needed to prevent the re-emerging of conflict or authoritarian rule. Seminars will explore the human rights risks related to project lending, debt and financial complicity, litigation and advocacy strategies and include the analysis of fascinating case studies. The seminars delivered by leading experts, among which Charles Abrahams, Sheldon Leader, Sabine Michalowski and Karen Hulme, will explore the utility and challenges of connecting transitional justice and corporate accountability.

Further details will be available soon at https://www.essex.ac.uk/tjn/events/summer-school/index.shtml.

For more information please note you can also contact etjnro3@essex.ac.uk.

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