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Criminology, Peacebuilding and Transitional Justice: Lessons from the Global South

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Northern Peacebuilding and Transitional Justice as Captured Theory

Raewyn Connell's (2007) critique of North Atlantic social science and embrace of *Southern Theory* denote a division of labor whereby North Atlantic sponsors are lead theorists of a discipline. The job of scholars of the global South is then to apply or test those theories in a Southern society. At best, in this division of labor they can tweak theories from the metropoles into Southern relevance. In this North-South complex, theorists of the South who develop Southern theory from inductive reflection on Southern experience are largely ignored.

One might have hoped that the rise of peacebuilding and transitional justice research communities would be opportunities to reverse this dynamic. Because most recent transitions from war to peace have been of Southern societies, here is a special opportunity for privileging Southern theory. Instead we have seen a templating of Northern thought in peacebuilding and transitional justice. The most influential peacebuilding doctrines have been authored in New York by networks of predominantly Northern thinkers inside the United Nations (UN), in think tanks and universities around it and in nearby Northern cities. While the International Criminal Court is located in another

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Northern capital, The Hague, New York is the home of the International Center for Transitional Justice and much of the UN and academic thinking about transitional justice.

Yet there is limited debate around the injustice of the United States (US) not being subject to the International Criminal Court (while most Southern states are) or around whether it is correct to conceive leaders such as Barack Obama, Hilary Clinton or George Bush as war criminals concerning their conduct in theaters like Afghanistan, Pakistan, Iraq and Libya. This of course is not just a reality of this century. US prosecutors sponsored by their state laid the foundations of international criminal law at Nuremberg and the Tokyo war crimes trials. But there has been consistent silence about the failure to prosecute any American soldier or any allied soldier for rape of German women in 1945 when the number of German women raped by allied troops (mostly by Russian troops, but many American rapes too) exceeded 200,000. Lilly (2007) has written a revealing book on this subject, which has two cites in Google Scholar; Lilly had great difficulty in finding an interested publisher in English. Disinterest in applying a war crime frame to the firebombing of Dresden or Tokyo or to the nuclear targeting of the civilians of Hiroshima and Nagasaki is also stark.

Northern theory of transitional justice is, therefore, complicit in the cover-up of insidious forms of Northern crime. The cybercrimes of Chelsea Manning, Edward Snowden and the Russian hacking of Hillary Clinton's emails have their negative sides, but they do help expose the complicity of Northern transitional 'justice' and 'peacebuilding'. A shocking example was the stories, that we now know were fabricated, and that seemed so implausible at the time, that Libya's Muammar Gaddafi had issued Viagra to his troops in 2011 to fire them up to rape innocent civilians. The US made these allegations in a meeting of the UN Security Council in 2011 as it urged indictment of Gaddafi for the crime of using rape as a weapon of war and urged peace enforcement to honor the UN's 'Responsibility to Protect' civilians. The Chief Prosecutor of the International Criminal Court dutifully announced that there was evidence that Gaddafi seemed to be responsible for ordering rape in war (The Hague Justice Portal 2011; Cockburn 2011), launching an investigation into the matter. That investigation, the investigation of United Nations mission to Libya, of Amnesty and Human Rights Watch all found no evidence of this and indeed concluded that there was unusually little rape by Gaddafi's forces during the 2011 war (Braithwaite and Rashed 2014). More women were raped in Australia during this period than in Libya. Gaddafi himself was raped by a metal object before he was murdered to give him some of what he inflicted on the women of Libya. While video of Gaddafi's rape was available to all Western media, most chose not to report even a rape

allegation let alone show video evidence of the fact of the rape. One can understand suppression of sadistic images of Gaddafi's bloodied anus. Harder to excuse is the suppression of serious discussion of the rape by a Western media that preferred to focus on Hilary Clinton's jocular response to the fact that Gaddafi was killed in the process of his capture.

My concern is not that the North Atlantic Treaty Organization (NATO) states and their fawning media organizations suppressed the rape of Gaddafi in favor of a gilded narrative of good defeating evil, democracy's triumph over tyranny, NATO honoring its Responsibility to Protect. Why would one expect them to do otherwise? My critique is that the transitional justice industry did not focus on the matter. This was not a minor case; it was the international criminal law case du jour in 2011. Not only did the International Criminal Court (ICC) Chief Prosecutor fail to apologize to the Gaddafi family for falsely accusing him of the crime of using rape as a weapon of war as a knee-jerk to reckless US propaganda, only to see him become a victim of that same crime, the voluminous Northern transitional justice literature quiescently failed to debate this failure. No one discussed whether some legal action should be taken against a Western intelligence agent (French) who was almost certainly the person who fatally shot Gaddafi. Some defended the Frenchman when I was in Libya, saying he did a humane thing by ending Gaddafi's traumatization by his captors. Others said French intelligence did not want Gaddafi taken alive because he would talk about deals he had done with President Sarkozy before the rise of the Arab Spring that allegedly included a 50 million Euro donation in a suitcase of cash for Sarkozy's successful 2007 presidential campaign (Willsher 2016). Again, the target of my critique here is not the French state but the transitional justice academy for its failure to critique an extremely high-profile case of the ICC. The ICC injustice to Muammar Gaddafi is part of a wider structural injustice of a UN system captured by the NATO powers and served by a subservient transitional justice scholarly discourse. That structural injustice was about the US, Britain and France riding roughshod over African leaders who at the behest of the African Union believed they had convinced Gaddafi to engage with a peaceful surrender of power and transition to genuine democracy (De Waal 2013). The US, United Kingdom (UK) and France also conspired to ride roughshod over the BRICS (Brazil, Russia, India, China and South Africa) as well as the lead African states and Germany who were emphatic that a NATO air strike to turn back the Libyan armored column marching toward Benghazi to protect civilians should be followed by a peace process rather than a war of regime change. In other words, the Northern theory of the Responsibility to Protect that was crafted in New York was appropriated by the US, the UK and France

in its first moment of determined application to a crisis to ride roughshod over the global South.

Northern feminist theory was also appropriated in the Libyan case by willfully misconstruing the facts on the ground in Libya to make it resonate with a rape-as-weapon-of-war narrative. This was a Hillary Clinton version of Laura Bush's co-optation of feminism to justify the invasion of Afghanistan to protect Afghan women from domination under the veil and denial of education. This Northern narrative failed to discuss how Afghan women experienced much more progress under the communism militarily opposed by the West at the cost of a million Afghan lives and that the progress toward women's liberation under the NATO-backed regime has been so limited that by 2014 Afghanistan was ranked 101st out of 102 countries on the Organisation for Economic Co-operation and Development Development Centre's Social Institutions and Gender Index (SIGI 2016).

Northern feminist theory is a good thing; so is a Responsibility to Protect civilians; transitional justice and peacebuilding theory have a core of good intentions and sound insights. But as Northern theoretical traditions, these doctrines have allowed themselves to be co-opted by Northern projects of domination of the global South. Worse, when Hillary Clinton laughed at the murder of Gaddafi, why did Northern feminist theorists not feel the imperative to forcefully articulate 'not in our name'? In fairness, most Northern feminists did say this about the 2003 invasion of Iraq, resisting regime change there in a way that they did not in Libya and did not push back against Laura Bush's co-optation of feminism to exploit the need for the war NATO 'had to have' in Afghanistan. Northern peacebuilding scholars were woeful at the time of the invasion of Afghanistan, failing to discuss alternative paths to ending terrorism without a military invasion of Afghanistan, with rare exceptions like Nils Christie (2010).

One challenge for preventing co-optation by Northern power politics is intellectual leadership that forces Northern theory to be more infused with Southern leadership from the moments of its invention. Hence a worthy objective considered in this article, following Connell (2007) and Carrington et al. (2015), is how to make Northern theory more Southern. First, however, we consider some limits of Southern criminology.

Making Southern Criminology Less Criminological

Criminology is like other disciplines in being an invention of North Atlantic universities. Northern criminology invented some useful and progressive things in its early centuries that were then used to excess. The invention of the

penitentiary as a humane alternative to capital punishment, corporal punishment or banishment illustrates this. Advocates of the penitentiary, such as Bentham and de Tocqueville, failed to listen to Australian voices who correctly argued in the nineteenth century that transportation in the particular colonial context of Australia was a more humane and reintegrative option, indeed a 'restorative' one as Governor Macquarie put it (Braithwaite 2001), than confinement in English prisons. It was more restorative for the convicts, though not for the traditional owners of the continent. Imprisonment became the standard response to serious crime instead of an exceptional response for circumstances where the community needed protection from a danger.

The invention of criminal law itself had good effects in distinguishing criminal harms as the only kinds of harms that could justify imprisonment or execution, thus putting some limits on tyrants who aspired to rid society of anyone they regarded as harmful. With corporate crime, it was particularly valuable for business regulators to be able to say that corporate reform was needed because the behavior that caused catastrophes like the global financial crisis was not just harmful, but criminal. Criminal law acquired normative power as an institution. The biggest contribution of criminal courts was in helping to reduce homicide rates progressively and dramatically in Europe from about the fifteenth century by giving victims of violence an alternative to a blood feud with the family of the offender (Eisner 2003; Broadhurst et al. 2015; Cooney 1997; Pinker 2011; Spierenburg 2013).

For all this progressive content, the punitive prescriptions of Northern criminological theories such as deterrence theory and Northern jurisprudence made for excess when applied in the North, and even more excess in application to the global South. Restorative justice became a helpful corrective social movement in respect of the historical error of expanding carceral archipelagos (Foucault 1977). It draws so much of its inspiration from the South—from old Polynesian theories of dispute resolution, from Confucian, Buddhist, Hindu, Islamic and pre-Islamic traditions for responding to theft and violence (Zhang and Braithwaite 2017; Braithwaite 2017). Some still write of restorative justice as a North American invention; some Northern universities scramble to recruit fee-paying Southern students to sit in their criminology courses while refusing to learn anything relevant to Northern circumstances from Southern restorative justice. But for the most part restorative justice has allowed a limited degree of Southern analysis to influence Northern theory. One path to criminological reform is interrogation of fields where Southern philosophies of justice have been given at least some degree of voice and restorative justice is certainly one of those.

Philosophically, some of us have argued for a restorative justice that is motivated by a republican political theory that Philip Pettit (1997) has correctly

associated with origins in the Roman republic (Skinner 1998; Pocock 2009). That conceded, I have nevertheless been concerned to find incipient pre-Roman origins, particularly of republicanism's conception of a rule of a law that constrains the powerful (especially the ruler) and its restorative justice components before and during the Persian Empire and in the influence of Confucius on ancient Chinese empires (Braithwaite 2017). Moreover, Zhang and Braithwaite (2017) have construed Sun Yat-Sen's early twentieth century constitutionalism for his Chinese Republic as an inspiring republican architecture of the regulatory state superior to that to be found in North America and Europe.

The core value of republican political theory in the Persian footsteps of Cyrus the Great that later infused successor Islamic law regimes, such as the contemporary Iranian Islamic Republic, is *azadi*, which we have read to mean freedom as non-domination (Zhang and Braithwaite 2017; Braithwaite 2017; Braithwaite and D'Costa 2017: Chap. 4). The meaning of *azadi* is similar to the historical essence of freedom as non-domination in the Roman republican tradition. It is freedom from the condition of being a slave, freedom from living under the arbitrary will of a tyrant. Cyrus the Great famously freed the Hebrew slaves and other slaves captured by his empire and empowered the free workers who toiled to build his capitals with decent working conditions (in ancient terms) (Briant 2002). Pettit's journey to republican political philosophy arose initially from reflection on how to remedy the defects of Northern criminal law jurisprudence (Braithwaite and Pettit 1990). The concern was that Northern legal thought was conducive to an insatiable criminal justice system. If retributivism or just deserts justifies criminal punishment, this creates a criminal justice system that fills prisons with marginalized populations (Braithwaite and Pettit 1990). Utilitarian doctrines like the deterrence theory, most influentially instantiated in the Nobel Prize winning models of Gary Becker (1992), likewise leave the powerless vulnerable to an empirical criminology that might conclude that locking up more people might reduce a certain kind of crime; that building a Guantanamo Bay, invading an Afghanistan, extrajudicial assassination by drones in Pakistan, legalizing torture, might deter terrorism.

The republican remedy to the pathologies of extant Northern theories of crime control is to reject crime reduction as the normatively valued outcome in favor of domination reduction. This means, for example, that if building Guantanamo Bay or torturing prisoners succeeds in reducing terrorism while increasing the amount of domination in the world, then these policies are unequivocally wrong. Citizens simply cannot be free if they live in fear of the arbitrary power of torture or indefinite detention without trial. This is one

meaning of the suggestion that Southern criminology should not be overly criminological if it is to advance global justice. Better to reject crime reduction in favor of an ideal like *azadi* reduction. Better to embed such a criminal policy in a constitutional architecture of Sun Yat-Sen's Republic of China with a relational approach to crime control (Liu 2017).

Robert Peel's idea of the London Metropolitan Police (formed 1829) and the globalization of a hybrid of London and Irish colonial policing was of doubtful benefit to predominantly village societies of the global South.[1] Peel's police was a good reform for London and other large cities. It was a precursor to a preventive form of problem-oriented policing that helped bring crime under control in cities that were quite dangerous in the early nineteenth century. But it was a bad reform to globalize, quite unsuited to predominantly rural village societies of the South. The globalizing Peelian revolution created a paramilitary organization specialized in crime control. European and North American 'police' or constables in previous centuries were decidedly not specialized on crime control. They were generalized regulatory inspectorates who policed everything from observance of the Sabbath to liquor licensing, weights and measures and other forms of consumer protection, environmental regulation of pollution into streams, regulation of the destruction of forests and compliance with labor laws (master and servant laws). The Peelian revolution peeled away these regulatory state functions from the specialist criminal law police.

This created an imperative for a plethora of new specialized regulatory inspectorates of the nineteenth century regulatory state: weights and measures inspectorates, factories inspectorates, mine inspectorates, food inspection, health inspection, the Alkali Inspectorate and later diverse forms of environmental regulatory agencies, liquor licensing boards and many more diverse kinds of regulatory specializations. Not all of it was state regulation. Ship safety was predominantly regulated by Lloyd's of London; the Plimsoll Line allowed insurers to observe if ships leaving ports were overloaded, for example. A then private Bank of England was responsible for prudential regulation of the City of London in collaboration with magnates like Lord Rothschild who would roll up his sleeves to regulate any semblance of a run on a financial institution by walking to the front of lines of panicked depositors waiting to make withdrawals, visibly piling a Rothschild cash deposit.

The emergence of this kind of regulatory capitalism that cascaded from the Peelian institutionalization of paramilitary police worked quite well in sustaining Britain as the most powerful state on the planet until World War I. The factories inspectorates began to take some of the evil edge off industrial capitalism; the terrible smog that afflicted London was experiencing the

beginnings of amelioration; British coal mines began a century of stupendous decline in fatality rates; rail travel that was very dangerous in its early decades became the safest form of transport possible; British crime fell sharply in the nineteenth century and into the early decades of the twentieth, resuming the long-run decline in violence that started in the fifteenth century (Eisner 2003; Pinker 2011).

This reads as a stirring success story of Northern regulatory and criminological theory. The trouble was that these institutions were designed for problem cities like London, Manchester, Glasgow, Dublin and Belfast. This new world of specialist regulators was one where agency budgets only funded offices in the cities. Environmental inspectors were on hand to police water pollution from urban factories into rivers. But who was now to police waste pouring from large rural piggeries into streams? No one once Peel had transformed police into a paramilitary organization focused on crime. Such rural police were unlikely to soil their new uniforms wading into the slush of piggeries. More fundamentally, they were clear that piggery regulation was not their function and had nothing to do with the new focus of their corporate plan on crime.

While the Peelian revolution was good news for London and bad for rural England, it was very bad news for rural spaces of British and other colonies in the global South. The Peelian model of a paramilitary force specialized on crime control globalized remarkably fast. Early in the nineteenth century none of the cities of the global South had paramilitary police; by century's end every single Southern city had them. Yet the capitals of these societies did not dominate them in the way the Londons and Manchesters did in industrialized societies. Most of the economy was rural; overwhelmingly the population lived rural lives; most of the big regulatory challenges were rural. Yet the empire transplanted to the colonies its new regulatory state model with a metropolitan police myopically focused on crime prevention the largest regulatory agency by far. This was worse than dysfunctional for Southern societies. The misallocated concentration of a large clump of regulatory clout in a metropolitan police was a honeypot of concentrated power (with guns) available to be seized by excluded political factions awaiting their moment to seize the state.

I will now illustrate the problems Peel's Northern theory created for Southern populations with the recent history of one of the poorest, most Southern states, the Solomon Islands. The purpose is not just to illustrate a negative lesson about a Northern model crippling a Southern state. It is also to communicate a positive lesson about Southern thinkers the North might attend to in order to improve Northern policing. Of course, many police

forces in Western democracies also became tyrannical in ways that would have shocked Peel, with his ideals of preventive policing, but none quite as tyrannical as in the Southern story told in the next section.

Relearning Policing from Melanesian Experience

Policing was at the center of the 1998–2003 armed conflict in the Solomon Islands. It had two major stages. The first was an indigenous uprising initially among young men from the impoverished Weather Coast of Guadalcanal. This was the insurgency of the Isatabu Freedom Movement (IFM). Its leaders had the objective of driving settlers from Malaita off Guadalcanal. In 1999, the second phase began with the creation of the Malaita Eagle Force (MEF), initially to defend Malaitan interests against the Guale rebels. The MEF took over all the police armories and patrol boats to effectively control almost all the high-powered weapons in the country. This was done with the active cooperation of the police themselves. The Malaitan-dominated paramilitary wing of the Royal Solomon Islands Police were actually leaders of this armed uprising. With the MEF, the police effectively staged a coup that resulted in the coerced resignation of the incumbent Prime Minister in 2000.

A South Pacific regional peace operation led by Australia successfully helped end this conflict. Given the centrality of policing in the onset of the insurgency, police reform was at the center of the peace operation. It was unusual in being police-led. Braithwaite et al. (2010b) documented positives and negatives of this police-keeping. The negative, narrowed as a focus here, is that the policing assistance was overwhelmingly metropolitan and Peelian. Eighty-five percent of the largely Australian-funded police cars supplied to the Solomon Islands Police Force were located in the capital city Honiara. An overwhelming majority of both police-keepers and Solomon Islands police were located in Honiara; the majority of the remaining police were located in two other urban centers, Auki and Gizo.

Former Prime Minister, Sir Peter Kenilorea (Kenilorea 2008: 155–157), advocated a rethink of the transplanted Peelian policing model reinforced by the peace operation as one insufficiently focused on the villages of a village society. In British colonial times, Kenilorea served as a district officer. Among his responsibilities in that role was supervising the local police (village constables, ples men) (Kabutaulaka 2008: 98; Wolfers 1983) and serving as a traveling lay magistrate under the Solomon Islands version of governance by patrol.

Mahmood Mamdani (1996, 1999) conceives many African states as 'bifurcated'. On the one hand there is a 'civilized' urban society spawned by a history of direct rule and now practicing a form of constitutional democracy. But most of the society is in fact a patchwork of societies beyond the reach of the constitution and profoundly ethicized by a history of indirect rule and resentment of the predations of the capital. It could be that the Solomon Islands today is an even more bifurcated society than it was pre-conflict, making a bifurcated policing model even more relevant.

Many share Kenilorea's view that if policing had been effective, the violence would have been calmed early in 1998 and there would have been no crisis. On his analysis, the problems started in rural Guadalcanal, not in the city. What failed was rural policing. He believes that in the rural colonial plantation economy intolerance and anger between different ethnic groups from different islands were rife. Village constables, headmen and district officers above them became sophisticated at reconciling these tensions, nipping in the bud stirrings of crowds toward violence. That was their job and they had failed at it if conflict spun out of control on their patch. They became skilled at homilies of 'when in Rome, do as the Romans do' and at admonishing one group to practice more tolerance toward another. Kenilorea's view was also that colonial village courts were adept at assisting the police with give and take on intercultural clashes, especially over land. The village constable system collapsed soon after the demise of colonialism because part of the deal to placate separatists in Western Province was to hand over some important responsibilities to the provincial level of government. Rural policing was one of these. But because no revenue was transferred to go with the responsibility, village constables withered away for the want of allowances or any other support from their provincial capital. Ironically, one Western Province parliamentarian said during my interview with him that after the police presence in Western Province collapsed during the insurgency (when there were threats from the Bougainville Revolutionary Army staging armed sorties in and out of the province), 'a citizen community watch was set up … which while it was running was more effective than the police had been before or since'.

My Solomon Islands fieldwork with Sinclair Dinnen and Matthew Allen revealed that there were sad consequences for village people of Peelian policing modernity. Villagers said to us that they complained to the police about regulatory abuses by logging companies. The reply of the police was that this was not their responsibility; that was a matter for an inspector from the Forestry Department. But the Forestry Department inspectors were in an office in faraway Honiara. And they had no budget for travel to a distant island to respond to a complaint such as our villager made. As with pre-

Peelian English village policing, in the days of colonial policing, the Solomon Islands villager could take a complaint about misuse of her/his land, forests or rivers to chiefs, then to the village constable, and if no satisfaction was obtained, then to the headman, and if none was obtained there, to a district officer like young Sir Peter Kenilorea sitting as a magistrate. That was a world of more practical, on-the-ground checks and balances against natural resource rip-offs.

Hence, one of the reasons the current Solomon Islands Police Force experiment with a dispersed, part-time community officer scheme as a promising development against the background of this history is that it holds out some hope of a law enforcement system that might return to doing something to respond to villagers' grievances about abuses by loggers. Village constables can receive some basic training on something as important to the nation as forestry law; they can provide the evidence to withdraw licenses from lawless loggers and arrest unlicensed loggers. Corruption associated with rural logging deals was one of the deepest root causes of the Solomon Islands conflict and a major threat to the livelihoods of village peoples. Saving the tropical forest is not the only desperate need for which this Solomon Islands Police Force policy shift might be an apt response. Foreign loggers so economically dominate locales where they log that they become a law unto themselves. Police intelligence suggests they use being above the law to traffic weapons and other illicit goods, such as pornography on logging ships. Not only do they traffic pornography, they produce it by exploiting indigenous children, according to the systematic research of the Church of Melanesia on the large island of Makira, which is believed to reflect a more widespread problem (Herbert 2007). It was found that village children were raped, sold into marriage and used for pornography on a remarkably wide scale by Malaysian loggers.

> Child prostitution was found in every village visited on Makira. Last year I worked at the camp. There were seven Malaysian men there, and every one was married to a young girl—13 or 14. They are not interested in the older girls—once they are 18. (Solomon Islander former logger quoted in Herbert 2007: 25)

This was happening at a place where the nearest police officer was three hours away by boat. For Mamdani, indirect rule through village constables and headmen was part of a fabric of oppressive colonial clientelism. It was 'decentralized despotism' (Berman 1998: 316). But that of course does not preclude a postcolonial leader such as Sir Peter Kenilorea harnessing colonial

technologies of policing to projects of contemporary emancipation from violence and rural commercial exploitation of priceless forests.

The policing scene has become more promising during this decade as the peace operation wound down (Dinnen and Allen 2013). A trial started in 2010 in three communities of a part-time community officer scheme using as a consultant a Bougainvillean police officer with experience of this kind of scheme in the aftermath of its civil war of the 1980s and 1990s. War helped Solomon Islands, Bougainville (Braithwaite et al. 2010a) and Timor-Leste (Braithwaite et al. 2012) to take local control of returning policing to the villages. This has proved quite helpful in Bougainville particularly in responding to the epidemic of domestic violence that was a consequence of war. Part-time police living in the village heard the screams as soon as they started and were in a better position than officers in metropolitan police stations or urban courts to respond preventively to stop violence before it escalated to murder or severe injury. Societies can weave new hybridities from the fabric of old cloth to create policing that is responsive to contemporary modalities of domination of citizens. The hybrids thereby created in the global South offer learnings from which developed economies could benefit.

Even though Australia is one of the most urbanized societies on the planet, the Peelian revolution has been a clumsy fit. While Australia's rural populations are small, they are economically central and decimated by the collapse of effective rural regulation. Unlike the United States where the biggest crime problems are to be found in large cities, many of the highest crime areas in Australia are little outback towns many hundreds of kilometers from any major city (Hogg and Carrington 2006). A new dimension of this problem is the FIFO (Fly-In-Fly-Out) model for creating anomic mining towns with no sense of community, relational social control capabilities enfeebled, as hubs of male violence (Carrington et al. 2010). In addition, stripping rural constables of noncrime regulatory functions has failed rural Australia badly. I spent ten years as a part-time commissioner on Australia's competition and consumer protection authority (the ACCC). Daily we would receive complaints from rural communities of consumer rip-offs. A common one was the country town that had only two petrol stations that charged much higher prices than remoteness could justify (and higher than other towns) because they were dominated by a little local cartel. The two proprietors would always put their price up together to the same high price. The Commission would always decide that we did not have offices nearby to investigate that kind of allegation and there were always bigger competition cases to pursue that affected larger numbers of consumers and were more structurally important for the economy.

In a Sir Peter Kenilorea world of rural policing, the local constable could have a conversation with those two proprietors about why the law forbids price fixing conspiracies, why local citizens are upset about their exploitation, and give them a shot across the bows reminding them that if their market behavior does not change, he could consider sending a brief of the evidence he has been given to the ACCC. Contemporary Australian police would never do this. They would view this as trespassing onto the turf of the ACCC in the functionally specialized Australian regulatory state. They would view themselves as having more important 'real crime' to deal with. A flaw in their analysis is that rural rip-offs by exploitative businesses often escalate to 'real crime' as frustrated citizens resort to violent self-help. Any modern state that does not provide all citizens with practical means of resolving illegal forms of exploitation risks a return to the endemic violence that we saw in Europe before the rise of an accessible rule of law. While modernity did effectively pacify ever wider spaces (Elias 1982; Pinker 2011), rural towns based on FIFO are examples of de-pacifying shifts back to a feudal order (ruled by corporate mining barons) where workers are given the options of 'Fit-in-Or-Fuck-Off' when they get off the plane for the first time (Carrington et al. 2010) and denied effective access to justice to resolve complaints of domination. This is quite the opposite de-civilizing shift (Elias 1982) to the reforms of Cyrus the Great in cultivating a sense of justice and conquering anomie in communities of migrant workers who worked the Empire's mines and built its monumental capitals.

Australia would, therefore, be well served by learning from Melanesian neighbors like the Solomon Islands and Bougainville and adapting English modes of regulation more prevalent in the eighteenth century. In practical terms, twenty-first-century Australian rural police are spread thin and too busy to dabble in regulatory state enforcement of challenges like consumer protection and environmental law. Executive governments would do well in the face of this to negotiate a new budgetary settlement where rural police numbers were markedly expanded in return for them taking responsibility for issuing warnings for noncompliance with regulatory laws and writing briefs of evidence for metropolitan regulators when noncompliance is extremely serious or repeated. This would be win-win-win for the police, regulatory agencies and the state as a whole. For the police, it would allow them to be more effectively responsive to their communities, to do something about the want of rural access to regulatory justice that can escalate to violent self-help or retaliatory attacks on business property. For regulators, it would increase their legitimacy to cease being seen as organizations that systematically turn a blind eye to rural victimization. For the state as a whole, it would undercut the rural

appeal of far-right populist parties like One Nation that play to the deep sense of grievance of rural people over the neglectful deal they get from the state and the rural injustice the state repeatedly asks them to lump.

This is the kind of possibility than can come from Southern experience, from reflective wisdom about indigenous institutions that is translated into English by the likes of Sir Peter Kenilorea to radically reframe Northern regulatory and criminological theory.

Making Transitional Justice Less Transitional

Earlier I discussed the hypocrisy of US leaders demanding war crimes prosecutions against the likes of Muammar Gaddafi while demanding impunity for themselves from the Rome statute of the International Criminal Court. As Barack Obama leaves office at the time of writing, it seems implausible that he ever could be prosecuted for cases like the following from my 2013 Pakistan fieldwork with a human rights nongovernment organization (NGO) who supported village victims of US drone attacks with a rather restorative *Jirga* (circle) approach. One of their initiatives was a camera project for witnesses of drone attacks. Part of the philosophy of this NGO was to provide young people who were angry about their innocent relatives being killed by drone strikes with a better form of resistance to US attacks on their country without declaring war on it than taking up arms to join the Taliban or Al Qaeda or ISIS-linked groups. The project gave youth witnesses of repeated drone attacks in remote areas cameras to record drone strikes. In 2013, NGO leaders described to me a 2011 *Jirga* in which they gave a camera to a 16-year-old who had lost family members to a drone strike. The NGO was convinced his family had nothing to do with the Taliban. The gift of the camera to document future drone strikes was their approach to the boy's journey of healing. A couple of days later the boy was killed in a drone strike on a car in which he was traveling with other family members. What made this particular incident investigable as an alleged murder of a child sanctioned at the highest levels of the US state was that Western journalists were present in this particular *Jirga* and the Central Intelligence Agency (CIA) was likely snooping and recording the restorative process. Investigability was also increased in 2016 by the fact that the most sensitive of the Hillary Clinton emails released by the Russians related to State Department contestation of CIA drone targeting (Entous and Barrett 2016). One US Ambassador to Pakistan resigned in protest over the ethics of the drone killings. An NGO leader told me that a senior American journalist who sat in this boy's *Jirga* was upset at his state allegedly murdering

the child. He reached out to the CIA with the message that this was not the way to win hearts and minds in Pakistan. The only comment he got back from the CIA was their opinion that the boy was not 16.

This alleged child murder was eminently investigable, but not investigated, by either a US or a Pakistan prosecutor. It would be politically and legally unthinkable for such a prosecution to occur in either country today. In the longue durée of US law, Pakistan law and international criminal law, however, even if only in the hands of citizens' judicial tribunals, it can be; President Obama can be made subject to the rule of the law prohibiting the intentional murder of a politically active child. In defense of Obama's response to the errors of the drone program, he totally abandoned drone strikes inside Pakistan for his final year in office, a policy reversed by the new Trump administration.

Productive thinking about the unrealized potential of transitional justice is a matter of the longue durée as we saw in germinal cases, such as that against former President Pinochet of Chile so many decades after his crimes. The Pinochet case contributed to a 'Justice Cascade' for Latin American crimes against humanity (Sikkink 2011). Reconciliation is particularly a project of the longue durée as we have seen in the example of Bougainville with so many waves of traditional indigenous and Christian restorative reconciliation by successive generations (Braithwaite et al. 2010a) and with so much reconciliation remaining to be done, especially with Port Moresby before the independence referendum scheduled for 2019 (Breen 2016).

The work of Susanne Karstedt (2007) shows that the Nuremberg trials did not produce an acceptance of the full truth of the Nazi regime's atrocities in the 1940s and 1950s. Yet this was accomplished by later trials after 1960. Early truth omissions like the one in El Salvador that ran for only six months and the one in Timor-Leste that lasted three years were extremely valuable, but barely scratched the surface of impunities that in some cases are finally being prized open decades later in spite of obstacles like amnesty laws that seemed hard to breach in earlier times, yet vulnerable today. The so-called comfort women issue in World War II, which is better described as a sexual slavery issue, has continued to peel back new layers of understanding this century as a result of citizens' tribunals that have stepped into the vacuum of impunity left by the silence of state and international justice.

My late brother's book (R Braithwaite 2016) on the World War II Sandakan prison camp and Death Marches that took the lives of our mother's two husbands and 2430 other Australian and British troops revealed a counter death march to avenge this war crime in which hundreds of Japanese were killed by Australian troops. His book was not the first to reveal that decades after the

war crimes trials, an Australian survivor confessed that survivors had fabricated evidence against Japanese officers who were innocent of the charges on which they were convicted to ensure they were executed (Silver 1998: 310). Our father recoiled from the way he was threatened with prosecution under the Crimes Act if he told the story of Sandakan as he saw it; intelligence officers had a preconceived view of which Japanese officers should and should not be executed and they wanted him to give their testimony rather than his own. Their views may have been influenced by a more senior survivor who may have been a collaborator with the Japanese during his incarceration.

A story my brother did not tell in his book is one that I know makes people uncomfortable because on one occasion when I wrote about it, an editor asked me to take it out. Before they perished, the Australian POWs in Sandakan were required by their captors to march under the verandah of the building that housed the enslaved Asian women called 'comfort women' for Japanese soldiers. As the bedraggled starving men marched as best they could, the women poured the contents of their chamber pots down upon their suffering bodies. This signified the humiliation of white colonialism, I conjecture, in the eyes of someone who urged them to inflict this upon our beloved, suffering fathers. I suspect this is an ugly but instructive story that we should not self-censor. We can view it through a feminist lens of the suffering of those raped women; we can see it through the war crime lens that shines light on the suffering of the fathers, and we can understand it through the lens of the degradation and humiliation induced by colonialism and imperialism, Western and Japanese. The stories that cannot be seen through the uni-focal lens, that blur our seeing of who was good or bad—Australian soldiers giving false testimony at war crimes trials, orchestrating a death march of Japanese prisoners, the chamber pots, false US allegations of rape that contributed to a rape, America's 'Great Generation' raping German women, allegations that a loved politician like Barack Obama should be investigated for murder—these are all easily suppressed.

So the truth of transition is always shallow, never multiplex. Transitional justice is at its best when it is not very transitional, when it sticks at the projects of truth, justice and reconciliation in the longue durée.

Conclusion

For criminology to learn from the global South, it might become less criminological, more interested in learning lessons from peacebuilding mistakes in the South, more interested in putting into the balance the domination caused

by criminals with the domination caused by those who punish them, more interested in domination prevention than crime prevention. Normatively, justice may be less a solution to crime and war, more a hostage of crime and war, hostage to our uni-focal lenses that sharpen focus on the bad of the other and blur focus on the good of our own.

Southern theory from the pens of the likes of former Solomon Islands Prime Minister Sir Peter Kenilorea may be one corrective to our myopic Western lenses on policing and peacekeeping. If Australians listened to his wisdom, Australia could become a safer society with less domination, and so probably could many other societies that this author understands less well. The themes of making criminology less criminological and less Northern have been complemented by the theme of making transitional justice less transitional. This follows the lead of Susanne Karstedt toward making restorative justice a winding journey of the longue durée.

Notes

1. It is often argued with some justification that it was the Irish colonial model of policing more than the London model that was exported across the British Empire. This was an even more militarized model than that of the London Police and more oriented to terrorizing dangers to the state and suppressing political agitation (Ellison and O'Reilly 2008: 398). But it was also a Peelian model in that it was forged during the time of three chief secretaries of Ireland: the Duke of Wellington, Sir Robert Peel and Sir Henry Goulburn, the lifelong friend and deputy of Peel. These three all became parliamentarians who played prominent roles in the formation of the London Metropolitan Police (Ellison and O'Reilly 2008: 399).

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