Aiding Transitional Justice in Solomon Islands

Nicole Dicker

Follow this and additional works at: https://digitalcommons.law.buffalo.edu/bhrlr
Part of the Human Rights Law Commons, and the International Law Commons

Recommended Citation
Available at: https://digitalcommons.law.buffalo.edu/bhrlr/vol21/iss1/4
AIDING TRANSITIONAL JUSTICE
IN SOLOMON ISLANDS

Nicole Dicker

Overall in Solomon Islands, foreign aid donors have neither engaged effectively with transitional justice itself nor leveraged transitional justice in support of broader development outcomes. Transitional justice in Solomon Islands responds to the five-year period of violent civil conflict, the Tensions, which devastated the Pacific Island nation of Solomon Islands from 1998 to 2003. The Tensions resulted in the deaths of an estimated 200 people and left some 35,000 people displaced; many suffered abductions, illegal detentions, torture and ill-treatment, sexual violence, and property violations. To remedy past human rights abuses, several transitional justice measures have been implemented in Solomon Islands, with varying degrees of success. Transitional justice has been an area of significant foreign aid donor engagement in Solomon Islands, though only limited analysis has been conducted on the issue.

The recent transition of the Regional Assistance Mission to Solomon Islands (“RAMSI”) on June 30, 2013 invites critical reflection of the effectiveness of aid directed to Solomon Islands over the ten-year period spanning RAMSI’s mandate, 2003-2013. The nature and extent of RAMSI’s engagement with transitional justice is contemplated. Further, the unofficial release of the Solomon Islands Truth and Reconciliation Commission’s (“TRC”) report in 2013 sets up the TRC as ripe for discussion. Since the TRC was largely donor funded, it follows that the effectiveness of this aid be considered so as to learn from this experience. The intention is to understand the degree to which effective transitional justice aid leads to more effective and “development-sensitive” transitional justice measures.

I. INTRODUCTION

This article seeks to contribute to the ongoing conversation on the relationship between transitional justice and development aid. It does so through a single country case study of aid directed in support of transitional

justice in Solomon Islands from 2000 to the present. Aid to transitional justice has not worked well in Solomon Islands, and thus, aid approaches need to be improved. This article addresses the question of what constitutes effective, or successful, transitional justice aid. The article makes the following three arguments.

First, transitional justice is important for Solomon Islands and should be pursued to remedy the legacy of atrocity. It concludes that its contribution to “social change” may well be “modest,” but is “important.” While transitional justice may “face complex challenges”—a lack of “economic and human resources and/or moral and political capital”—if done well, it can positively impact a society and its prospects for peace; for example, through officially recognising past violations, creating spaces for reconciliation and empowering victims. It follows that in developing countries reeling from egregious rights abuses, aid donors can play a role in aiding and shaping transitional justice’s success. Effective aid may enhance the success, or effectiveness, of transitional justice. Equally, however, ineffective aid may hinder success.

Second, foreign aid donors generally have not engaged effectively with the full gamut of transitional justice measures implemented in Solomon Islands. Though there are some noteworthy examples of effective development practice, overall success has been mixed.

The related third argument is that donors have not adequately leveraged their transitional justice aid to achieve broader development and poverty reduction gains. These two points of view are interconnected, as the former weakness—ineffective development co-operation—limits the attainment of positive development outcomes. The evidence for this is drawn directly from the Solomon Islands experience with transitional justice aid. Transitional justice in Solomon Islands responds to the five-year period of violent civil conflict, the Tensions, which devastated the Pacific Island nation between 1998 and 2003. The Tensions resulted in an estimated 200 deaths and left some 35,000 people displaced; many suffered abductions,

3. Id.
4. Id.
5. Fourth High Level Forum on Aid Effectiveness, Busan Partnership for Effective Development Co-operation (Dec. 1, 2011). The text of the partnership agreement provides that “[s]ustainable development results are the end goal of . . . commitments to effective cooperation.”
6. JOHN BRAITHWAITE ET AL., PILLARS AND SHADOWS: STATEBUILDING AS PEACEBUILDING IN SOLOMON ISLANDS (2010); SOLOMON ISLANDS TRUTH & RECONCILI-
illegal detentions, torture and ill-treatment, sexual violence and property violations. The effect of the conflict was to set back development dramatically. In order to come to terms with past abuses, several transitional justice measures have been implemented in Solomon Islands, with varying degrees of success. These have included criminal prosecutions for crimes committed during the Tensions, a truth commission, compensation, reform of state law and justice institutions, and mechanisms for local and customary justice. While transitional justice has been a focus of considerable donor engagement in Solomon Islands, only limited analysis has been conducted of it.

This article unfolds its arguments by critically assessing how aid donors have engaged with each of the above-listed transitional justice measures. Particular emphasis is placed on the truth commission and reparations, as well accountability for sexual violence suffered. This is because these topics have attracted the least focus in the literature. They are also the areas where donors currently have the greatest scope for influence in the transitional justice sphere in Solomon Islands.

The recent transition of the Regional Assistance Mission to Solomon Islands (“RAMSI”) in 2013 invites critical reflection on the quality of aid to Solomon Islands under RAMSI. In particular, the nature and extent of RAMSI’s engagement with transitional justice is contemplated. Further, the unofficial release of the Truth and Reconciliation Commission’s (“TRC”) report in 2013 by the report’s editor sets up the TRC process as topical.

---

7. Father Norman Arkwright, Restorative Justice in the Solomon Islands, in A Kind of Mending: Resorative Justice in the Pacific Islands (Sinclair Dinnen et al., eds., 2010); Peter Kenilorea, Tell It As It Is: Autobiography of Rt. Hon. Sir Peter Kenilorea, KBE, PC Solomon Islands' First Prime Minister (Clive Moore ed., 2008); Sinclair Dinnen, Doug Porter & Caroline Sage, Conflict in Melanesia: Themes and Lessons (2010); Jeffery, supra note 6; Solomon Islands Truth and Reconciliation Comm'n, supra note 6.

8. Stina Petersen et al., Foreign Aid to Transitional Justice: The Cases of Rwanda and Guatemala, 1995-2005, in Building a Future on Peace and Justice: Studies on Transitional Justice, Peace and Development 439 (Kai Ambos et al., eds., 2009). The authors similarly preface their study of transitional justice aid to Guatemala and Rwanda, explaining that little is known about the “scope, trends, and experiences of that engagement.”

9. About RAMSI, RAMSI, http://www.ramsi.org/about-rams (2014). 2013 marked RAMSI’s tenth anniversary and transition: RAMSI’s development aid component was brought under bilateral aid programs and RAMSI’s military component ended. RAMSI now remains in Solomon Islands as a policing mission only; this is expected to continue through to 2017.
discussion. Since the TRC was largely donor-funded, it follows that the effectiveness of this aid must be considered so as to draw instructive lessons for transitional justice aid globally. The intention is to understand how effective donor engagement with transitional justice may lead to more effective, “development-sensitive” transitional justice measures. This article considers the question of effectiveness on two inter-related fronts: effectiveness of aid to transitional justice, and effectiveness of transitional justice measures per se. The shortcomings of the transitional justice measures implemented in Solomon Islands—including their limited development impact—suggest a need to rethink and recalibrate transitional justice aid approaches.

II. RESEARCH METHODOLOGY

To study transitional justice aid to Solomon Islands, empirical, socio-legal fieldwork was undertaken; forty qualitative, semi-structured interviews were conducted. The sample size of respondents interviewed allowed for a diversity of views and experiences to be canvassed. The intention was to build a “solid empirical basis” for the article. The diversity of actors interviewed provided multiple perspectives and also functioned to control bias. Interviews were generally forty-five minutes to one hour in duration. Interviews were conducted with representatives of bilateral and multilateral donor agencies. Transitional justice actors (including staff of the Solomon Islands TRC, justice sector agencies, police and corrections), Solomon Islands Government (“SIG”) officials and civil society actors (international, national and “grassroots”) were also interviewed. The focus was on interviewing people who engaged in the transitional justice sphere in Solomon Islands. Aid program documentation was also reviewed.

Drawing on the methodology of a study undertaken by Petersen et al. on transitional justice aid to Guatemala and Rwanda, emphasis was placed on empirical research and interviews with key actors involved in the transitional justice process.
on accessing data that demonstrated "the magnitude, origins, distribution, and sequencing of the transitional justice assistance, and the motivations, priorities and strategies of the involved donors."\textsuperscript{14} The topics of the interviews and interview questions centred on how, and how well, transitional justice aid had worked. In the study by Petersen et al., interviews were conducted with representatives of bilateral and multilateral donor agencies. Different from Petersen et al., however, the research methodology for this article also allowed capturing of perspectives of civil society and transitional justice actors on the relevance and effectiveness of transitional justice aid.

III. CURRENT STATE OF KNOWLEDGE ABOUT AID TO TRANSITIONAL JUSTICE

Internationally, transitional justice has been "an area of significant donor engagement" for almost two decades.\textsuperscript{15} Yet as Petersen et al. highlight, "little is known about the scope, trends and experiences of that engagement," nor of the motivations and strategies among donors guiding engagement.\textsuperscript{16} The same authors also suggest a "virtual absence of knowledge about how and how well this type of aid works".\textsuperscript{17} Notably, it seems that the international aid community has generally not evaluated the effects or impacts of their transitional justice aid on the lives of the intended "beneficiaries."\textsuperscript{18} Hellsten similarly identifies a lack of "empirical studies and firm evidence" in this space.\textsuperscript{19} Lenzen points to the limited engagement of development theory with transitional justice.\textsuperscript{20} And there has been only limited attention internationally to how aid and development effectiveness principles apply to the work of development actors operating in the transitional justice sphere. This "scarcity of academic knowledge" on transitional justice aid is somewhat of a "paradox" given the "enormous growth" of litera-

\begin{itemize}
  \item \textsuperscript{14} Petersen et al., \textit{supra} note 8, at 440.
  \item \textsuperscript{15} \textit{Id.} at 439.
  \item \textsuperscript{16} \textit{Id.} at 439-40.
  \item \textsuperscript{17} \textit{Id.} at 441.
  \item \textsuperscript{18} Colleen Duggan, Editorial Note, 4 INT'L J. TRANSITIONAL JUSTICE 315 (2010).
\end{itemize}
ture on transitional justice in recent decades. By assessing the effectiveness of aid to transitional justice in Solomon Islands and demonstrating how transitional justice and development intersect in that context, this article contributes to filling that knowledge gap.

Certainly much has been written about the civil conflict in Solomon Islands and the peacebuilding process, including RAMSI. There has also been some rigorous analysis of foreign aid directed to Solomon Islands to rebuild in the aftermath of the Tensions, including rule of law development assistance, as well as some high-quality analysis of transitional justice measures implemented in Solomon Islands. However, foreign aid to transitional justice in Solomon Islands has not been thoroughly assessed, despite significant donor engagement in the transitional justice sphere in Solomon Islands over the past decade. Certainly “exploring how transi-


23. See, e.g., Braithwaite et al., supra note 6; Dinnen, Porter & Sage, supra note 7.


26. Note, however, that various donors have conducted/commissioned some internal and independent reviews of their transitional justice aid. For example, a review was conducted (presented in the form of a final project report) of the International Support Facility to the Solomon Islands Truth and Reconciliation Commission. The review, however, does not involve substantial detail and critical reflection on the effectiveness of the TRC and corresponding aid, functioning largely as an overview of the Facility. Further, internal and independent reviews and evaluations of RAMSI’s support for criminal prosecutions and institutional reform have been conducted. Yet these do not
Fieldwork in Solomon Islands indicated varied understanding among development practitioners of the relevance of transitional justice to development and poverty reduction, and their role in supporting transitional justice. Fieldwork research also uncovered an uneven understanding and prioritisation of the various transitional justice measures among development practitioners. Criminal justice and institutional reform were generally better understood and more familiar to development actors than were reparations or the TRC. Logically this has implications for how, how well, and the extent to which aid is provided in support of the different transitional justice measures.

That fact that “the reach of the transitional justice industry is uneven,” with the majority of transitional justice measures having been implemented in Latin America and Africa, means that the bulk of transitional justice aid, and corresponding analysis, has focused on those geographic regions. Yet more recently there has been an increased uptake in, and a crescendo in the discourse around, transitional justice across the Asia-Pacific region. Analysis of the field’s geographic expansion and evolution is valuable: to capture trends, facilitate original cross-regional comparisons, and spark intercontinental conversations and negotiations. Further, the dearth of transitional justice measures implemented in Solomon Islands such as truth-seeking and reparations measures.

27. Petersen et al., supra note 8, at 441.


29. See, e.g., Petersen et al., supra note 8; Hellsten, supra note 19. These contemplate transitional justice aid to Africa and Latin America and not to the Pacific.

30. See, e.g., Patrick Burgess & Galuh Wandita, Rethinking Transitional Justice: Lessons from Asia and the Pacific, Seminar for the State, Society and Governance in Melanesia Program (SSGM), ANU College of Asia & the Pacific (July 15, 2013). Examples of transitional justice measures implemented in the Asia-Pacific region include the Extraordinary Chambers in the Courts of Cambodia (Khmer Rouge Tribunal), the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR - the Portuguese acronym) and the Special Panels for Serious Crimes within the Dili District Court, and all transitional justice processes and mechanisms implemented in Solomon Islands. Further, in February 2013, the UN Special Rapporteur on the human rights situation in Myanmar, Tomás Ojea Quintana called for a truth commission for Myanmar. Some actors have also canvassed the idea of truth commissions for Bougainville, Papua New Guinea and Mindanao, Philippines.
tional justice data, research, and analysis pertaining to the Pacific\textsuperscript{31} is 
evident, and points to the relevance of research assessing transitional justice 
ad in the Pacific. Similarly, transitional justice data pertaining to Small 
Island Developing States is limited.\textsuperscript{32} Solomon Islands, as the first Pacific 
Island country to systematically engage with transitional justice (which has 
been predominantly donor-funded), holds the prospect of offering critical 
lessons for transitional justice and development practice.

IV. DEFINITIONS

Lenzen explains that both transitional justice and development may be 
understood as “discourses, as communities of practice, as conceptual 
fields.”\textsuperscript{33} Neither concept has a universally agreed upon definition, both are 
“contested territories with diverging bodies of (at least emerging) theory, 
policy, and practice.”\textsuperscript{34} Yet what both fields share in common is illuminat-
ing—“both are process-orientated fields in the sense that they are concerned 
with [positive] change toward improving human lives and societies.”\textsuperscript{35}

A. Defining Transitional Justice and Transitional Justice Aid

Despite the absence of a universally agreed-upon definition, in this 
article transitional justice refers to “the set of judicial and non-judicial mea-
sures that have been implemented by different countries in order to redress 
the legacies of massive human rights abuses.”\textsuperscript{36} The UN articulates the aims 
of transitional justice as being “to ensure accountability, serve justice and 
achieve reconciliation.”\textsuperscript{37} These measures include criminal prosecutions,

\begin{itemize}
  \item 31. TRICIA D. OLSEN, LEIGH A. PAYNE & ANDREW G. REITER, TRANSITIONAL 
JUSTICE IN BALANCE: COMPARING PROCESSES, WEIGHING EFFICACY (2010).
  \item 32. Id.
  \item 33. Lenzen, supra note 20, at 77.
  \item 34. Id.
  \item 35. Id.
  \item 36. What is Transitional justice?, INT’L CTR. FOR TRANSITIONAL JUST. (“ICTJ”), 
http://ictj.org/about/transitional-justice (2014). Note that the ICTJ’s definition of transi-
tional justice draws on and reflects ideas from a range of definitions of the term. For 
example, it aligns with (at least the first clause of) the United Nations’ definition of the 
term 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, in order to ensure accounta-
bility, serve justice and achieve reconciliation.” Further, Olsen, Payne, and Reiter sug-
gest in their book, TRANSITIONAL JUSTICE IN BALANCE: COMPARING PROCESSES, 
WEIGHING EFFICACY, that scholars are increasingly adopting the definition elaborated 
by the ICTJ. OLSEN, PAYNE & REITER, supra note 31.
  \item 37. U.N. Secretary-General, U.N. Approach to Transitional Justice: Guidance 
Note of the Secretary-General 2 (March 2010).
\end{itemize}
truth commissions, reparations, institutional reform and mechanisms for local and traditional, or customary justice. There is, however, no consensus on the precise scope of transitional justice, that is, which measures do and do not fall within the ambit of transitional justice.38

There is also debate as to whether commemorative practices and education reforms (incorporating learning of past atrocities into school curricula) constitute transitional justice.39 This article classifies both as transitional justice since they are forms of reparation pursuant to the UN’s Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.40 Some contemplate a broader array of measures still, with some commentators including amnesties in the list of transitional justice measures.41 This article does not count amnesties as a transitional justice measure, drawing on Freeman’s work.42

The five transitional justice measures studied in this article are the same five that Petersen et al. assess in their study of transitional justice aid to Guatemala and Rwanda. Analysing the same five measures more easily facilitates comparisons across case studies, adding to the body of knowledge about transitional justice aid. This analysis also adopts the definition of transitional justice aid put forward by Petersen et al. in their study: “foreign economic assistance provided to support mechanisms of transitional justice.”43

Including mechanisms for customary justice in the itemisation of transitional justice measures is a relatively recent trend in the field’s trajectory and has not been picked up by all. Scholars including Petersen et al.,44 Mani,45 Allen and Macdonald,46 and Jeffery47 contemplate local and tradi-


43. Petersen et al., supra note 8, at 442.

44. Id.

tional justice mechanisms as falling within the bounds of transitional justice, being an important means of local conflict resolution. For Solomon Islands in particular, consideration of customary practices (such as traditional reconciliation ceremonies) is valuable for a study of how the country has come to terms with past abuses. This is because reconciliation plays a large part in local custom and many Solomon Islanders access justice locally and through customary practices, outside of state justice structures. This role was made clear in fieldwork interviews, with many respondents flagging it.

Lack of consensus on the bounds of transitional justice contributes to the ambiguity around its definition. This has been compounded by the fact that the focus of transitional justice has evolved and shifted since its inception. Originally, transitional justice was concerned with political transitions from authoritarian rule to democracy, its application being to redress past atrocities of “repressive predecessor regimes” in periods of political change or “flux.” Due to its focus on justice within the context of “transitions to democracy,” the field came to be termed transitional justice. Over the past two decades, however, transitional justice measures have been appropriated to respond to contexts of conflict, political strife, human rights atrocities, and more generally, expanding the gaze of transitional justice. Transitional justice measures are now implemented in societies even where there has been no regime change or political transition to speak of.

47. Jeffery, supra note 6.
49. Id.
52. What is Transitional justice?, supra note 36.
54. Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-recurrence, First Annual Report of the Special Rapporteur on the Promo-
Solomon Islands, the focus is on justice in the context of transitioning from violence and conflict to peace.

B. Defining “Development”

The term might be understood, as international development law scholar Sarkar suggests, according to its objectives of “alleviating poverty and human suffering and of improving the human condition.”55 This article similarly draws on a broad understanding of development, articulated by Sen, Nussbaum, and other theorists, that accounts for “equity issues . . . and the need for a more ‘human-centred’ paradigm.”56 This conception is preferred to that which Roht-Arriaza and Orlovsky describe as a “narrowly defined process of economic development,” focused on such indicators as gross domestic product and foreign direct investment.57 Undoubtedly economic growth is important for development, and low income has been found to heighten the risk of internal armed conflict.58 Moreover, Collier’s research evidences the importance of the economy in post-conflict societies: higher income levels and a faster rate of economic growth are associated with a lower risk of relapse into conflict.59 Rather, the point is that a definition of development solely focused on economic growth is inadequate.60 Sen’s articulation of development is particularly relevant and illuminating, “as a process of expanding the real freedoms that people enjoy,” through the creation of the conditions for all people to develop their full range of capabilities.61 Uvin interprets “freedom” as Sen uses the term, to denote the
full enjoyment of human rights. Uvin’s reading of Sen is persuasive and relevant for the field of transitional justice, its purpose being to remedy rights abuses.

V. WHAT ARE THE LINKS BETWEEN TRANSITIONAL JUSTICE AND DEVELOPMENT?

A. Three Ways in Which Transitional Justice and Development Connect

In Solomon Islands, transitional justice has been pursued in the context of transitioning from armed conflict to peace. As Duthie explains, transitional justice is never “pursued in a vacuum” but within a “broader transitional and peace-building context”—in Solomon Islands, one of the elements of this context is development. Within this context, we can identify three overarching ways in which transitional justice and development connect. First, transitional justice and development may share common long-term goals such as “the rule of law, respect for human rights, democratization, good governance and peace.” It would seem logical, therefore, that those initiatives geared towards achieving shared goals in any given context coordinate, or at least contemplate and speak to each other, to capture and facilitate synergy. In this vein, Lenzen suggests that transitional justice—as a means of coming to terms with past human rights violations—“can be of instrumental value to larger development goals” in post-conflict societies. This is because, as Lenzen explains:

If we accept that transitional justice is concerned with how to restore trust and confidence between the state and its citizens, then development actors involved in the process of state building and strengthening (democratic) governance institutions have a reason to be interested in and seek to understand transitional justice.

This quotation invokes some of the key ways in which the concerns of development and transitional justice intersect. It also points up why transitional justice may be interesting to development actors; valuable where social divisions and distrust persist after conflict.

Second, most armed conflicts and severe violence today occur in developing countries. This generates a corresponding need for justice in re-

63. Duthie, supra note 1, at 293.
64. Id. at 294.
66. Id. at 80.
67. Duthie, supra note 1, at 295.
Aiding Transitional Justice

response to harm suffered in those contexts. While poverty, inequality and underdevelopment may not alone cause conflict and rights violations, they can be “contributing or enabling factors.” Therefore, transitional justice and development will very commonly be pursued in the same setting, concurrently.

Third, conflict and violence can be disastrous for a country’s development. By way of example, average poverty rates are twenty-one percent higher in countries that experienced violence between 1981 and 2005. Poverty reduction is slower in countries affected by major violence, with poverty increasing in some countries affected by violence, despite poverty being on the decline for much of the world. Transitional justice is one tool that may contribute to ending cycles of conflict and violence that are understood to impede development.

B. Development-Sensitive Transitional Justice Measures

Duthie argues that transitional justice measures should be “development-sensitive”; this author agrees. A development-sensitive approach to transitional justice involves addressing “development issues”—poverty, inequality, natural resources, land, education, health, governance and economic and social rights—through transitional justice. That is to say, that transitional justice measures should be designed and implemented in such a way as to contribute to achieving positive development outcomes. In Solomon Islands, foreign aid donors have provided significant support to transitional justice, and in so doing have greatly influenced its trajectory. As such, it might reasonably be said that a development-sensitive approach to transitional justice was, and is, at least possible for informing transitional justice aid. In this way, Duthie has identified a significant opportunity for development actors: to leverage their aid to transitional justice in support of broader development outcomes.

71. *Id.
72. *Id. at 2.
73. Duthie, supra note 1.
74. *Id. at 292-94.*
C. Why Might Foreign Aid Donors Support Transitional Justice?

It is not the purpose of this article to argue that international development agencies should always support and engage with transitional justice. As with all development assistance, decisions about how and whether to engage with the various transitional justice measures in a given country should be informed by rigorous cost-benefit analysis, considering the benefits of supporting various transitional justice measures against the costs of refraining from doing so, as well as thorough analysis of the political economy. The focus should be on politically feasible development assistance, imbued with realistic expectations of what can be achieved according to context, including the political and security environment, the timescale, and the risks involved. A sober analysis of the level of political will and capacity for implementation of each of the transitional justice measures is key.

Further, transitional justice measures can be costly—this is relevant against a backdrop where decision-makers are faced with dilemmas of where to allocate resources. Boettke and Coyne articulate the opportunity cost to investing resources in transitional justice in contexts of underdevelopment: “investing resources in the administration of justice means that those resources are diverted away from other transition activities that can also yield a future stream of benefits.” And importantly, as Duthie suggests, these opportunity costs are most significant in less developed countries where there is greater scarcity of public resources as well as greater need—certainly a relevant consideration for development programming in Solomon Islands. That is to say, aid directed in support of transitional justice in Solomon Islands might alternatively have been directed to, for example, health, education, food security or humanitarian relief. The point being that scarcity of public resources limits the options for transitional societies “for the advancement of political, social, and economic reforms required for the consolidation of . . . social development.”


76. Duthie, supra note 1, at 295.


79. Segovia, supra note 78, at 650.
The intention here is to raise some of the questions that development practitioners should consider for their transitional justice aid. There is an increasing uptake in transitional measures throughout the world, many of which are implemented in violence and conflict-affected developing country contexts. To maximise transitional justice’s potential, there is a need to get aid to transitional justice right—this is an ongoing challenge. In recent years, aid agencies have come to direct substantial financial and technical assistance in support of transitional justice. This has occurred as transitional justice has come to be understood as a key peacebuilding tool in the aftermath of armed conflict and violence. It is now counted by the international community among the “emerging set of pro-peace policy prescriptions” along with peacekeeping, economic recovery, and state building, among others.

So why is transitional justice important, how might it help a post-conflict country such as Solomon Islands, and why would aid donors be interested in it? Transitional justice is now considered “critical“ to remedy “troublesome histories.” It is presumed to provide the truth about past violations, accountability for perpetrators, justice, hope and recognition for victims, reconciliation and healing—and through this, “deterrence, ‘rule


81. Duthie, supra note 1.

82. Petersen et al., supra note 8.


84. Petersen at al., supra note 8, at 441.

85. Id.


of law’ and less violence,” although the empirical evidence base for some of these claims is limited. These outcomes speak to the significant uptake of transitional justice across the globe, including its piquing of donor interest.

Transitional justice matters because victims of massive human rights atrocities have the right to see perpetrators brought to justice, to know the truth, and to receive reparations. The following quotation brings to light the importance of transitional justice:

A history of unaddressed massive abuses is likely to be socially divisive, to generate mistrust between groups and in the institutions of the State, and to hamper or slow down the achievement of security and development goals. It raises questions about the commitment to the rule of law and, ultimately, can lead to cyclical recurrence of violence in various forms. As it is seen in most countries where massive human rights violations take place, the claims of justice refuse to “go away.”

These words bring into focus transitional justice’s role in fostering trust between groups and in the state and its institutions. In turn, this develops resilience to violence and better peace outcomes.

The above quotation also brings into focus transitional justice’s likely contribution to development and security in the aftermath of atrocity; failing to remedy past abuses risks insecurity and underdevelopment. As Denney explains, security, and increasingly, justice are now seen as prerequisites for development.

88. Petersen et al., supra note 8, at 441.
91. What is Transitional justice?, supra note 36. The international legal bases for each of these rights are set out below.
92. Id.
93. World Bank, supra note 70.
94. Id.
95. LISA DENNEY, JUSTICE AND SECURITY REFORM: DEVELOPMENT AGENCIES AND INFORMAL INSTITUTIONS IN SIERRA LEONE (2014); see also WORLD BANK, supra note 70.
The link between transitional justice and security is notable and may further motivate donors to support transitional justice. Firth argues that government donors, especially Australia, see their development assistance to the Pacific Islands as contributing to regional “security, stability[,] and cohesion.” He asserts that “trouble in the Pacific generates aid to the Pacific” such that transitional justice aid may serve a dual function for donors as both a “security instrument” and a “mechanism intended to improve development outcomes.” In this way, to the extent that transitional justice can reduce insecurity, it may interest donors that have strategic interests in a given country’s security and stability.

While the above paragraphs describe the importance of transitional justice and its potential for social change, it is not the intention to downplay the complex challenges that it faces. Transitional justice is not a panacea for poverty, inequality and underdevelopment, though it may help. Transitional justice measures are imperfect and often flawed, fraught with resource constraints and a lack of moral or political capital. In Duggan’s words: “[a]cknowledging and atoning for the systematic abuse of human rights and for violations of international humanitarian law is arguably one of the most controversial, complex and unpredictable processes undertaken by governments and citizens” in societies in transition. Transitional justice measures are difficult to implement well. For example, they may face problems of local legitimacy and unrealistic expectations of what transitional justice can deliver, particularly over a short timeframe. Aid and the international community can, to a degree, help respond to and overcome some of these challenges but equally can interfere and do harm. Globally, experiences with transitional justice demonstrate the complex challenges that it faces and how hard it is to get right. Part VIII unpacks some shortcomings of transitional justice in Solomon Islands, and the role of foreign aid donors.

---

97. Id.
100. Id.
VI. CONTEXT OF TRANSITION, TRANSITIONAL JUSTICE AND AID IN SOLOMON ISLANDS

A. Human Rights and International Humanitarian Law Violations

Much has been written analysing the causes and consequences of the Tensions.\(^\text{102}\) Therefore, this article focuses only (and very briefly) on the human rights and international humanitarian law violations of the Tensions to which transitional justice responds. The TRC, in its final report, identified six categories of rights violations as most prevalent during the conflict: killings, abductions/illegal detentions, torture/ill-treatment, sexual violence, property violations and forced displacements.\(^\text{103}\) These violations were committed by all armed groups party to the conflict, including police and militants.\(^\text{104}\) The TRC also found that the Tensions impacted the enjoyment of economic and social rights. In particular, the rights to work, to access education, and to enjoy the highest attainable standard of health were limited; this was due to a decline in public spending as the economy collapsed, destruction of health clinics and schools, forced displacement, and closure of businesses.\(^\text{105}\)

---


\(^\text{103}\) Solomon Islands Truth & Reconciliation Comm’n, supra note 6.

\(^\text{104}\) Id.

\(^\text{105}\) Id.
Aiding Transitional Justice

As it relates to violations of international humanitarian law committed during the Tensions, Article 3 common to the four Geneva Conventions of 1949 applies.\textsuperscript{106} Common Article 3 prohibits violence to life and person, in particular murder, mutilation, cruel treatment and torture; taking of hostages; and outrages upon personal dignity, in particular humiliating and degrading treatment.\textsuperscript{107} There is evidence to suggest that during the Tensions, armed groups committed each of the above-listed prohibited acts against non-combatants.\textsuperscript{108} These acts therefore constituted violations of international humanitarian law. It is these human rights and humanitarian law violations that frame and drive transitional justice in Solomon Islands.

B. \textit{The Inception of Transitional Justice}

As the Tensions devastated Solomon Islands, there were various attempts to broker peace. Local civil society actors—churches, women’s groups, and non-governmental organisations—played an important peace-mediation and peace-making role.\textsuperscript{109} Additionally, throughout 1999 and early 2000, the Commonwealth Secretariat facilitated negotiation of several peace agreements.\textsuperscript{110} These efforts, however, “failed to stem growing militancy.”\textsuperscript{111} In response, the Australian and New Zealand Governments co-hosted the Townsville Peace Conference in October 2000, at which the Townsville Peace Agreement (TPA) was signed. Conclusion of the TPA marked the inception of transitional justice in Solomon Islands. The TPA called for various transitional justice-related processes, including constitu-

---

\textsuperscript{106} Prosecutor v. Tadiæ, Case No. IT-94-1-1, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 70 (Int’l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995); Prosecutor v. Tadiæ, Case No. IT-94-1-1, Judgment, ¶ 562 (Int’l Crim. Trib. for the Former Yugoslavia May 7, 1997). It is asserted that the Tensions reached the threshold of an internal armed conflict for the application of international humanitarian law, applying the definition first set out in the Tadiaæ case in the International Criminal Tribunal for the Former Yugoslavia. The \textit{intensity} of the hostilities and \textit{organisation} of the parties to the conflict in Solomon Islands were such as to trigger application of Common Article 3. For further discussion of this point, see Solomon Islands Truth & Reconciliation Comm’n, \textit{supra} note 6.


\textsuperscript{108} \textit{SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra} note 6.

\textsuperscript{109} Note that these civil society actors have continued to play an important role in Solomon Islands’ transition to peace, and project of transitional justice.

\textsuperscript{110} Dinnen, Porter & Sage, \textit{supra} note 7.

\textsuperscript{111} \textit{Id.} at 11.
tional reform,\textsuperscript{112} investigation of land and property claims,\textsuperscript{113} payment of custom means of compensation,\textsuperscript{114} identification of the remains of missing persons,\textsuperscript{115} and reconciliation.\textsuperscript{116}

A significant shortcoming of the Townsville Peace Conference was that it excluded women from the negotiations, despite the active role of women’s groups in local peace-making. This ran contrary to provisions in UN Security Council Resolution 1325, adopted in 2000, requiring the adoption of a gender perspective when negotiating peace agreements.\textsuperscript{117} This was compounded by there being no mention in the TPA of the needs or experiences of women and girls affected by the conflict, nor recognition of local women’s peace initiatives for conflict resolution. Exclusion of women from peace negotiations is arguably at the root of why transitional justice in Solomon Islands has failed to adequately respond to and remedy women’s harrowing experiences of conflict, including sexual violence.

Despite conclusion of the TPA, between the end of 2000 and mid-2003, there was an escalation of lawlessness and rise in organised crime in Solomon Islands; by 2003, it was clear that SIG was unable to restore peace in Solomon Islands without international assistance.\textsuperscript{118} Following repeated calls by SIG for Australian and New Zealand assistance, and the initial reluctance of both the Australian and New Zealand Governments, on June 30, 2003, the Pacific Island Forum leaders approved RAMSI, which mobilised as a coalition of 15 Pacific Island nations on July 24, 2003.\textsuperscript{119}

RAMSI was mandated to: (1) ensure the safety and security of Solomon Islands; (2) repair and reform the machinery of government, improve government accountability, and improve the delivery of services in urban and provincial areas; (3) improve economic governance and strengthen the government’s financial systems; (4) help rebuild the economy and en-

\begin{itemize}
  \item \textsuperscript{113} \textit{Id.} at pt. 4(3).
  \item \textsuperscript{114} \textit{Id.} at pt. 3(1)(b).
  \item \textsuperscript{115} \textit{Id.} at pt. 3(1)(a).
  \item \textsuperscript{116} \textit{Id.} at pt. 5.
  \item \textsuperscript{118} \textit{Allen et al.}, supra note 50, at 11-12.
  \item \textsuperscript{119} \textit{Id.; Cox, Duituturaga & Scheye}, supra note 24, at 20. Pacific Island Forum countries participating in RAMSI include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Tonga, Tuvalu and Vanuatu.
\end{itemize}
Aiding Transitional Justice

courage sustainable broad-based growth; and (5) build strong and peaceful communities.\textsuperscript{120}

Points one and five of the mandate are most relevant to RAMSI’s engagement with transitional justice. It was RAMSI that stimulated and defined criminal justice and institutional reform efforts in Solomon Islands. Jeffery labels this approach, “favoured by RAMSI,” the “rule of law” approach, according to which “large numbers of militants on both sides were arrested and processed through the criminal justice system[,] resulting, in many cases, in the imposition of lengthy periods of imprisonment.”\textsuperscript{121} The following quotation captures the crux of this approach:

```
Conceiving justice through the prism of its liberal state-building mandate, RAMSI’s rule of law approach was, and remains, a top-down approach that favours the strengthening of key state institutions, including those associated with law and order, and the pursuit of accountability through criminal trials.\textsuperscript{122}
```

This “rule of law” approach to transitional justice was devised and funded by RAMSI, largely Australia, and to a lesser degree, New Zealand. Braithwaite et al. similarly point to RAMSI’s bringing with it an “unusually strong rule-of-law agenda,” focused on restoring and strengthening the criminal justice system.\textsuperscript{123}

By way of contrast, Jeffery identifies a “reconciliation” approach to transitional justice—a “bottom-up method” of transitional justice—which “favoured local, grassroots, traditional and indigenous justice processes.” This bottom-up method was generally implemented, owned and directed by community groups, women’s organisations and churches, with no or very little donor engagement. The TRC functioned as a “bridge,” or third way, between these two divergent approaches.\textsuperscript{124} On the one hand, the TRC was closely connected with local churches and incorporated aspects of traditional Solomon Islands reconciliation processes. Yet on the other hand, the TRC was a donor-funded, international human rights model, transposed to Solomon Islands from elsewhere.\textsuperscript{125} This throws up vexed questions of

\textsuperscript{120} RAMSI, supra note 9. RAMSI’s mandate was initially articulated in the Framework for Strengthened Assistance to Solomon Islands: Proposed Scope and Requirements.

\textsuperscript{121} Jeffery, supra note 6.

\textsuperscript{122} Id. at 154.

\textsuperscript{123} BRAITHWAITE ET AL., supra note 6, at 3.

\textsuperscript{124} Jeffery, supra note 6.

\textsuperscript{125} Note that some forty official truth commissions (the precise number dependent upon the definition to which one subscribes) have been set up for peacebuilding purposes throughout the world. See HAYNER, supra note 80. The Solomon Islands TRC
ownership of transitional justice in Solomon Islands and brings into question the relevance of transitional justice and transitional justice aid in Solomon Islands.

C. Development Context

1. The Donors and Funding Amounts

A range of donors have supported transitional justice in Solomon Islands: the main bilateral donors include Australia (through RAMSI and Australia’s bilateral aid program), New Zealand (through RAMSI and New Zealand’s bilateral aid program) and the Republic of China (ROC) (Taiwan). Multilateral donors include the European Union and the United Nations Development Program (UNDP). The World Bank, while not adopting the terminology of transitional justice, is providing assistance to the law and justice sector to strengthen policing and access to justice at the local level.

For Solomon Islands, it is not possible to determine the precise funding amounts directed in support of transitional justice. This is in part because aid to transitional justice is intertwined with other peacebuilding, governance, law and order, and institutional strengthening programs implemented under RAMSI and by the UN.\footnote{Hellsten, supra note 19, makes this point, relevant to transitional justice aid in Africa and globally. This is the total cost of the RAMSI Law and Justice Program and includes the cost of all support for the Tension Trials as well as institutional reform of corrections and the judicial system. Cox, Duituturaga & Scheye, supra note 24, at 84. In recognition (and to balance potential criticism) that not all would agree with the categorisation of the RAMSI Law and Justice Program funding as all constituting transitional justice aid, the total transitional justice figure calculated does not take into account ODA eligible expenditure on policing.} We saw earlier that there is no universally agreed definition of transitional justice; this, then, has methodological implications for tracking transitional justice aid. Further, donors are not sufficiently transparent in reporting levels of financing so as to be able to accurately calculate transitional justice aid funding amounts. Where donors have reported funding amounts, transitional justice aid has not been disaggregated from broader governance and rule of law development assistance. Total funding for transitional justice in Solomon Islands is very roughly estimated at approximately 245 million USD between 2000 and 2013, broken down as follows:
TABLE 1: ESTIMATED TOTAL TRANSITIONAL JUSTICE AID TO SOLOMON ISLANDS

<table>
<thead>
<tr>
<th>Measure</th>
<th>Donor(s)</th>
<th>Amount in AUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal justice</td>
<td>RAMSI (predominantly Australia and New Zealand; Taiwan funded one international judge)</td>
<td>215,900,000*</td>
</tr>
<tr>
<td>Institutional reform</td>
<td>RAMSI (predominantly Australia and New Zealand)</td>
<td></td>
</tr>
<tr>
<td>Truth commission</td>
<td>EU, UNDP, Australia, New Zealand</td>
<td>3,521,047**</td>
</tr>
<tr>
<td>Truth commission – women’s submission</td>
<td>Australia</td>
<td>250,000</td>
</tr>
<tr>
<td>Truth commission – technical assistance (ICTJ)</td>
<td>EU</td>
<td>800,000</td>
</tr>
<tr>
<td>Reparations</td>
<td>Taiwan</td>
<td>25,000,000</td>
</tr>
<tr>
<td>Local and traditional justice</td>
<td>UNDP; RAMSI</td>
<td>20,000***</td>
</tr>
<tr>
<td></td>
<td></td>
<td>245,491,047</td>
</tr>
</tbody>
</table>

TABLE 2: BREAKDOWN IN DONOR CONTRIBUTIONS TO THE SOLOMON ISLANDS TRC

<table>
<thead>
<tr>
<th>Donor</th>
<th>Amount in AUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>1,726,619</td>
</tr>
<tr>
<td>UNDP</td>
<td>1,300,000</td>
</tr>
<tr>
<td>Australia</td>
<td>457,026</td>
</tr>
<tr>
<td>New Zealand</td>
<td>37,402</td>
</tr>
<tr>
<td></td>
<td>3,521,047</td>
</tr>
</tbody>
</table>

These tables make clear the significant difference in levels of aid provided for “top-down,” retributive justice measures, and the comparably limited support for bottom-up, restorative justice. The large funding amounts directed in support of transitional justice in Solomon Islands further underscore the importance of this research.
2. Transitional Justice Aid and the Solomon Islands Development Context

Transitional justice aid in Solomon Islands should be understood and analysed within the broader development context: Solomon Islands is categorised as a least developed country, ranked by the United Nations as 143 of 187 countries in its 2013 Human Development Report.\(^ {127}\) Aid dependency is high, with aid constituting approximately 50% of Solomon Islands’ gross national income.\(^ {128}\) Based on current total aid flows, Solomon Islands is the second greatest recipient of aid per capita of all fragile states, after Afghanistan.\(^ {129}\) Further, approximately 60% of the entire budget of the Solomon Islands formal law and justice sector is funded by foreign aid donors.\(^ {130}\) This level of aid saturation places a strong impetus on donors to work to ensure the effectiveness of their assistance; it would also suggest a need for donors to have a considered exit strategy, supporting Solomon Islands to reduce dependence on aid over the long-term.

Development challenges include, among others, inequality, land access issues, rapid urbanisation, high youth unemployment and high rates of gender-based and sexual violence.\(^ {131}\) Other challenges include weak governance,\(^ {132}\) vulnerability to the “resource curse,”\(^ {133}\) and limited access to services in remote areas. These development challenges, viewed through a post-conflict lens, threaten peace in Solomon Islands, and the full enjoyment of human rights.

---

127. ** UNDP provided two grants to the Sycamore Tree Project (discussed below). Grants are between 2,500 and 10,000 USD. The figure is an estimate only. As Australia (under RAMSI) has also provided a small amount of funding this is taken into consideration in the above estimate. See Cox, Duituturaga & Scheye, supra note 24, at 27. U.N. Dev. Program, Human Development Report 2013: The Rise of the South: Human Progress in a Diverse World 203 (2013).

128. Net ODA Received Per Capita, World Bank (June 2014), http://data.worldbank.org/indicator/DT.ODA.ODAT.PC.ZS.

129. *Id.*

130. Cox, Duituturaga & Scheye, supra note 24, at 5-6. Note that this figure does not contemplate such restorative transitional justice mechanisms including the Solomon Islands Truth and Reconciliation Commission, or any customary justice institutions.

131. World Bank, supra note 70.

132. See Cox, Duituturaga & Scheye, supra note 24, at 23.

133. Phillip Tagini, What should sustainable mining look like in Solomon Islands?, in Looking Beyond RAMSI 17 (Clive Moore ed., 2013). The term “resource curse” refers to a situation where resource-rich countries experience limited development gains and heightened risk of conflict as a result of the exploitation of resources.
The next section of the article moves to critically assess the effectiveness of transitional justice aid to Solomon Islands. This will begin first with an explanation of how aid is considered effective in dealing with past abuses, and the norms and standards guiding assessment.

VII. WHAT DOES EFFECTIVE TRANSITIONAL JUSTICE AID LOOK LIKE?

Effectiveness of transitional justice aid matters for reasons of accountability, to maximise benefits and to harness transitional justice’s potential, and to avoid doing harm. In one sense, the focus on effectiveness could be understood in a technocratic sense of donors getting value for money. Rather, the intention is to understand that which counts as success that cannot be quantified economically.

Effectiveness of transitional justice aid is assessed according to applicable international legal norms and standards, as well as to aid and development effectiveness principles. International legal norms—international human rights law, international criminal law, and international humanitarian law—are given particular emphasis. These standards are relatively precise, agreed, binding (generally), universally applicable, and provide clear benchmarks for assessing the effectiveness of transitional justice measures and corresponding aid. These legal standards have been developed and adopted by myriad countries around the world and bring legitimacy to an assessment of effectiveness. The international legal instruments define the violations to be addressed by transitional justice and contain provisions on how transitional justice should respond, such as provisions on due process rights. Transitional justice measures should align with international legal standards, and aid to transitional justice should encourage and support this, in so far as is possible.

Further, arguably the “most effective approach to transitional justice is a holistic or coherent one,” meaning one that incorporates the full gamut of transitional justice measures. It is unlikely that implementing just one of the transitional justice measures alone, no matter how well, will be adequate for a country to redress past abuses. As de Greiff explains, the various measures should be “externally coherent,” conceived of and implemented “not as discrete and independent initiatives but rather as parts of an integrated

134. See Lenzen, supra note 20, at 56.
137. Duthie, supra note 1, at 293.
Using the example of reparations, de Greiff convincingly explains why a holistic approach is preferred:

Truth-telling in the absence of reparations can be seen by victims as an empty gesture, as cheap talk. The relation holds in the opposite direction as well: reparations in the absence of truth-telling can be seen by beneficiaries as the attempt, on the part of the state, to buy the silence or acquiescence of victims and their families, turning the benefits into “blood money.” The same tight and bidirectional relationship may be observed between reparations and institutional reform, since a democratic reform that is not accompanied by any attempt to dignify citizens that were victimized can hardly be understood. By the same token, reparative benefits in the absence of reforms that diminish the probability of the repetition of violence are nothing more than payments whose utility, and furthermore legitimacy, are questionable. Finally, the same bidirectional relationship links criminal justice and reparations: from the standpoint of victims, especially once a possible moment of satisfaction derived from the punishment of perpetrators has passed, the punishment of a few perpetrators without any effective effort to positively redress victims could be easily seen by victims as a form of more or less inconsequential revanchism... reparations contribute to justice... by helping to keep those other measures from fading into irrelevance for most victims.

Transitional justice aid should therefore support a holistic approach to transitional justice, in so far as is possible. Issues of sovereignty and the priorities of the recipient country are obviously crucial. This goes to the effectiveness of aid to transitional justice. Yet in Solomon Islands, while each transitional justice measure has been pursued, by far the greatest emphasis has been on criminal justice and institutional reform of the security sector. The other measures have been given comparably limited attention and priority by donors and SIG alike. Drawing on de Greiff’s words above, we can see that this is one of the greatest failings of transitional justice aid to Solomon Islands.

For transitional justice, the quality of aid has implications for the healing of countries, communities and individuals afflicted by atrocity. Overall, transitional justice aid will be considered effective to the extent that it helps countries deal with past abuse. Importantly, aid cannot and will not be the ultimate determinant of transitional justice’s success. Crucially, change, or

139. Pablo de Greiff, Justice and Reparations, in THE HANDBOOK OF REPARATIONS, supra note 78, at 461.
transition, in these societies must come primarily from within; transitional justice must be locally driven and owned, international actors cannot impose it on them.\textsuperscript{140} International actors do have a critical role to play, but it is largely one of “strengthen[ing] the hand of the [local] reformers,” of working to support those actors and institutions in the pursuit of change,\textsuperscript{141} and of bolstering national efforts to achieve justice for past atrocities.\textsuperscript{142}

VIII. CRITICAL ANALYSIS OF THE EFFECTIVENESS OF AID TO TRANSITIONAL JUSTICE

A. Criminal Prosecutions

A number of multilateral treaties explicitly require criminal prosecution of individuals responsible for certain crimes.\textsuperscript{143} For example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires all State Parties to criminalize all acts of torture, with all offences punishable by appropriate penalties. Further, international law guarantees all people the right to an effective remedy for acts violating their fundamental human rights. The right to a remedy is broadly understood to encompass state responsibility to punish human rights violations.\textsuperscript{144} It invokes the ability of all people to seek and obtain a remedy through competent national tribunals and other state institutions.\textsuperscript{145} This right is contained in multilateral human rights treaties\textsuperscript{146} and other human rights instru-

---

\textsuperscript{140} See generally \textit{Collier}, supra note 58.

\textsuperscript{141} \textit{Id.} at xi; \textit{World Bank}, supra note 70, at 145-46.

\textsuperscript{142} \textit{World Bank}, supra note 70.

\textsuperscript{143} Examples of crimes requiring prosecution pursuant to multilateral treaties include war crimes, crimes against humanity, torture, grave breaches of the Geneva Conventions and Protocol I, enforced disappearance and forced labour.

\textsuperscript{144} \textit{Freeman}, supra note 42.

\textsuperscript{145} \textit{Id.}

The UN’s aforementioned Basic Principles and Guidelines reaffirm the victim’s right to an effective remedy in cases of gross violations of international human rights law or serious breaches of international humanitarian law. The right to access to justice is guaranteed also in the Constitution of Solomon Islands, which articulates the right of every person in Solomon Islands to the protection of the law, in accordance with fair trial standards.148

In the context of criminal justice for the most serious crimes, aims of prosecutions include: retribution, deterrence, stigmatisation of criminal behaviour, rehabilitation of offenders, protection of society, building public confidence in the rule of law, and promoting the dignity of victims.149 These aims suggest why criminal justice may be of interest to development and transitional justice actors alike. Some of these aims may be understood as enablers of development and poverty reduction, others as development outcomes in and of themselves. In particular, the goal of building public confidence in the rule of law is a goal commonly pursued through development assistance, just as it is also one pursued through transitional justice.

In line with international and domestic law, Solomon Islands has taken important steps towards ensuring criminal justice and accountability for some of the most serious human rights abuses committed during the Tensions. This has been critical for building the rule of law in Solomon Islands and conveying a strong stance against impunity for serious human rights violations.150

This has been achieved with significant donor support. In a fieldwork interview, the Solomon Islands Director of Public Prosecutions (“DPP”), Talasasa, highlighted the contribution of donors to combatting impunity for conflict-related crimes: “RAMSI support to the Office of the DPP has been very effective for the Tension cases. Donor support provided the manpower so that prosecutors could deal with complex matters, which local lawyers would not normally have the capacity to handle.”151 This quotation highlights the value of international input and assistance for achieving accountability in the aftermath of conflict in a context such as Solomon Islands.


149. Prosecutor v. Laurent Semanza, Case No. ICTR-97-2-T, ¶ 554 (May 15, 2003). This case is referred to in FREEMAN, supra note 42.

150. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 321.

151. Interview with Ronald Bei Talasasa, Director of Public Prosecutions, in Solomon Islands (Oct. 23, 2012).
One of the legacies of the Tensions was the weakening of state institutions that would be important for dealing with past abuses. As a result of conflict, legal infrastructure was very basic, with the capacity of the courts severely limited due to a shortage of both human and economic resources. As then-RAMSI Public Affairs Manager O’Callaghan emphasised in a fieldwork interview, this reality created a role for donor support for judicial reform and strengthening in Solomon Islands. In this context, as O’Callaghan explained, donors had a part to play in supporting restoration of public confidence in the ability and suitability of the courts to protect human rights and deliver justice.

With the arrival of RAMSI, some 700 militants and police officers were arrested and processed through the criminal justice system. Clearly, RAMSI brought with it a strong rule of law agenda, which, from the outset, required substantial rebuilding of the Solomon Islands criminal justice system. To this end, RAMSI financed and provided technical assistance in support of judicial reform and criminal prosecutions. Aid provided under RAMSI included technical assistance (international advisers), infrastructure (courts and correctional centres), logistical support and office equipment to the judicial and correctional systems. RAMSI’s support was successful in the immediate post-conflict stabilisation phase. Specifically, by placing international advisers in line positions, state law and justice institutions were quickly brought to a level of functionality, which was crucial for restoring trust. Post-2004, the focus of RAMSI’s support for criminal justice appropriately shifted from stabilisation to building the capacities of state institutions. This translated into international advisers having the capacity to build the skills of Solomon Islanders working in law and justice sector institutions.

152. Muna B. Ndulo & Roger Duthie, The Role of Judicial Reform in Development and Transitional Justice, in TRANSITIONAL JUSTICE AND DEVELOPMENT: MAKING CONNECTIONS, supra note 1, at 250, 251; SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 144-47.
154. Id.; see also Ndulo & Duthie, supra note 152, at 269.
157. Interview conducted during fieldwork research, in Solomon Islands (Oct. 2012). Informant asked to be anonymous.
158. Cox, DUITUTURAGA & SCHEYE, supra note 24.
159. Id.
160. Id.
Overall, this support for institutional capacity development has been quite ineffective—a view that has been conveyed in academic literature\textsuperscript{161} and program evaluation,\textsuperscript{162} as well as in some fieldwork interviews. For example, Nori, a Solomon Islands lawyer and legal consultant, highlighted in an interview that “RAMSI’s efforts resulted in very minimal lasting enhanced capacity” in Solomon Islands law and justice institutions.\textsuperscript{163} Likewise, the Solomon Islands DPP explained that: “The capacity of the Office of the DPP has not risen significantly since RAMSI began its support, particularly in terms of capacity to prosecute serious crimes of the kind committed during the period of the Tensions.”\textsuperscript{164} This criticism of donor approaches to institutional capacity development is returned to below in part VIII(D).

Owing to the extensive development assistance afforded, several dozen\textsuperscript{165} so-called Tension Trials have now been completed,\textsuperscript{166} with an estimated ten to twenty convictions secured.\textsuperscript{167} Important inroads have been made in combatting impunity. All trials have been conducted within the Solomon Islands judicial system, prosecuted under the domestic criminal

\textsuperscript{161} See, e.g., Braithwaite et al., supra note 6; Anna Powles, Mission Creep: Statebuilding from Honiara to Dili, 2 Sec. Challenges, no. 2, July 2006, at 9, 10.

\textsuperscript{162} See Cox, Duituturaga & Scheye, supra note 24.

\textsuperscript{163} Interview with Andrew Nori, Legal Consultant and former Legal Adviser to the Malaita Eagle Force, in Solomon Islands, (Oct. 24, 2012).

\textsuperscript{164} Interview with Ronald Bei Talasasa, supra note 151.

\textsuperscript{165} By the end of 2007, nineteen Tension Trials had been completed, which at that time represented approximately half of all anticipated trials. One year later, thirty-one Tension Trials had been completed. RAMSI, Performance Report 2007/2008, Key Highlights (Jul. 2008). An evaluation of Australia’s law and justice assistance to Solomon Islands found that forty-five Tension Trials had been completed by 2012. Note, however, that there is no certainty as to the precise number of Tension Trials that have been conducted to date. This is due to the absence of any clear criteria guiding the classification of a case as a Tension Trial. Further, incomplete court records add to this uncertainty. According to the Solomon Islands TRC, RAMSI possesses accurate records of the Tension Trials, though did not release those records to the TRC. Solomon Islands Truth & Reconciliation Comm’n, supra note 6, at 323.

\textsuperscript{166} ICTJ, supra note 48.

\textsuperscript{167} Solomon Islands Truth & Reconciliation Comm’n, supra note 6, at 323. Further, according to the Solomon Islands TRC,

[a]s of 1 August 2011 there were 12 outstanding tension trials. From these 12 trials there were 15 charges and 29 defendants (who are often the same person). In three of these the accused was still at large; in three, files were missing; in six, matters were still to be listed; and two cases had been recommended to be discontinued.

\textit{Id.}
The majority of cases have related to charges of murder or abduction, committed during the Tensions. There have been no charges relating to any international crimes, despite evidence of their having been committed during the Tensions. This is because relevant international laws have not been incorporated into the domestic law of Solomon Islands, namely common Article 3 of the Geneva Conventions and the Rome Statute of the International Criminal Court.

Instead, for example, killings have been tried as murders rather than as war crimes. As is suggested in the TRC report:

[T]his is not satisfactory because the offence under domestic law does not carry the same degree of opprobrium or condemnation as would a crime under international law. Similarly, the sanctions under domestic law could conceivably be lighter as well, and a perpetrator might have available to him/her avenues such as remission of sentences and early release options not available in international law.

This quotation draws into focus difficulties associated with applying international law in Solomon Islands. It highlights also the value of incorporating international law into domestic jurisdictions. Foreign aid donors, therefore, might consider supporting strengthening of international law by providing legislative assistance for domestic implementation of international law. Of course, while a donor may encourage a country to ratify or to implement international legal instruments, the decision will ultimately be made by the country itself. A sound legal framework is a prerequisite for successful prosecutions of international crimes in Solomon Islands, as it is in all countries.

Certainly, donors could not have supported retrospective application of the law to crimes committed during the Tensions. To do so would have been in violation of the principle of legality. This is a fundamental princi-

169. See SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 323.
171. See SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 363.
people of the rule of law, requiring all laws to be prospective; a person cannot be bound by a law that did not exist when the alleged transgression occurred. Rather, given the gaps in legal protection, donors might have considered supporting the incorporation of international law into Solomon Islands domestic law in the aftermath of the Tensions. This would enable greater legal protections in Solomon Islands in the future. Such legislative reform would establish Solomon Islands as a regional leader and model to the Pacific for the domestic incorporation of international law.

One of the key strengths of donor support for criminal prosecutions in Solomon Islands is that trials have been conducted domestically in Solomon Islands. National-level criminal prosecutions, as distinct from international or hybrid justice, were encouraged and facilitated by foreign aid donors, through RAMSI. While domestic prosecutions are not always possible after atrocity, such as where there is not strong enough capacity, political will, or judicial independence, there can be some clear advantages. In Solomon Islands, unlike the police and correctional services, the courts maintained their independence from militant influence during the Tensions. This meant that prosecutions could occur domestically and could be instigated quickly at the end of the conflict. As O’Callaghan highlighted, trials could also be initiated quickly due to RAMSI’s success in bringing the security situation under control quickly, and so could capitalise on the absence of violence. Further, one donor representative emphasised that because the judiciary remained independent during the conflict, though its capacity weakened, there could also be public confidence in the judiciary, that decisions would be free of bias. Therefore, donor support for national prosecutions was relevant and well-suited to context.

An obvious benefit of domestic prosecutions for international crimes and other serious rights violations is that trials occur closer to where the crimes were committed. Local people affected by the conflict are more likely to be cognisant of (and perhaps attend) the trials and feel that justice is being served. Prosecutions are understood to have more potential for impact when they are held domestically, within the society where the crimes

176. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 314.
177. Interview with Mary-Louise O’Callaghan, Public Affairs Manager, RAMSI, in Solomon Islands (Oct. 25, 2012).
occurred.\textsuperscript{179} Further, independent and impartial prosecutions for serious crimes before domestic courts can help build public confidence in the rule of law.\textsuperscript{180} As Freeman explains, human rights trials can play both a retributive role and an "expressivist one," that is, "to communicate the value of law and justice as social goods."\textsuperscript{181} Prosecutions in domestic tribunals, as Ndulo and Duthie suggest,

\begin{quote}
[C]an have an enduring effect on the local justice systems and in norm articulation. Long-term improvement of the justice system helps the development of a culture of justice and accountability and ensures that norms established during the prosecution of past human rights violations will not vanish when the . . . trial is over. The judicial system can be strengthened and legitimized for its long-term role of protecting the constitution, ensuring the rule of law, and facilitating development.\textsuperscript{182}
\end{quote}

This quotation brings into focus the value of domestic prosecutions in post-conflict contexts such as Solomon Islands—donors have been instrumental in facilitating this. Further, the substantial aid dollars and resources directed in support of national-level prosecutions can have a larger flow-on effect for the country, potentially resulting in a stronger judicial system. This is a benefit that does not so easily flow from international justice. This is a relevant consideration given international justice’s significant cost. Further, domestic criminal prosecutions can demonstrate the authority of the state, weakened in the context of armed conflict. In this way aid can help to strengthen state authority in transitional societies, key to making societies more resilient to violence.\textsuperscript{183}

Yet one of the most significant shortcomings of the Tension Trials has been the complete absence of criminal prosecutions for sexual violence.\textsuperscript{184} This is despite the high incidence of sexual violence perpetrated during the conflict.\textsuperscript{185} Complaints of rape, sexual slavery, forced nudity, sexual harassment, violence against sexual organs, and being forced to witness behaviour of a sexual nature have been documented.\textsuperscript{186} Accounts of sexual violence

\begin{itemize}
\item \textsuperscript{180} Freeman, supra note 42, at 15.
\item \textsuperscript{181} \textit{Id.} at 22.
\item \textsuperscript{182} Ndulo & Duthie, supra note 152, at 251-52.
\item \textsuperscript{183} Id.
\item \textsuperscript{184} See SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 471.
\item \textsuperscript{185} \textit{Id.}
\item \textsuperscript{186} See, e.g., SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 351; Fangalasuu et al., supra note 102, at 19-21.
\end{itemize}
recorded by the TRC are harrowing; victims conveyed experiences of having been threatened by armed militants wielding guns, sometimes under the influence of drugs and alcohol.187 Children were also found to have suffered sexual violence. Further, there is evidence that some acts of sexual violence were committed for the very reason of the victim’s ethnic identity.188 It is a significant injustice that such grave violations have gone unpunished.

Despite the gravity of the violations, sexual violence has not been the focus of criminal justice efforts in Solomon Islands—a justice deficit remains. This is true despite the fact that Solomon Islands domestic law criminalises sexual violence such that criminal prosecutions were possible under existing laws.189 It should be noted, though, that failure to prosecute sexual and gender-based violence in Solomon Islands is also a general systemic problem, with prosecutions low prior to and during the conflict.

Further, additional to the above-mentioned international law provisions requiring justice for atrocities, including sexual violence, various UN Security Council resolutions reject impunity for sexual violence. UN Security Council Resolution 1325 calls on all parties to conflict to take special measures to protect women and girls from sexual violence in situations of armed conflict. It emphasises the responsibility of all States to put an end to impunity and to prosecute those responsible for war crimes including those relating to sexual violence.190 Resolution 1325 is reinforced by six subsequent UN Security Council resolutions relating to the Women Peace and Security agenda.191 As UN Security Council resolutions are legally binding on States under international law,192 there is a clear legal imperative requiring prosecution of sexual violence committed during the Tensions. Further, internationally there is a renewed commitment to combating impunity for sexual violence:193 ICC Prosecutor Bensouda has articulated a commitment

187. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 471.
188. Id.
189. Penal Code, LAWS OF SOLOMON ISLANDS ch. 26, pt. XVI (1963). Note, however, that the current definition of rape in the Penal Code does not consider men as victims of rape. This definition is currently under review by the Law Reform Commission of Solomon Islands.
190. S.C. Res. 1325, supra note 117.
to prosecuting sexual and gender-based crimes, and her office has developed a policy paper on this issue.\footnote{195}

A variety of factors may have prevented prosecutions of sexual violence, contributing to this gendered injustice. For example, the TRC identified “cultural codes” and the “stigma and shame surrounding sexual violence” as significant obstacles preventing its being discussed.\footnote{196} Strong cultural taboos limit the ability of many women to divulge experiences of sexual violence such that women may risk further violence by speaking out.\footnote{197} Additionally, a lack of legal literacy among victims and knowledge of their rights has also hindered access to justice for victims of sexual violence.\footnote{198} Geographic remoteness and the limited functioning of the judicial system during the Tensions also contributed.\footnote{199} There is purportedly also a backlog of cases within the Royal Solomon Islands Police Force.\footnote{200}

Based on the findings of fieldwork interviews and aid program documentation review, there is no evidence to suggest that this was a priority for SIG or for donors. Program documents reviewed did not contain any express priority placed on prosecuting sexual violence committed during the Tensions. Likewise, donor representatives interviewed did not emphasise this as a priority or specific objective of their assistance. This is a missed opportunity, particularly where substantial aid resources were directed to criminal prosecutions for conflict-related crimes. It reflects a disjuncture between international commitments and the reality of post-conflict settings.

This impunity for sexual violence has arguably contributed to the continuing high incidence of gender-based violence, including sexual violence, in Solomon Islands into the present. The Tensions are said to have entrenched gender-based violence in Solomon Islands society, including wide-


195. See The Office of the Prosecutor, Int’l Criminal Court, Policy Paper on Sexual and Gender-Based Crimes (June 2014).

196. Solomon Islands Truth & Reconciliation Comm’n, supra note 6, at 498.

197. Vella, supra note 25, at 8.

198. Solomon Islands Truth & Reconciliation Comm’n, supra note 6, at 471.

199. Id.

200. Cox, Duituturaga & Scheye, supra note 24, at 55. Note that this backlog was alleged to exist by certain Participating Police Force and AusAID personnel in interviews conducted by Cox, Duituturaga and Scheye, however RSIPF deny this. Interview with Ronald Bei Talasasa, supra note 151.}
spread rape. In fact, in 2012 the World Bank identified Solomon Islands as having the highest rate of sexual violence in the world. It might be argued that impunity for gross acts of sexual violence has opened the door to further violence. Future aid to the law and justice sector, therefore, should place greater emphasis on prosecuting sexual violence and other violence against women and girls. This is one key way in which donors failed to leverage their transitional justice aid in support of broader development outcomes, namely ending violence against women and improving access to justice for survivors.

One other weakness of the international community’s support for the Tension Trials was that there were some criticisms over issues of due process. Particularly in RAMSI’s early stages, questions were raised concerning violations of suspects’ rights in the collection of evidence during arrests by the Participating Police Force (PPF). As the TRC reported, “[t]he standard of evidence collection [was] a major problem for the Prosecution . . . it took a while for the PPF and police to be able to investigate in a way that maintained the rights of individuals.” While unfair evidentiary issues were resolved fairly during the trial and appeals process, it was important for the process to be conducted fairly, at all stages, for the process to be seen as legitimate.

B. Truth and Reconciliation Commission

International law protects the right of victims and survivors to know about the circumstances of gross violations of their human rights, including who was responsible for the violations. This right to truth is contained in a number of international human rights instruments including the Interna-


203. COX, DUITUTURAGA & SCHEYE, supra note 24, at 53-56.

204. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 319.

205. Interview with Andrew Nori, supra note 163.

Aiding Transitional Justice

The Human Rights Council has located the right to truth in the context of contributing to ending impunity.\(^{209}\) The Office of the United Nations High Commissioner for Human Rights,\(^{210}\) treaty bodies,\(^{211}\) and special procedures of the Human Rights Council\(^{212}\) have similarly conceptualised the right to truth.\(^{213}\) The right to truth may be fulfilled in various ways, including freedom of information legislation, declassification of archives, investigations into the missing and disappeared, and the establishment of non-judicial commissions of inquiry, and truth commissions.\(^{214}\)


\(^{210}\) See, e.g., U.N. Committee Against Torture, Concluding Observations of the Committee Against Torture, ¶ 27, CAT/C/COL/CO/4 (May 4, 2010).


The value of truth seeking rests in its contribution to the “creation of a historical record” and, in so doing, preventing manipulation and the deliberate rewriting of history and a denial of atrocities by perpetrators. Truth seeking is also esteemed for its perceived ability to “help victims find closure by learning more about the events they suffered, such as the fate of disappeared individuals, or why certain people were targeted for abuse.” Hayner also points to the value of truth seeking for confronting the legacy of past horrors in order to lay a solid foundation on which to build a new society. Hayner warns against “bury[ing] . . . sins, [as] they will re-emerge later.” And so, logically, the question arises: to what extent, if at all, has truth-seeking in Solomon Islands contributed to achieving the above-mentioned objectives; or has it been merely a case of burial of sins?

The task of truth seeking in Solomon Islands has been broached through the TRC. Analysis of donor support for the TRC is instructive given the increasing uptake of truth commissions throughout the world, including in developing countries where aid donors operate. As of 2014, some forty official truth commissions, the precise number dependent upon the definition to which one subscribes, have been set up for truth-seeking and peacebuilding purposes. Almost all truth commissions have been implemented in developing countries, most with some support of the international community.

The greatest shortcoming of the Solomon Islands TRC process has been the failure of the SIG to formally release the TRC’s final report and implement its recommendations. This inaction triggered the report’s editor, Reverend Dr. Terry Brown, to leak the report in April 2013. This followed significant stalling by the SIG, which failed to formally release the report, despite having a statutory obligation to do so and receiving it from the TRC commissioners fourteen months prior. At the time of writing, the SIG still had not released the report. Unfortunately, this has not prompted any action.

215. Id.
216. Id.
217. HAYNER, supra note 80, at 23.
218. Id.
219. Id.
220. Id.; The DAC List of ODA Recipients, OECD (Jan. 2012), http://www.oecd.org/dac/stats/49483614.pdf. Of the approximately forty countries to have implemented a truth commission, Canada, Germany, South Korea and the United States are the only developed countries to have done so.

221. Truth and Reconciliation Commission Act 2008 (No. 5 of 2008), § 17(1) (Solomon Islands) (providing that the “Prime Minister on receiving the report of the Commission, shall cause it to be laid before Parliament and the report be made available to the public”).
on the part of the SIG. Instead, Solomon Islands Prime Minister Lilo has “defied repeated calls for the report’s release,” on the basis of the report’s “sensitivity” and the need to “handle the issues in a responsible way.” There is allegedly also a working group in the Prime Minister’s Office in Solomon Islands, developing a revised, “less sensitive” version of the final report. This runs contrary to goals of truth-seeking in Solomon Islands.

To prompt release of the TRC report and implementation of its recommendations, questions have arisen as to whether donors should employ a strategy of aid conditionality. This would involve donors threatening to cut off or reduce development assistance to Solomon Islands, and executing that threat, so as to compel human rights compliance. The idea is that donors could try to wield their development assistance to put pressure on SIG to release the TRC report, implement its recommendations, and in so doing, promote human rights. However, political conditionality is in no way recommended as a viable, effective option for transitional justice aid in Solomon Islands. Aid conditionality is “beset with problems,” most notably that it has a “track record of not working, of not producing the desired results, and even, possibly, of creating dynamics that undermine the desired results.” It is notable that no donor representatives interviewed during fieldwork indicated any intention to do so. In Solomon Islands, at least, it seems that donors do not view aid conditionality as a tool for enhancing the effectiveness of a truth commission. No donor representative interviewed mentioned any aid conditionality strategy or preference for this approach.

Delays in releasing the report effectively function to deny justice and dignity to victims, particularly those people who engaged genuinely in the TRC process, hoping to see change. As such, it remains important that the TRC report is released and genuine efforts made to implement its recommendations—donors arguably have a role in this. In particular, a representative of the Solomon Islands TRC interviewed during fieldwork suggested that donors that funded the TRC process might be said to have a moral responsibility to Solomon Islanders to do all possible to ensure the success

222. Vella, supra note 25.
226. See UvIN, supra note 62, at 77.
227. Id.
of their aid. Some, though not all, donors that supported the TRC have engaged in dialogue with the SIG, emphasising the importance of the TRC report and its recommendations. One representative of a donor agency interviewed divulged that they had raised the issue in bilateral meetings with SIG, stressing its value as a "genuine tool for reconciliation." The same donor representative has purportedly also emphasised to SIG that "by engaging in the TRC process, the SIG had committed itself." Now that the TRC had been implemented and the report created, "to not release the report nor implement its recommendations would be perhaps more damaging than to have not had a TRC at all." Building the political will of partner governments and keeping transitional justice on the agenda would seem an important and valid role for donors.

The Solomon Islands TRC made a number of recommendations of direct relevance for the country’s development. The TRC recommendations target underlying causes of the Tensions, including poverty, inequality and exclusion. In short, a number of the TRC recommendations confront development issues: land, governance, health, education, livelihoods and gender equality—all issues of concern for foreign aid donors. It is here that we see very clearly the links between transitional justice and development. Some donor representatives operating in Solomon Islands conveyed in fieldwork interviews willingness to support implementation of the report’s recommendations if requested by SIG. Doing so would leverage transitional justice aid to achieve broader development and poverty reduction gains.

C. Reparation

To date, there has been no comprehensive, national program for reparation in Solomon Islands, despite the right of victims of gross human rights


233. See SOLомON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6.

234. Interviews with representatives of several bilateral and multilateral donor agencies, in Solomon Islands (Oct. 2012).
violations to receive reparation for serious harm suffered,\textsuperscript{235} which may take the form of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.\textsuperscript{236} This right exists in international law\textsuperscript{237} and in the domestic law of Solomon Islands.\textsuperscript{238} In addition to the legal bases for reparation, there are important moral and socio-political dimensions that warrant consideration.\textsuperscript{239} Lykes and Mersky highlight the potential for reparations to contribute to social reconstruction and reconciliation, seeking to “heal individual and social wounds.”\textsuperscript{240} Rombouts et al. point to the potential for reparation to promote peaceful coexistence and to prevent acts of revenge.\textsuperscript{241}

Similarly, de Greiff highlights the potential for reparations to contribute to goals of recognition, civic trust and social solidarity.\textsuperscript{242} Politically, and particularly in transition contexts, additional to their relationship to justice, reparations infer a political commitment to repair harm suffered and constitute public recognition of suffering.\textsuperscript{243} For victims, reparations may occupy a “special place” in a transition from conflict: “[f]or some victims reparations are the most tangible manifestation of the efforts of the state to remedy the harms they have suffered.”\textsuperscript{244} Further, victims may continue to suffer “stigma, social exclusion and re-victimisation” as a consequence of


\textsuperscript{236} Basic Principles and Guidelines, supra note 40.

\textsuperscript{237} See CAT, supra note 146; CEDAW, supra note 146; ICCPR, supra note 146, arts. 2(3), 9(5), 14(6); CERD, supra note 146; Basic Principles and Guidelines, supra note 40; Universal Declaration of Human Rights, supra note 147, art. 8; see also Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, ¶ 16, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004). Note, however, that Solomon Islands is not Party to the ICCPR or CAT; Solomon Islands is Party to CERD and CEDAW.

\textsuperscript{238} Const. of Solomon Islands, 1978, ch. 3.


\textsuperscript{240} M. Brinton Lykes & Marcie Mersky, Reparations and Mental Health, in The Handbook of Reparations, supra note 78, at 590.

\textsuperscript{241} Rombouts et al., supra note 239, at 354.

\textsuperscript{242} First Annual Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, supra note 54, at ¶ 27.

\textsuperscript{243} See Rombouts et al., supra note 239, at 354.

\textsuperscript{244} Pablo de Greiff in The Handbook of Reparations, supra note 78, at 2.
their exclusion from other transitional justice processes. Undoubtedly, social-exclusion hinders the full enjoyment of development gains by all. These are all reasons why the aid community should turn their attention to reparation.

Drawing on the above analysis, one can appreciate the potential for reparations to improve “lives and societies”—a shared goal of transitional justice and development. While there has been no comprehensive reparations program, there has been an entirely unsuccessful government-led monetary compensation scheme. The scheme was set up in 2001 pursuant to the Townsville Peace Agreement funded by the Government of Taiwan. Political imperatives seem to have driven Taiwan’s aid, with assistance provided ostensibly “in return for Solomon Islands’ diplomatic recognition of it.”

A major limitation of the scheme was that the SIG had no policy or guidelines to regulate its implementation. It was never specified which human rights violations would be compensated under the scheme. This proved problematic as it effectively “opened the door for anyone to make a claim.” The Ministry of National Unity, Reconciliation and Peace, which implemented the scheme, was “flooded” with claims for compensation. With no policy or guidelines informing implementation of the scheme and no defined categories of human rights violations, there was no consistency or equity in the award of compensation; “the process was ad hoc and subject to the whims of the moment.” Further, there was no process in place for confirming the veracity of claims which gave rise to corruption and misappropriation of funds earmarked for compensation.

Records indicate that compensation “payments [were made] to politicians, militants, business people and those with connections to the Government.” Some militants obtained funds by extortion. Those “without

246. Lenzen, supra note 20.
247. Townsville Peace Agreement, supra note 112, pts. 2(1)(b), 2(2), 3(1).
248. Solomon Islands Truth & Reconciliation Comm’n, supra note 6, at 657.
250. See Solomon Islands Truth & Reconciliation Comm’n, supra note 6.
251. Id. at 274.
252. Id. at 294.
253. Id. at 299.
254. Id.
255. Id.
256. See id. at 260.
influence or means were overlooked” such that a great number of victims did not receive compensation.\textsuperscript{257} An investigation into the scheme by the Auditor General found that “millions of dollars were spent on highly suspect and dubious claims.”\textsuperscript{258} Compensation is considered a driver of conflict in Solomon Islands, labelled as a “dynamic of disorder,” fuelling criminality, and driving “frenzied and sometimes violent competition between claimants.”\textsuperscript{259} This is an example of how aid resources can be misused and detrimental in contexts of conflict.

Taiwan’s funding of the compensation scheme is a lesson in ineffective development practice. Support was ill-suited to the context; state institutions were hardly functioning and so did not have the capacity to administer a complex compensation scheme.\textsuperscript{260} For this form of aid to have succeeded, at the very least, it would have needed to be accompanied by ongoing, rigorous efforts to strengthen relevant institutions charged with its implementation—but this did not occur. The form of assistance was particularly inappropriate considering the situation of “lawlessness,” “criminality” and “anarchy.”\textsuperscript{261} Failure to monitor the impact of funding and make corresponding adjustments, or disregard of monitoring results, underscores the shortcomings of Taiwan’s support. It is indicative of a donor for whom the internal affairs, state of human rights and aid effectiveness were of little concern.

This experience invokes the thesis put forward by Anderson in her seminal text \textit{Do No Harm}.\textsuperscript{262} Anderson argues that the way that donors provide aid in conflict-affected contexts can either support, or fuel, peace or conflict.\textsuperscript{263} As Anderson explains: “[w]hen international assistance is given in the context of a violent conflict, it becomes part of that context and thus also of the conflict.”\textsuperscript{264} Taiwan’s assistance is an unfortunate example of aid’s potential for harm. Certainly also, where a donor funds compensation this raises questions as to the appropriate role for external actors in financing reparation. Roht-Arriaza and Orlovsky describe the “essential ‘character’ of reparations” as being “an act done as, and that individuals in the

\begin{itemize}
  \item \textsuperscript{257} \textit{Id.} at 299.
  \item \textsuperscript{258} \textit{Id.} at 278 (citing \textsc{Auditor General for the Solomon Islands, Report of the Auditor General into the Export Import [EXIM] Bank Loan} (Nov. 2004)).
  \item \textsuperscript{259} \textsc{Fraenkel, supra} note 102.
  \item \textsuperscript{260} \textsc{Solomon Islands Truth & Reconciliation Comm’n, supra} note 6, at 299.
  \item \textsuperscript{261} \textit{Id.} at 155, 299.
  \item \textsuperscript{262} \textsc{Mary B. Anderson, Do No Harm: How Aid Can Support Peace—or War} 1 (1999).
  \item \textsuperscript{263} \textit{Id.} at 2-3.
  \item \textsuperscript{264} \textit{Id.} at 145.
\end{itemize}
community recognize as, atonement for past harms.”265 Where donors assume the total funding burden, as Taiwan did, the atoning quality is largely removed.

Beyond the above-described compensation scheme, there have been recent calls for reparation. The TRC, in its final report, recommended establishing a reparations program for conflict victims, to include monetary compensation and in-kind measures including housing, employment, health, and education measures.266 It is here that one sees a dovetailing in the concerns of transitional justice and development. The TRC also recommends reparation for victims of sexual and gender-based violence.267 This is particularly compelling noting the absence of any remedy for women who suffered sexual violence during the conflict, and the need for the state to demonstrate condemnation of this.

As it relates to a role for donors, they might consider contributing funds. It might be argued that for “humanitarian reasons,” the international community should contribute to financing reparations where developing countries are unable to bear the full cost.268 This is likely the situation of Solomon Islands, particularly when combined with the cost of implementing all (or most) other TRC recommendations.269

Any decision by donors to support reparations should depend on leadership and demonstrated political commitment of the SIG. Unfortunately, no such commitment has been demonstrated to date; the SIG continues to withhold the final TRC report. An appropriate entry point for donors, therefore, may be in building the political will of SIG through human rights-informed policy dialogue, focused on the value of reparations for the country. Roht-Arriaza and Orlovsky similarly suggest an important role for donors in building consideration of reparations into discussions around government budgets in post-conflict contexts.270 In this way, donors might use policy dialogue as a tool to build political will in support of the mobilisation of resources towards financing reparations.

From there, taking an optimistic view: in a scenario where political commitment to reparation is demonstrated, how might donors engage? One donor interviewed during fieldwork in Solomon Islands expressed openness.

265. Roht-Arriaza & Orlovsky, supra note 57, at 173.
266. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 728, 730; see also Truth and Reconciliation Commission Act 2008 § 16 (setting out the authority of the TRC to make recommendations).
267. SOLOMON ISLANDS TRUTH & RECONCILIATION COMM’N, supra note 6, at 728.
268. Segovia, supra note 78, at 658-59.
270. Roht-Arriaza & Orlovsky, supra note 57, at 204-05.
to supporting reparations if requested to do so by the SIG.\textsuperscript{271} They highlighted that support would be provided if it was felt that the process would genuinely “contribute to reconciliation.”\textsuperscript{272} They also emphasised that any support would take the form of technical assistance and support for implementing in-kind reparations, rather than financing monetary compensation payments.\textsuperscript{273} This would seem a more effective approach given the past experience of Taiwan’s funding of compensation. Certainly considerable technical assistance will be necessary: reparations programs, in addition to requiring considerable amounts of public resources, are complex to design and implement.\textsuperscript{274} As Segovia explains, reparations programs require “the existence of qualified technical resources, public and private institutional resources, and reliable statistical data, all of which is not always available in transitional societies.”\textsuperscript{275}

Finally, where donors are willing to provide support for reparations—in whatever form—it is recommended that they be made contingent upon a budgetary contribution from the SIG. This should be a meaningful (if not the principal) contribution, sufficient to demonstrate ownership of and political commitment to reparations. This is central to the symbolic function of reparation.\textsuperscript{276} In this way, the use of internal resources itself represents an act of reparation.\textsuperscript{277} This recommended funding model is pragmatic, accounting for the substantial cost of reparations without removing their “aton[ing] quality.”\textsuperscript{278}

D. Institutional Reform

Institutional reform of the security and justice sectors of Solomon Islands was a key component of RAMSI’s development assistance. In the context of transitional justice, institutional reform is about reforming State structures and institutions that “facilitated or promoted” atrocities.\textsuperscript{279} The purpose is to guarantee against recurrence of atrocity.\textsuperscript{280} It is required under

\textsuperscript{271} Interview with a representative of a donor agency, in Solomon Islands (Oct. 2012).
\textsuperscript{272} Interview with a representative of a donor agency, in Solomon Islands (Oct. 2012).
\textsuperscript{273} Interview with a representative of a donor agency, in Solomon Islands (Oct. 2012).
\textsuperscript{274} Segovia, supra note 78, at 670.
\textsuperscript{275} Id. at 652.
\textsuperscript{276} Roht-Arriaza & Orlovsky, supra note 57.
\textsuperscript{277} Segovia, supra note 78, at 652.
\textsuperscript{278} Roht-Arriaza & Orlovsky, supra note 57, at 173.
\textsuperscript{279} OHCHR, TRANSITIONAL JUSTICE, supra note 2, at 44.
\textsuperscript{280} Id.
international law: international human rights law places an obligation on States to prevent the reoccurrence, or repetition, of atrocities in the future. Institutional reform has involved vetting of police and corrections officers who participated in hostilities. It has also involved capacity development activities across the justice and security sectors, primarily training and mentoring. A raft of new legislation has been adopted, most commendably a new Correctional Services Act, which reflects international human rights standards governing the treatment of detainees. The Act has been pivotal in re-establishing the legitimacy of the Correctional Services of Solomon Islands. The main strength of donor support for institutional reform in Solomon Islands is that it has been conceived of as a long-term process, recognising that after-conflict state institutions will generally take at least a generation to rebuild and reform. The short, three-year project cycle typical of many aid activities conflicts with this need for a sustained approach to reform.

Despite some important achievements, there are serious concerns surrounding the sustainability of the institutional reform efforts supported by RAMSI. Solomon Islands law and justice institutions (police, corrections and the judicial sector) are financially dependent on Australian aid: “virtu-

281. Basic Principles and Guidelines, supra note 40, ¶ 23; OHCHR, Transitional Justice, supra note 2, at 44. While the justice sector in Solomon Islands did not facilitate or promote human rights abuses during the Tensions, remaining independent of militant influence, this part contemplates justice sector reform together with police and corrections reform. (Note that police and corrections were involved in the hostilities and corrupted by conflict). This is because the criticisms of the aid directed to justice sector reform in Solomon Islands similarly apply to aid for police and corrections reform, so all institutional reform efforts and the corresponding aid should be considered together. Analysis of justice sector reform could equally be located above in the section on Tension Trials, part VIII(A).

282. ICTJ, supra note 48. A program for the demobilisation of “Special Constables” from the RSIPF was employed to vet former-militants from the police force. The Voluntary Early Retirement Scheme—a kind of vetting scheme for the RSIPF—targets police officers who played a role in the Tensions. Under the Scheme, police may nominate themselves or someone else involved in the conflict. Those found to have played a role are asked to leave the police force, but will receive their full wage until the retirement age of 55.

283. Cox, Duituturaga & Scheye, supra note 24, at 80.

284. Correctional Services Act 2007 (No. 8 of 2007) (Solomon Islands).


286. Cox, Duituturaga & Scheye, supra note 24, at 63.

287. See World Bank, supra note 70.
ally all of RAMSI’s law and justice expenditures—and thus Solomon Islands law and justice development programs—are paid for by Australia.”\textsuperscript{288} RAMSI provides approximately two-thirds of the cost of policing in Solomon Islands,\textsuperscript{289} and Australian aid funds finance over sixty per cent of all law and justice expenditure.\textsuperscript{290} Aid dependency in the sector is high. An evaluation of Australia’s law and justice aid to Solomon Islands found that the “current configuration of the country’s law and justice institutions and agencies is unsustainable.”\textsuperscript{291} This is problematic as once RAMSI withdraws, it is questionable whether SIG has the capacity and will to maintain the institutions that RAMSI has helped to build.\textsuperscript{292} Any development initiative needs to provide a model that is fit for purpose.

Further, in order to build citizen confidence in state institutions, it is important that results are attributed to these institutions, not to donors.\textsuperscript{293} Yet, this has been inadequate in Solomon Islands; RAMSI understandably invested in its own public relations to highlight its work. One unfortunate effect of this was that RAMSI’s Participating Police Force (made up of internationals) received more attention than did the Solomon Islands police. This meant that public confidence was likely to be greater in the RAMSI Participating Police Force where what was important was to rebuild public confidence in the institutions of the Solomon Islands state.\textsuperscript{294} This is an example of ineffective development practice in the transitional justice sphere in Solomon Islands; an unintended, detrimental impact of transitional justice aid.

On a different note, in addition to reforming law and justice sector institutions, more might have been done to address “root causes of conflict . . . and violations of economic, social and cultural rights.”\textsuperscript{295} Indeed, two World Bank representatives interviewed explained that the “underlying or root causes of the Tensions have not been addressed” and that donors might have done more to support SIG in this.\textsuperscript{296} Take land as an example: in Solomon Islands, land disputes were a key driver of conflict, and forced

\textsuperscript{288} Cox, Duituturaga & Scheye, supra note 24, at 5.
\textsuperscript{289} Dinnen & Haley, supra note 24, at 5.
\textsuperscript{290} Cox, Duituturaga & Scheye, supra note 24, at 10.
\textsuperscript{291} Id. at 11.
\textsuperscript{292} Tarcisius Kabutaulaka et al., discussion at the World Bank Praxis Discussion Series: Conflict and Transition (June 14, 2013), http://www.youtube.com/watch?v=ZUvK0bfYu30.
\textsuperscript{293} See World Bank, supra note 70, at 202, 204.
\textsuperscript{294} Kabutaulaka et al., supra note 282.
\textsuperscript{295} OHCHR, Transitional Justice, supra note 2, at 17.
\textsuperscript{296} Interview with Daniel Evans and Ali Tuhanuku, World Bank Justice for the Poor Program, in Solomon Islands (Oct. 29, 2012).
evictions from housing and/or land widespread. These constituted violations of housing and property rights, with implications also for the enjoyment of other economic, social and cultural rights. While politically difficult, donors might have placed greater priority on supporting SIG to resolve land disputes, by reforming institutions; for example, through legislative reform to enable enforcement of land rights, or doing more to support the flailing land commission established in Solomon Islands to inquire into land dealings. This is an example of the kind of “development-sensitive” transitional justice measures that Duthie extols: where transitional justice addresses “development-related issues” such as land.

E. Mechanisms for Local and Traditional Justice

Development and human rights practitioner and scholar Uvin persuasively argues that “where outsiders seek to promote social changes” they must understand “local dynamics and perceptions.” Transitional justice aid undeniably seeks to effect social changes: we know that donors engage with transitional justice for various reasons, including enhanced human rights protections, promotion of gender equality, the rule of law and reconciliation. Interviewees attested to this during fieldwork and program documentation of donor agencies corroborate this finding. Each of these goals is clearly an example of social change. As a starting point for transitional justice aid, donors should be asking: “What is already being done by local people to address the problems? What do they think they have learned? What constraints can they identify, that is, what has made their work difficult in the past?” This kind of questioning and reflection is both a precursor of and central to effective development practice in the transitional justice sphere. These kinds of questions should be considered on an ongoing basis and throughout the aid program cycle, not only in the immediate aftermath of conflict. This goes towards ensuring that development assis-

297. OHCHR, TRANSITIONAL JUSTICE, supra note 2, at 47.
298. See Commission of Inquiry into Land Dealings Begin, SOLOMON TIMES ONLINE, Aug. 28, 2009, http://www.solomontimes.com/news/commission-of-inquiry-into-land-dealings-begin/4386 (reporting the establishment of the Commission of Inquiry into Land Dealings and Abandoned Properties on Guadalcanal in 2008 to inquire into customary land dealings). However, the commission has been suspended indefinitely due to allegations of corruption, ICTJ, supra note 48, demonstrating how complex, and politically charged such processes can be when dealing with the underlying causes of conflict.
299. See Duthie, supra note 1.
300. UVIN, supra note 62, at 123.
301. Id. at 123-24.
Aiding Transitional Justice

tance remains relevant and does not conflict with or undermine legitimate local processes.

Donors should consider how their transitional justice aid can complement or reinforce what local people are already doing to address problems and needs. By “working with and strengthening what exists and what is performing relatively well,” including at the local level,\textsuperscript{302} aid may be more contextually relevant and effective. However, in Solomon Islands, this has generally not been the approach of donors, especially in the early stages of post-conflict transition. This is the case despite the existence of an important “grassroots, community-led reconciliation movement” in Solomon Islands that emerged during the Tensions.\textsuperscript{303} The response of donors to these grassroots initiatives has mostly been one of limited or non-engagement—a missed opportunity that arguably has limited the success of transitional justice in Solomon Islands.

These grassroots initiatives have played a role in the pursuit of justice for victims of conflict;\textsuperscript{304} the meaning of “justice” imbued with contextual understandings of the term. Solomon Islands scholar Kabutaulaka describes reconciliation as involving “the restoration of relationships” through the admission of wrongdoing, attribution of accountability, apology, and the “opportunity to forgive.”\textsuperscript{305} These words point to the close relationship between justice and reconciliation in Solomon Islands culture. In fact, justice may even be understood as one component of reconciliation. It is in this way that the grassroots reconciliation movement may be understood through a transitional justice frame.

For the sake of clarity, the analysis in this part is on grassroots, locally-owned and led processes: kastom and civil society-based initiatives implemented by churches and women’s organisations.\textsuperscript{306} Kastom dispute resolution practices are based on traditional structures of “wantoks, kinship ties, clans, status and social relations.”\textsuperscript{307} These processes cannot be easily or neatly categorised and some such processes are effectively hybrid models, straddling church and custom, state and non-state. This is largely because while local non-state justice systems have their origins in the precolonial period, they have also been “profoundly shaped by the colonial and

\begin{itemize}
  \item \textsuperscript{302} Cox, Duituturaga & Scheye, \textit{supra} note 24, at 6.
  \item \textsuperscript{303} Jeffery, \textit{supra} note 6, at 164; McDougall & Kere, \textit{supra} note 102, at 12.
  \item \textsuperscript{304} Jeffery, \textit{supra} note 6, at 164.
  \item \textsuperscript{306} Jeffery, \textit{supra} note 6, at 154, 164.
  \item \textsuperscript{307} \textit{Id.} at 164.
\end{itemize}
postcolonial experience." 308 Dispute resolution and governance systems introduced in the colonial period continue to greatly influence how justice is "observed and practiced" at the local level. 309 As Allen et al. explain: "notional dichotomies between local/traditional systems and state justice systems cannot be sustained in the face of the prolonged and profound changes that have occurred in Solomon Islands since the arrival of missionaries and the colonial government." 310 The confluence of Christianity and kastom also contribute to this hybrid quality. McDougall and Kere also note the pluralistic quality of local approaches to conflict-resolution and peacemaking. 311 Both indigenous and exogenous techniques, structures, and institutions are drawn on to resolve conflict and for reconciliation.

During fieldwork, a number of interviewees attested to the pivotal role that Christianity and the Christian churches of Solomon Islands have played in promoting reconciliation at the community level. 312 Women's groups have also been active in peace-making 313 and in driving reconciliation. 314 During and after the conflict, women's groups worked to build relationships, hosting prayer meetings and peace vigils. Pollard ascribes conflict resolution as a traditional role for women in Solomon Islands, 315 and Braithwaite et al. recognise the crucial role of women's groups in putting an end to the conflict. 316 Further, community leaders have drawn on customary peacemaking practices as well as Christian rituals to achieve reconciliation— independent of government or other outside support. 317

Despite the relative functionality and important contribution of these local institutions to conflict-resolution and reconciliation, donors have generally overlooked them in their transitional justice aid. This seems to go

308. Allen et al., supra note 50, at 7.
309. Id.
310. Id.
311. McDougall & Kere, supra note 102, at 143.
312. One third of the total number of people interviewed spoke of the important contribution of the churches to reconciliation in Solomon Islands. The majority of interviewees who spoke of the role of the churches were local civil society actors; most were not internationals.
314. Jeffery, supra note 6, at 165.
315. Pollard, supra note 313.
316. Braithwaite et al., supra note 6, at 3, 31-32 (citing Oxfam, Australian Intervention in the Solomons: Beyond Operation Helpem Fren. An agenda for development in the Solomon Islands (2003)).
317. McDougall & Kere, supra note 102.
against the notion that effective development practice involves working with and strengthening what already works well in the country.\textsuperscript{318} Further, a study conducted by Denney on informal justice in Sierra Leone highlighted the dominant role of chiefs and other non-state actors in providing services, including security and justice within communities.\textsuperscript{319} Denney points also to the “strong community loyalty” that they attract—these findings arguably apply equally to Solomon Islands or at least to myriad communities in Solomon Islands.\textsuperscript{320} These are compelling reasons why donors might give greater consideration to engaging with the local and traditional going forward.

Working better with local institutions may well have enhanced the overall success of transitional justice and transitional justice aid in Solomon Islands, enhancing sustainability,\textsuperscript{321} contextual relevance and local legitimacy.\textsuperscript{322} Indeed, in the context of a fieldwork interview, Nori questioned the local relevance of the Tension Trials. He explained that for Solomon Islands, it is crucial that justice “recognises local context” and is “rehabilitative in its nature”—local or traditional justice mechanisms may well have better enabled this.\textsuperscript{323} Aid donor partnerships with local institutions may have been an effective way to counter a criticism commonly directed at the international community, that it promotes a “homogenised” package of transitional justice “across the board,” which “lacks the social, historical, and cultural connection to the people who are primarily affected by the transition.”\textsuperscript{324}

\section*{IX. Conclusion}

Many people criticise foreign aid for its shortcomings, including its potential for harm. While noting these criticisms, it was not the intention of this article to condemn aid for its failures.\textsuperscript{325} As Anderson argues, it is a “moral and logical fallacy” to conclude that because aid has the potential for harm, a decision not to give aid would do no harm.\textsuperscript{326} This is because

\begin{itemize}
\item \textsuperscript{318} UVIN, supra note 62, at 123.
\item \textsuperscript{319} See Denney, supra note 95, at 39, 45, 50.
\item \textsuperscript{320} See generally id.
\item \textsuperscript{321} See generally id. at 39.
\item \textsuperscript{322} Interview with Andrew Nori, supra note 163.
\item \textsuperscript{323} Id.
\item \textsuperscript{324} Stephanie Vieille, “Transitional Justice: A Colonizing Field?” (2012) 4(3) AMSTERDAM LAW FORUM 64.
\item \textsuperscript{325} See Anderson, supra note 262, which similarly prefaces critical analysis of foreign aid in this way.
\item \textsuperscript{326} Id. at 2.
\end{itemize}
withholding aid from people in need would risk “unconscionable negative ramifications.”\textsuperscript{327} Certainly much can be achieved through aid, including transitional justice aid. Yet overall in Solomon Islands, foreign aid donors have neither engaged effectively with transitional justice itself nor leveraged transitional justice aid in support of broader development outcomes. It is precisely this shortcoming that this article has endeavoured to unpack. The challenge for transitional justice aid going forward—both in Solomon Islands and globally—is to ensure its effectiveness, without promoting dependency, driving further conflict and exclusion, “undermining local strengths,” or excluding local actors from the development process.\textsuperscript{328} Donors have the opportunity to shape their aid to transitional justice so as to achieve development outcomes and contribute to a just and durable peace.\textsuperscript{329}

\textsuperscript{327} Id.
\textsuperscript{328} Id.
\textsuperscript{329} Id.