Reconciling Shifting Models for Truth and Reconciliation:  
Global Agency in Post-Conflict Reconstruction

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Abstract

This paper analyzes the interactive relationship between individuals, states, and international organizations in the creation of a global norm of accountability for human rights violations. Specifically, it analyzes the mutual construction of the global truth and reconciliation norm—as institutionalized in truth and reconciliation commissions (TRCs)—through a process of internalization, domestic contestation, and international adaptation. I challenge the realist notion that norms are coercive and indicative of power politics by showing that while the expectations for norm adoption may be coercive, the functional realization of that norm through TRCs is negotiated at the individual level when the norm is incompatible with domestic economic and social expectations for post-conflict development. The first section of the paper outlines truth and reconciliation commissions. The second section situates the paper in the theoretical debate around global norms. The third section reviews the existing literature on the international campaign for truth and reconciliation and the justice norm more broadly. The fourth section outlines norm contestation theory as it explains how states adapt the normative expectations of the truth and reconciliation norm to practical realities. Then, the paper explores the cases of South Africa, Timor-Leste, and Colombia as they demonstrate domestic and international negotiation of the truth and reconciliation norm. Finally, the paper will assess how international organizations such as the United Nations have responded to domestic adaptation and contestation of the TRC norm and conclude with a call to reconsider norm adaptability.
Introduction

In 1995, South Africa established its Truth and Reconciliation Commission, creating what many around the globe call a “gold standard” for transitional justice (Smith et al. 2014). Truth and reconciliation evolved as a method for post-conflict reconstruction in Latin America throughout the 1970s and 1980s, alongside shifting expectations for transitional justice. Constructivist international relations scholar Kathryn Sikkink labels this the “justice cascade,” a process by which states work with international and domestic institutions to legally hold state leaders accountable for human rights violations (Sikkink 2011). From Spain in 1977, Cambodia and Chile in the late 1990s, Rwanda in 1996, Bosnia in the early 2000s, and present-day Colombia, many countries have tried to find a transitional justice model that combines prosecution with an efficient and well-supported process for healing. The South African TRC reconciled the shifting expectations of the 1990s around political amnesty with pragmatic realities.1 The Truth and Reconciliation Commission illuminated a new approach to justice through an independent body that mirrored an existing judicial system and emphasized restorative justice over prosecution. It further institutionalized a space for narrating truth and fostering national healing through a process of reconciliation, or forgiveness. But how and why did the process of negotiating the norm of truth and reconciliation unfold?

In this paper, I seek to address the question: how do states realize the truth and reconciliation norm to make it compatible with post-conflict realities and domestic values? Put another way, how do states, individuals, and international organizations negotiate the global

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1 Throughout the paper, I will be referring to truth and reconciliation commissions interchangeably with the acronym TRC. This should not be confused with the South African Truth and Reconciliation Commission as one example. Many of the countries listed in the paper have different names for their truth and reconciliation commissions, but I refer to these general institutions as truth and reconciliation commissions (TRC).
norm of truth and reconciliation as a legitimate process for post-conflict reconstruction?
Understanding the answers to these questions is important because it shows how norms are contested at the individual level and negotiated at the international level. Understanding the adaptability of the truth and reconciliation norm provides a more nuanced understanding of how global norms are created, put into practice, and communicated between individuals, states, and organizations. While proponents of norm theory may argue norms are inherently adaptive because they are socially constructed, it is important to understand who has the power to change global norms.

In this paper, I will argue that individuals have the power to change and define global norms by contesting the norm when it is incompatible with domestic economic and social expectations for post-conflict development. Further, the international community, comprised of international organizations, nongovernmental organizations, and other actors, responds to this contestation by changing the expectations for how the norm should be defined and internalized. The adaptability of the truth and reconciliation norm between individual countries and each other and international organizations reaffirms the constructivist framework that norms are mutually constructed and adapted outside of power politics. I unpack three examples of truth and reconciliation commissions in South Africa, Timor-Leste, and Colombia to understand the agency individual actors and organizations hold in post-conflict reconstruction. Further I seek to show how that agency to contest and adapt the truth and reconciliation norm influences the definition and expectations of the norm globally.

I first employ the South African case to understand why it is revered as the “standard” for truth and reconciliation. Timor-Leste is often discussed in opposite terms of South Africa, as a top-down approach at truth and reconciliation employed by the United Nations. In this case
study, I seek to understand the elements that might support a realist analysis, while explaining individuals’ agency in promoting bottom-up truth and reconciliation. Shifting to the modern day, I employ the Colombian truth and reconciliation process because it further demonstrates individual agency in negotiating truth and reconciliation with regional and cultural context. Then, I look to the United Nations because it played an active role in the TRC in Timor-Leste and also produces documents, such as the Universal Declaration of Human Rights, that aid in defining the global truth and reconciliation norm.

The paper begins by outlining the components of truth and reconciliation commissions. Then, it unpacks the theoretical debate between realism and constructivism over global norm formation. Specifically, it addresses Kathryn Sikkink’s theories of the justice cascade and the spiral model as they explain the global negotiation of the justice norm more broadly. Then, the paper outlines norm contestation theory and other theories which suggest why states may disagree with the truth and reconciliation norm and its proposed model for post-conflict reconstruction. Moving to case studies, the paper analyses the South African and East Timorese truth and reconciliation processes as they demonstrate domestic-level negotiation of the truth and reconciliation norm. Then, the paper analyzes the ongoing Colombian truth and reconciliation process as it further demonstrates domestic negotiation of the TRC norm via individual actors. Then, the paper analyses the negotiation of the TRC norm at the international level through the United Nations. Ultimately, it concludes with a call to reconsider norm adaptiveness to better understand individuals’ agency in the formation and adaptation of global norms.

Truth and Reconciliation Commissions

Truth and Reconciliation Commissions function as quasi-legal systems that mirror the existing judicial system in a country. They can be institutionalized in separate mechanisms or
they can comprise one body. Truth commissions are non-judicial bodies that pose as an alternative to criminal justice proceedings, lessening the state’s burden of holding hundreds of trials in the case of massive conflicts. They serve to investigate human rights violations and establish a narrative of the causes and effects of the violence, paying particular focus to victims’ narratives (“Truth Commissions” 2012). The core activities of truth commissions are “collecting statements from victims and witnesses, conducting thematic research…organizing public hearings and other awareness programs, and publishing a final report outlining findings and recommendations” which ultimately contribute to a new national narrative about the conflict (“Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice” 2010, 9).

Truth and reconciliation commissions also include a large-scale process for national healing by institutionalizing a process for turning knowledge into acknowledgement and acknowledgement into healing. More broadly, TRCs institutionalize a norm of accountability for human rights violations as a mechanism of transitional justice. Transitional justice is defined by the United Nations 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 accountability, serve justice, and achieve reconciliation” (ibid., 2).

Theoretical Foundations: Coerced or Persuaded?

There is a range of literature explaining the processes of norm formation and norm change. These processes include incentives and force—or coercive practices—which fall under the realist paradigm, and persuasion and socialization—the acts of convincing a state of the value in upholding a certain norm—which are closely associated with the constructivist international relations paradigm. Some realists, such as (Mearsheimer 1994), argue global norms do not matter
because they do not reflect a shared commitment to the moral superiority of the norm. Rather, norms reflect the global acceptance of a powerful state’s declared vision or goal. Where constructivism implies an international society bound by shared ideologies and norms, realism argues those norms and ideologies are bound and shaped by the great powers within the international system. Put another way, norms are merely reflections of the values and ideologies of the most powerful states in the global system. States with more political, economic, and social power are more likely to have their preferences heard and realized on the international scale because they have the ability to coerce or persuade states to internalize the norm, despite domestic pushback (De Nevers 2007).

A key assumption of realism is that states will comply with norms because they want to be perceived as legitimate actors in the eyes of the great power. While constructivists do not disagree with realists that norms “have influence because states tend to care about being recognized as legitimate members of the community of states,” (ibid., 55) they focus more on the power of persuasion and socialization than on coercion and direct force (Finnemore and Sikkink 1998; Florini 1996). Contrary to realism, constructivism argues that states are influenced by norms and preferences, both domestically and within the international community (Goldstein and Keohane 1993; E. Haas 1983; P. Haas 1997; Katzenstein 1996; Klotz 1995; Sikkink 1991; Yee 1996; Wendt 1992). States are not unitary actors, but rather influenced by individual leaders and international organizations, both of which help to set the boundaries for the “appropriateness” of state actions (Finnemore 1993, 566).

The use of direct force and coercion are not inherent options for states; they have a choice of whether to use force (Finnemore 2003). International actors and transnational networks can set the boundaries for state behavior through persuasion, by changing an individual leader’s values,
or via socialization, by inviting countries into the normative practices of the international community. Furthermore, while realist scholars argue that great powers have the ability and means to enforce their values and norms, constructivists argue that nonstate actors and individuals can have as much power and influence over states by pressuring them to accept or enforce norms (Risse and Sikkink 1999).

Several theories explain the process by which states recognize and internalize global norms. Norms carry what constructivist theorist Kathryn Sikkink (2011) calls a certain normative “oughtness,” or a collective expectation for actions or behavior that are consistent with the norm. International organizations are part of the global external force that can pressure states to internalize these collective expectations (Ikenberry and Kupchan 1990). They can pressure states on issues such as human rights, Sikkink (2011) argues, because there has been a “justice cascade” which means there “has been a shift in the legitimacy of the norm of individual criminal accountability for human rights violations and an increase in criminal prosecutions on behalf of that norm” (5).

International organizations, such as the United Nations (UN), Amnesty International (AI), and the International Center for Transitional Justice (ICTJ), set boundaries for state behavior. They do this in institutional ways, attempting to mitigate an unpoliceable anarchy, whereby no state can legally force another to accept norms or laws, with concrete global expectations for state behavior. They do this by writing documents such as the United Nations Universal Declaration of Human Rights, which clarify, justify, and institutionalize norms. Beyond affirming the unalienable rights of all global citizens, the Universal Declaration of Human Rights outlines in Article 8 that “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the
constitution or by law” (“Universal Declaration of Human Rights” 1948). Referring specifically to TRCs, the Office of the High Commission for Human Rights “affirmed victims’ rights to truth and reparations, in addition to a ‘duty to prosecute’” (“The Administration of Justice and the Human Rights of Detainees” 1997, 4). International organizations reaffirm the ideological component of the justice norm and lay the foundations for the functional realization of that norm through truth and reconciliation commissions.

**Forming the Global Justice Norm**

*The Justice Cascade*

Kathryn Sikkink’s theory of the justice cascade provides one of the most compelling analyses of how and why the international community has come to accept a norm of justice that was previously incompatible with state claims to sovereignty and sovereign immunity. Sikkink (2011) uses field research and statistical analysis to examine the emergence, diffusion, and impact of the norm of criminal accountability for human rights violations. While states previously subscribed to the “impunity model” of world politics, whereby neither individuals nor the state were held accountable for human rights violations, several key truth and reconciliation processes and documents have changed this model and its expectations for the legitimate response to human rights violations. The Nuremberg Trials in 1945-49 held Nazi leaders accountable for the human rights violations during World War II by conducting trials and sentencing dozens of Nazi generals to death, consequently catalyzing a global shift in the expectation for state leaders’ “immunity” to prosecution.

The United Nations Universal Declaration of Human Rights was established in 1948, and became a “statement of principles” against human rights violations (Risse and Sikkink 1999, 11). Eleanor Roosevelt said that this declaration “set up a common standard of achievement for all
peoples and all nations;” it created a foundation for a global understanding of what counts as human rights and what it means to violate and uphold those rights (Humphrey 1984). Likewise, Hernán Santa Cruz of Chile, a member of the drafting sub-committee of the document, said “I perceived clearly that I was participating in a truly significant historic event in which a consensus had been reached as to the supreme value of the human person, a value that did not originate in the decision of a worldly power, but rather in the fact of existing,” arguing that the right was not a political power move, per realist arguments, but rather a genuine agreement on a shared ideology (“History of the Document” 2015).

The document was one of many pieces that began to shift the expectations of the impunity model. In the 1970s and 1980s, several countries in Latin America held individuals accountable for human rights violations, under the condition that they would be met with political amnesty. Yet beginning in the 1990s, several institutions, such as the Inter-American Court of Human Rights, “found that amnesty for the perpetrators of serious human rights violations was incompatible with the right of every individual to a fair hearing before an impartial and independent court” and pushed instead for all individuals to be prosecuted fairly with consequence, rather than political amnesty (“The Administration of Justice and the Human Rights of Detainees” 1997, 3-4).

Three ideas converged over this decades-long debate over the new norm of post-conflict justice: first, that human rights violations are crimes, not ways to govern. Second, those who commit human rights violations should be prosecuted, but third, should receive equal and fair treatment under the law. Over time, countries have come to accept these three ideas as

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2 I acknowledge there have been many critiques, such as Dolinger (2016), of the Universal Declaration of Human Rights as a non-binding treaty but I hope to demonstrate the importance of individual countries’ adherence to the values purported in the Declaration, despite its shortcomings.
reasonable assumptions about governance. As more countries internalize these truths, the norm “cascades” until it is taken for granted by the international community. Importantly, the global justice norm encompasses both an ideological expectation for the global commitment to protecting human rights, and an institutional expectation that states will create mechanisms that hold criminals accountable (Sikkink 2011). A truth and reconciliation commission is one of those mechanisms. Where Sikkink (2011) examines prosecutions and the interplay between the international and domestic legal systems, particularly in Latin America, I am interested more in truth and reconciliation commissions as normative practices for human rights accountability and the ways these mechanisms are shaped domestically and internationally.

The Spiral Model

While Sikkink’s examination of the justice cascade provides an overview of the evolution of the justice norm globally, she captures the theory behind the negotiation at the state level best in an earlier work. Kathryn Sikkink and Thomas Risse (1999) argue international norms are internalized and implemented on the domestic level via a process of socialization. Rather than assuming an evolutionary or linear approach, they explain the interaction between international organizations, transnational networks and domestic actors through norm socialization, adaptation, argumentation and institutionalization.

The model proceeds as follows. First, a repressive state actively violates the norm without the awareness of the international community. As news of the repression leaks out, the country transitions into a phase of denial, rejecting international claims of the norm violation. In

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3 According to Sikkink (2011), TRCs and collective memory mechanisms comprise one of three new models of prosecution. They are part of the domestic prosecution model, in which states use domestic courts, or independent judicial bodies to try domestic leaders. The other two models include international prosecution—when states create and use international judiciaries like the International Criminal Court, to deal with domestic or transnational crimes—and foreign prosecution, in which states use domestic courts to try an individual from another country.
this stage, governments can contest the global justice norm. In the next phase, the country begins to make tactical concessions, or improvements to accountability for human rights violations. In the fourth stage, the state gains “prescriptive status,” or the outward recognition of the validity of the justice norm via ratifying documents such as the Universal Declaration of Human Rights or institutionalizing mechanisms such as truth and reconciliation commissions (Risse and Sikkink 1999). The final stage is when the global justice norm becomes “fully institutionalized domestically and norm compliance becomes a habitual practice of actors and is enforced by the rule of law” (ibid., 33). As the norm becomes internalized by the country, the international community removes pressure. While the spiral model opens the conversation about how states negotiate norms with the rest of the international community, it assumes a top-down process of norm institutionalization via the international community to the state level. It gives agency to states in their ability to provide concessions but does not identify nor expand upon the negotiation between individuals and the rest of the world. It fails to acknowledge, in other words, how and why individuals may contest the global norm and expectations for its implementation.

**Norm Contestation Theory**

Norm contestation theory outlines the process by which individual leaders may disagree with or reject the global truth and reconciliation norm. Antje Wiener (2009) argues that while the international community would like norms to become legally internalized, cultural practices shape leaders’ understanding of the meaning of the norm. Addressing the role of international organizations, Wiener (2009) says that “while a norm such as human rights may be agreeable within,” and enforced by, organizations such as the United Nations, “the actual meaning of this norm may differ in the actual context of norm implementation” (177). State leaders determine how to realize the truth and reconciliation norm by first, recognizing its importance and second,
by defining its implications (Dixon 2017). Norm contestation theory contextualizes an ideological expectation for normative outcomes, as in the way states ought to carry out post-conflict reconstruction, with the realistic understanding that while the state may accept truth and reconciliation as a model, not all individuals will be in support of its institutionalization. To understand how states contest and accept the global truth and reconciliation norm, we must first recognize the “concrete ideological and administrative difficulties” post-conflict countries face (Wilson 2001, xvi).

One administrative difficulty is economic reconciliation, of which there are two components. The first is that post-conflict states typically have fragile economies, and state leaders may prioritize economic development over truth and reconciliation as a model for post-conflict reconstruction. The second is that truth and reconciliation commissions can often serve monetary reparations to victims of the conflict. This process itself necessitates a negotiation of who is deserving to be repaid and who is not. Gready (2011) cites four reasons why truth commissions should prioritize economic rights in addition to social rights. First, victims and perpetrators alike prioritize their economic well-being. Second, a “socio-economic focus would enhance the potential of truth commissions to address the root causes of conflict, and hence optimize their preventative role” (214). Third, the human rights movement now recognizes that political rights are inseparable from economic rights. Finally, according to the “springboard thesis,” recognizing economic rights during the truth and reconciliation process makes countries more likely to embed these rights in their post-conflict society. In sum, Gready (2011) shows how countries can be more effective at implementing TRCs if they heed the economic expectations for post-conflict development. Yet as the case studies will demonstrate, many countries have found more economic barriers to truth and reconciliation than opportunities.
Other administrative difficulties include financial and institutional strains on the normal justice system and the level of expertise and experience among domestic leaders in truth and reconciliation processes. Other difficulties include the psychological and social impacts of truth and reconciliation as well as ideological inconsistencies between the international expectations for justice and domestic conflict resolution values.

**South Africa: Reconciling Ideological and Administrative Difficulties**

*Overview of the Conflict*

South Africa began negotiations for a truth and reconciliation process in 1994 as the system of apartheid drew to an end. Apartheid translates to “apartness” or “separateness” in Afrikaans, the language of white descendants of European colonizers in South Africa. Although racialized policies and segregation existed in practice for decades, the era of apartheid officially began in 1948 when the National Party gained control of the government and institutionalized segregation in all sectors of society, including housing, education, and civil rights. The Truth and Reconciliation Commission was created to investigate human rights abuses from the period of 1960 to 1994 (“Truth Commission: South Africa” 1995). Its purpose was to create spaces for victims to share their experience and receive compensation. In addition, it created a space for perpetrators to confess to their crimes with the controversial expectation for political amnesty. In the words of Charlayne Hunter-Gault, “the commission had helped to create the space for words and not weapons” (quoted in Shea 2000, x).

Truth and reconciliation commissions existed before South Africa,⁴ but the South African TRC is revered for its unique holistic approach. As Hirsch (2014) writes, truth commissions prior to South Africa, notably in Latin America, “were deemed suitable only for a specific political

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⁴ See Sikkink (2011) for a detailed analysis of TRCs in Latin America, for example.
setting” such as negotiated transition, “and for specific types of human rights violations” (811). In contrast, the South African TRC demonstrated a shift “from being seen as a political compromise to being regarded as a ‘holistic’ tool for social and political reconstruction” and a “practice that is morally equal and complementary to the judicial option” (ibid., 810).

*Domestic Contestation*

While as Sikkink argues, the Nuremberg trials set the tone for truth and reconciliation, South Africans recognized that the model proposed by these trials—one in which all perpetrators of human rights violations were brought to trial via the normal justice system—was unfeasible for several reasons. First, unlike in World War II, there had been no clear victory of one side in apartheid; South Africa was effectively in a “military stalemate” (Tutu 1999, 20). Second, because many of the security forces were considered to be perpetrators, it was unlikely that they would submit to a peaceful negotiation knowing they would be prosecuted. Even though, as Sikkink (2011) explains, the tide had already shifted against amnesty in the 1990s, South African leaders realized that amnesty had to be an option because of the administrative difficulties.

Third, as Tutu writes, “While the Allies could pack up and go home after Nuremberg, we in South Africa had to live with one another,” meaning the country needed a more holistic approach to rebuilding its identity (ibid., 21). Fourth, prosecuting all perpetrators would have been an unimaginable strain on the normal justice system. Beyond the judicial capacity, South Africa also lacked the capacity to gather enough evidence and sustain the prosecutions for several years, if not decades. South Africa, therefore needed a more reasonable and economically feasible way to bring perpetrators to justice while moving the country beyond the past. The solution was, as Tutu (1999) writes:
“a ‘third way,’ a compromise between the extreme of Nuremberg trials and blanket amnesty to individuals in exchange for a full disclosure relating to the crime... It was the carrot of possible freedom in exchange for truth and the stick was, for those already in jail, the prospect of lengthy prison sentences and, for those still free, the probability of arrest and prosecution and imprisonment” (30).

Beyond contesting the truth and reconciliation model for its administrative infeasibility in South Africa, leaders also contested the truth and reconciliation norm on ideological grounds. Specifically, they cited traditional African considerations of non-legal issues of conflict and post-conflict reconstruction, like the emotional, social and cultural impacts. Murithi (2018) writes that leaders in South Africa and throughout the African continent “not only demonstrated the limits of ‘traditional’ transitional justice norms, but also innovated in the implementation of a broader range of transitional justice standards, including shifting the focus from punitive to restorative justice approaches, which has in turn influenced contemporary theory and practice” (153). South Africa set a model for reconciliation and healing grounded in the African concept of ubuntu, and a commitment to the process of individual healing alongside the entire community (Villa-Vicencio 2009). As Tutu (1999) writes, ubuntu is to say:

‘My humanity is...inextricably bound up, in yours.’ ....It is not ‘I think therefore I am.’ It says rather: ‘I am human because I belong. I participate, I share...’ To forgive is not just to be altruistic. It is the best form of self-interest...It gives people resilience, enabling them to survive and emerge still human despite all efforts to dehumanize them (31).

Ubuntu is the term in the Nguni group of languages; it is also called botho in the Sotho languages (Tutu 1999, 31).
Two consensuses emerged from the South African TRC: first, a practical consensus that "TRCs may achieve multiple and important psychological, political and legal goals," and second, a "normative consensus... that finding truth is in itself a form of justice" (ibid., 818). The South African TRC's use of community-level dialogue, combined with its unique "quasi-legal powers, scope of mandate, and transparency and publicity...made South Africa an ideal-type model for all subsequent TRCs" (Hirsch 2014, 818).

The South African TRC has often been cited in the theoretical debate between realists and constructivists over how individual countries come to accept the global norm for holding individuals accountable for human rights violations. Realists (Mearsheimer 1994; Krasner 1993) argue the rise of the TRC norm in South Africa had more to do with power politics between external actors via condemnations by the United Nations and coercive sanctions by great powers like the United States. For realists, the Comprehensive Anti-Apartheid Act (CAAA) passed by the U.S. Congress in 1986 is emblematic of great powers using their economic and military power to coerce less powerful states such as South Africa to accept global justice norms. However, Black (1999) argues the U.S. Congressmen were influenced by transnational networks advocating against apartheid, which suggests a global negotiation of the norm, rather than a top-down process of coercion. Similarly, Hirsch (2014) argues strong states had little to do with the formation of the truth and reconciliation norm in South Africa because it was largely a bottom-up effort.6

I argue South African leaders arrived at their TRC via two different channels of socialization, one via international organizations, and the other via individual countries in Latin

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6 This is not to say that there were no power politics at play domestically in South Africa. To the contrary, Shea (2000) shows the power politics at play domestically throughout the commissioner selection process, the amnesty process, and negotiating reparations. She clarifies, however, that these politics did not overshadow or null the success of the South African TRC, which was largely a grassroots process.
America. South African leadership engaged with non-state actors from organizations such as the Institute for Democracy in South Africa, Justice in Transition, and the Centre for the Study of Violence and Reconciliation (Shea 2000, 11). Additionally, they drew from truth and reconciliation commissions in Argentina, El Salvador and Chile (Sikkink 2011) but contested these original models, which praised prosecution over community reconciliation, in order to fit the TRC norm to domestic administrative and ideological concerns.

*Lessons Learned: Economic Reconciliation*

While some label the South African Truth and Reconciliation Commission a gold standard, studies done after the creation of the TRC show that it was not entirely effective in negotiating concerns at the individual level, particularly economic concerns. A study by Vora and Vora (2004) quoted several interviewees who thought the money spent on the TRC would have been better spent educating the country and compensating victims (312). Beyond individual contestation of the financial burden of the TRC, scholars such as Gready (2011) have shown that even though the South African TRC recognized the importance of “addressing poverty and inequality to furthering reconciliation,” it failed to do so because it argued these developmental policies were beyond its mandate (213). Acknowledging these shortcomings is important because not all domestic contestation of the norm is effective or beneficial to individuals within the country.

*Failed Identity Reconciliation and Lack of Psychological Support*

In addition to several economic concerns, South Africans learned retroactively that while the goal of the TRC had been to “rehabilitate and affirm the dignity and personhood of those who for so long had been silenced” so that “in remembering [they] would be acknowledged to be a person with an inalienable personhood,” not all participants felt dignity within the trials (Tutu...
Without proper psychological and social support, victims who undergo the truth and reconciliation processes relive their experience, leaving their second experience with heightened emotions and less willingness to forgive the perpetrators. Viet Thanh Nguyen writes, “All wars are fought twice, the first time on the battlefield, the second time in memory” (2013, 144) and Khoury (2018) adds that “like war, peace is negotiated twice: the first time to stop the bloodshed on the battlefield; the second time to reconcile the resentful memories that flow from this bloodshed” so individuals must receive psychological support throughout the TRC process (368). Individuals have to reconcile not only their own history but the history that is written of the conflict, whether it is “accurate” in their memory or not. Before reconciliation leads to forgiveness, it must first establish acknowledgement, but acknowledgement revives memory. In other words, while the goal of a TRC is to turn knowledge into acknowledgement and acknowledgment into healing, memory is stuck in between acknowledgement and healing and becomes institutionalized in the process.

Without the proper language “with which people could say ‘I am not reconciled’, or ‘I do not forgive you,’ or ‘I want you to be punished,’” the South African TRC did not leave space for victims who did not feel reconciled (Moon 2006, 264). The TRC furthered this pain by labeling resistance to the process as “un-African” (Wilson 2001, xvi). In the Vora and Vora (2004) study, several participants from the English, Afrikaner, and Xhosa ethnic groups expressed their frustration over the painful reconciliation process. One English participant reflected, “The TRC opened up many old wounds that have been left untreated after apartheid. These wounds need to be healed so that anger over the past can be worked through” (Vora and Vora 2004, 314).

Rewriting national identity is also intrinsically tied with the idea of national healing. While creating the healing process capitalized on widespread-felt trauma in South Africa, it
insinuated that South Africa was a “sick” nation that needed to be purged of its history in order to be renewed. Further the TRC hid “other histories of South Africa which may have claimed to be equally ‘true’ and ‘complete.’ Prior to the ascendency of international discourses on human rights that shaped South Africa’s reconciliatory process, no one would have seen the history of South Africa as a history of ‘human rights violations’” (Moon 2006, 260). While producing a unifying national historical narrative may be considered a crucial first step in nation-building, this process must reconcile the domestic understanding of what creates a cohesive national narrative.

Scholars such as Field (2012) critique the South African TRC for first assuming that victims could return to their original state of being and identity after a process of reconciliation had exposed and “reconciled” their experience during apartheid, and second, for assuming that institutionalizing the narrative and collective memory in a final report would heal the entire country. Summarizing the problems with the South African TRC, Field (2012) writes “the Government of National Unity expected the TRC to be a means to forge social cohesion in a post-apartheid context racked with sociopolitical divisions, violence, traumatized individuals and communities, economic recession, and widespread poverty” (154). He calls instead for a more collective process of oral history creation, which allows for more “truths” about a conflict and acknowledges that healing cannot occur within the scope of a TRC.

Acknowledging the shortcomings of the South African TRC is important because it reinforces the notion that there is room for the definition of the truth and reconciliation norm to be negotiated and expanded to better address victims’ concerns. Additionally, the domestic contestation and the “lessons learned” in the aftermath of the South African TRC were shared by individual leaders such as Desmond Tutu, who used his influence to encourage other states,
including Rwanda, Ireland, Israel, Afghanistan, Sri Lanka, Palestine, and both Congos, to establish effective truth and reconciliation on their own terms (Tutu 1999).

**Timor-Leste: Contesting Power Politics with Domestic Adaptations of TRC**

**Overview of the Conflict**

Building on norm contestation theory, Eva Ottendörfer (2013) uses the case of Timor-Leste to problematize the TRC norm as incompatible with domestic desires for post-conflict reconstruction. The conflict in Timor-Leste, or East Timor, arose in the 1990s, as international and domestic resistance began to swell against the Indonesian government, which had occupied Timor-Leste since 1975. Indonesian rule was fraught with various human rights abuses, which included inabilities to:

- Participate in legitimate political activities, or to travel or speak freely. Many suspected independence supporters were taken away by security forces to be tortured and killed. There was widespread rape and abuse of women. East Timorese children were also taken from the territory by Indonesian military officers. Perhaps most devastating was the tactic of displacing the population from their villages...Massive famine and death resulted (Burgess 2006, 178)

It is estimated that nearly 200,000 people died during the conflict (Burgess 2006, 178). In 1998, the Suharto military dictatorship fell and Suharto's successor, President Habibie, called for a referendum in 1999. Ninety-nine percent of those registered voted in the referendum, and seventy-eight and a half percent of the East Timorese voted for independence (Ibid., 180). Violence broke out in the major cities, displacing thousands and provoking widespread human rights abuses. In what appeared to be a revenge operation by the Indonesian government, "1,400 civilians were killed, hundreds of women raped, 60,000 houses and 75 percent of government
buildings burned and destroyed...Approximately 250,000 people were forced onto trucks and ships and evacuated to Indonesian West Timor” (Ibid., 180).

Appalled, the United Nations released the 1999 Report of the United Nations International Commission of Inquiry on East Timor. The Secretary General did not approve the initial request for an international tribunal, but instead called on Indonesia to create its own tribunal. People criticized the “sham” tribunal, so the United Nations released the October 1999 Resolution 1272, which established the United Nations Transitional Administration in East Timor (UNTAET) peacekeeping mission. In addition to the peacekeeping mission, the resolution “established a ‘hybrid court,’ including the Special Panel for Serious Crimes…and a Serious Crimes Investigations Unit” (Ibid., 181). All of the panel staff members were foreigners, meaning the TRC originally had no domestic representation. In 2002, the United Nations Transitional Authority established the Commission for Reception, Truth, and Reconciliation (CAVR in Portuguese) and hired East Timorese nationals from various nongovernmental organizations and advocacy groups to the commission (“Truth Commission: Timor-Leste (East Timor)” 2002).

Yet while the international TRC process unfolded, political leaders in Timor-Leste “successfully sidelined internationally induced transitional justice initiatives and promoted their own concepts of nation building and reconciliation” (Ottendörfer 2013, 24). These alternative transitional justice mechanisms included Community Reconciliation Processes (CRPs), which were “designed to provide an alternative to dealing with the thousands of lesser crimes in the formal justice system. CRPs provided a cheaper, faster, less complicated process focused on
repairing community relationships and settling residual anger” (Burgess 2006, 184). Ottendörfer (2013) argues the United Nations-led TRC in Timor-Leste, though intended to improve rule of law and judicial capacity, and to foster “an inclusive national identity and contribute to peacebuilding by facilitating reconciliation” was ineffective for various reasons (25).

**Failed Economic Reconciliation**

The first reason is economic; post-conflict countries such as Timor-Leste may not have the financial resources to create and maintain a successful truth and reconciliation commission, even if the leaders and citizens believe in the ideological expectations of the TRC norm. When UNTAET arrived in Timor-Leste, the country did not have basic infrastructure nor institutions. Burgess (2006) explains, “there were only a handful of poorly trained East Timorese lawyers with little or no experience, no laws, no courts, no police force, no national military, no government departments, a few East Timorese doctors, no system for garbage collection, taxation, or telephones” (181-2). The problem with the East Timorese TRC, and several other commissions, Gready (2011) argues, is that countries need a functioning political system and economy to provide effective reconciliation and they need truth and reconciliation to pave the way for a functioning economy.

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7 To clarify the distinction between “lesser crimes,” Burgess (2006) provides the following example of a case that would be sent through a CRP: “a perpetrator who burned houses returns from West Timor, feeling vulnerable and afraid. He approaches the CAVR’s local representatives and provides them with a statement including admissions of his actions. This statement is forwarded to the Office of the General Prosecutor, which decides whether it is appropriate to be dealt with by CRP instead of prosecution. If approved, the CAVR establishes a five-person panel in the community affected by the crimes. The panel conducts a public hearing at which the perpetrator admits his wrongs...community elders and spiritual leaders attend and incorporate traditional practices into the hearing. Victims are able to address and question the perpetrator directly, community members also contribute, and a decision is made as to what the perpetrator needs to do to be accepted back by the community. If he accepts this offer and completes any required acts, he will receive full immunity from future prosecution” (184).
In other words, it is difficult to create an effective truth and reconciliation commission when the country needs financial resources to develop the most basic state institutions. Many in Timor-Leste felt that the money for the TRC would have been better-spent developing the country, which would have provided the same benefits as implementing a formalized process for addressing the conflict (Ottendörfer 2013). This would have helped victims move past the conflict in a sustainable way, instead of tempting them to share their story for money from the TRC. Many women in Timor-Leste risked retraumatization for monetary compensation from the TRC in order to provide for their families (Guthrey 2016). Importantly, many of these women were survivors of trauma such as sexual violence and many of them did not receive private testimonies or other forms of psychological support throughout the truth and reconciliation process. In sum, there were two reasons the TRC was contested on economic lines in Timor-Leste. First, it failed to fortify basic institutions before creating the TRC and second, it failed to effectively economically reconcile victims and perpetrators.

Failed Identity Reconciliation

The second reason for domestic contestation in Timor-Leste was the incompatibility of the proposed truth and reconciliation mechanisms with domestic narratives of national identity. Ottendörfer (2013) writes that after the conflict in Timor-Leste the native political parties stuck to a firm dialogue around resistance. They saw themselves as the winners of the independence movement, not victims, despite their suffering. The final report by the Commission for Reception, Truth, and Reconciliation declared the East Timorese victims of the conflict. While many in the international community agreed with that definition, many native East Timorese were offended because they saw themselves as the heroes of the country. The TRC’s definitions of “victims” and “perpetrators” were consequently incompatible with the domestic narrative
(Ottendörfer 2013, 29). This is problematic because the ultimate goal of truth and reconciliation is to create an inclusive narrative that most, if not all, believe tells the true history and identity of the nation. But as literature on national identity formation shows, the power to write history is dangerous because someone always has the power to define the boundaries of the true and the acceptable (Bhaba 1990; Renan 1990).

Ultimately, Ottendörfer concludes with a negative outlook on the top-down process of norm creation. In contrast to the spiral model, in which South Africa’s domestic contestation ultimately provided an adapted TRC, Ottendörfer shows a model whereby the East Timorese were not listened to. Where East Timorese leaders had asked for a process for reconciliation instead of a process of truth, the UN created a truth commission that used what was already a minimal stock of state resources to create a national narrative which exacerbated domestic tensions over national identity. This overshadowed the efforts made by domestic leaders through the community reconciliation processes, which built on lessons learned directly from South Africa. Many high-ranking officials in Timor-Leste cited the case of South Africa to demonstrate how amnesty for high-ranking officials could be beneficial for the post-conflict development of the country (Ottendörfer 2013, 28), but they were ultimately overruled by UNTAET. Burgess (2006) supports her critique, adding the United Nations failed to fully support the community-level reconciliation processes despite its potential to provide a more economically viable and psychologically supportive alternative. But if the United Nations did a poor job of adapting the truth and reconciliation norm to the domestic resources and desires in Timor-Leste, has it since learned from its mistakes? More importantly, if the grassroots-led community reconciliation processes were equally, if not more, effective at negotiating the truth and reconciliation norm to local standards, can this adaptation be seen elsewhere?
Colombia: Adapting the TRC Norm to Grassroots Reconciliation and Regional Expertise

Overview of the Conflict

The conversation of truth and reconciliation is active in Colombia, which began its formal peace process in 2016 and suggests the TRC norm is negotiated by leaders with regional context and expertise, community-led reconciliation practices, and a diversification of the institutional truth and reconciliation mechanisms to better meet the needs of the country. The Colombian civil conflict was a decades-long battle between government forces, guerrilla movements, and independent security forces over the country’s resources and ideological regimes. The most recent conflict began as another one, often coined La Violencia, ended in 1958. Communist guerrillas were excluded from the peace negotiations to end this era of violence and consequently created their own militias, known as the Revolutionary Armed Forces of Colombia (FARC in Spanish) and the National Liberation Army (ELN in Spanish). As the FARC and ELN rampaged the country, wealthy landowners created their own militias throughout the 1980s, often pulling from resources within the state military. Throughout the conflict over power and resources, the FARC and ELN kidnapped nearly 25,000 people between 1970 and 2010 (Felter and Renwick 2017). In addition, it is estimated that 220,000 died, 25,000 disappeared, and 5.7 million Colombians were displaced (ibid.).

In 2016, President Juan Manuel Santos signed a peace accord with the FARC, implementing a transitional justice apparatus with three arms: a truth commission, a special investigative body, and a search unit for displaced and missing persons. The apparatus is known collectively as the “Comprehensive System for Truth, Coexistence, and Non-Repetition.” The investigative branch of the TRC is the Special Jurisdiction for Peace (JEP in Spanish), which investigates individuals who served in the FARC, police, and military who are alleged to have
committed human rights violations. If alleged perpetrators fully admit to their crimes, they will receive a lesser punishment than they would otherwise have received in the state judicial system, in accordance with the court and the desires of the victims (Bastelleros 2017). Similar to South African leaders, the Colombian leadership acknowledged that amnesty was required in order to peacefully bring most of the country to the negotiation table. In April 2017, President Santos inaugurated a Truth Commission, formally called the “Commission for the Clarification of Truth, Coexistence and Non-Repetition.” Its mission is distinct from other TRCs in that it cannot carry out criminal investigations. It focuses instead on the narratives of the nearly 8 million victims to establish a collective narrative of the conflict (Alsema 2017). Several components of the truth commission demonstrate Colombia’s unique and adaptive approach to truth and reconciliation.

*Truth and Reconciliation with Colombian Characteristics*

The Colombian TRC includes knowledgeable and diverse truth commissioners, a creative approach to collective memory, and grassroots-level efforts at TRC. An examination of the eleven commissioners in the Truth Commission alone is telling. Saúl Franco Agudelo has 30 years of experience investigating armed conflict and has studied the truth commissions in South Africa, El Salvador, and Guatemala. Alejandro Valencia Villa was an assessor for the Truth Commission in Ecuador and a consultant to the TRCs in Paraguay and Peru. Others have more knowledge of specific processes like collective memory. Lucía Victoria González, for example was the director of the Museum of Memory in Medellín, Colombia. A few of the commissioners are foreigners, including Carlos Martín Beristain of Spain, who has studied the TRCs in Latin America (Redacción Paz 2017).

Another unique aspect of the Colombian truth and reconciliation process is its reliance on, and incorporation of, academia. Several works show academics and policymakers alike
grappling with the question: how do we create a process for truth telling and national healing that takes the successes from other countries and applies them to the context of the Colombian conflict? For example, Meertens (2017) emphasizes the importance of learning from regional truth and reconciliation processes, especially in the ways they addressed collective memory. She highlights the case of Sierra Leone, though not a regional neighbor, as a beacon for the Colombian TRC, as it used artwork to allow victims to express their pain and trauma in a way that, contrary to the South African TRC,\(^8\) did not expect a complete reconciliation, but rather expected a communal process of grief and acknowledgement. She cites Sierra Leone as a model for healing through a continuous process of acknowledgement on the terms of individual victims and their communities.

Another unique component of the Colombian truth commission is its emphasis on the intersectional impacts of the conflict and its reliance on academia to assist in the creation of the national memory. Torrado (2018) argues the Colombian truth commission is unique because it is “paved by efforts of research centers, universities, and organizations that have documented the causes and implications of war with a balance of more than eight million victims, which has disproportionately affected rural, indigenous, and afro-descendent communities.” The commission defines one narrative and memory on the many truths of the conflict by collecting testimonies and providing fora for victims to share their narratives. From indigenous Colombians denouncing racism to policemen describing the impact of landmines to LGBT individuals expressing pain over forced relocation, the Colombian truth commission continues to challenge a one-dimensional “truth” about the conflict (Torrado 2018). Truth commissioner Alfredo Moreno said that “the truth is...the construction of one truth that has in mind many versions which allows

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8 Recall from page 19 that Moon (2006) critiques the South African TRC for “hiding” certain histories in the process of writing the national memory of the conflict.
for us to include all without expressing one version in particular” and this is what he plans to show through the Colombian TRC (*La Semana* 2018).

The institutional separation of the different bodies in the Commission for the Clarification of Truth, Coexistence and Non-Repetition also demonstrates an adaptive approach to truth and reconciliation by separating the missions of establishing truth and collective memory as distinct from prosecuting and reconciling those who perpetrated that truth. This reflects the desire of many Colombians, similar to the East Timorese, to tell their story without having to relive their pain for the sake of reparations. At the inauguration of the TRC, President Santos remarked, “Many victims, and I have talked to hundreds, maybe thousands, many times, they don’t even ask for reparations, what they want is the truth,” so the government split the process of truth-telling and reconciliation into two bodies with distinct mandates (*Symmes Cobb* 2018).

In addition to its reliance on diverse commissioners and distinct institutions, Colombia’s truth and reconciliation is notably bottom-up. *Ehrlich* (2016) writes that community-level reconciliation processes have existed even before the national process was established because of comprehensive post-conflict legislation in 2012. Most of these processes are “informal, culturally specific, and carried out on a small scale,” ranging from coordinating the return of internally displaced persons, local reconciliation processes between victims and perpetrators, rebuilding public infrastructure and removing landmines, and other grassroots initiatives (*Ehrlich* 2016, 4).

In sum, the Colombian truth and reconciliation process demonstrates how leaders have negotiated the global norm and adapted it to domestic beliefs about intersectional truths and collective memory. The truth commission does this through diverse representation on the commission, distinguished institutional bodies with specific mandates, and grassroots level truth
and reconciliation that addresses the diverse experiences of the conflict with culturally-specific responses. Similar to Timor-Leste, some such as Special Representative and Head of the United Nations Mission in Colombia Jean Arnault, suggest the international community could learn from this domestic negotiation of truth and reconciliation. In an interview with Colombian press, Arnault remarked “I think there’s a movement emerging in Colombia for reconciliation that seems very encouraging - not only for Colombia, but as an example that others can take in peace processes” (United Nations News 2016).

Institutional Learning: the United Nations

To this point, scholars have analyzed norm contestation as it affects the evolutionary process of domestic adaptation and internalization of the truth and reconciliation norm. It reflects the top-down process by which the state eventually adopts the norm. The literature, however, does not explain how the international community responds by redefining, or adapting the boundaries and expectations of the norm. It misses, in other words, the agency of individuals in South Africa, Timor-Leste, and Colombia to define the “appropriateness” of state action in post-conflict reconstruction. This section seeks to uncover how the international community has adapted the TRC norm in response to contestation and adaptation in South Africa, Timor-Leste, and Colombia. It specifically addresses contestation in Timor-Leste, as the United Nations is criticized for its top-down approach and ignorance of domestic concerns throughout its mission there.

principles used in this tool have been primarily garnered from previous experience and lessons learned in the implementation of these techniques and mechanisms in United Nations field missions, including those in Sierra Leone and Timor-Leste (Arbour, v). The United Nations learned its lesson, so to say, through a 2004 Development Program study of the CRP program in Timor-Leste. In the final report on the CRPs, Piers Pigou wrote:

In terms of impact, there is a widespread feeling that the CRPs have definitely contributed to building social cohesion and relieving tensions in many places...There is a broad acknowledgement from victims and deponents that the Commission played its neutral role with considerable dexterity. When compared with the formal justice system, the CRP is seen to be relatively quick and a visibly just resolution of the problem. In addition, it expedites the possibility of returning to normal life, which is important in a context where violence is regarded by some as a legitimate problem-solving mechanism” (Pigou 2004, 76-7).

Pigou further suggests that community-led processes for truth and reconciliation could be effective in other post-conflict countries. The 2006 Rule-of-Law Tools document suggests that:

Timor-Leste has offered a variation of the amnesty-for-truth model that has been considered acceptable internationally as well as nationally, including victim communities. The truth commission was given the power to extinguish criminal and civil liability for non-serious crimes....contingent on full admission, apology and fulfillment of community service or an agreed symbolic payment to the victim or community. This was built around the traditional conflict resolution processes used in Timorese communities, and locally rooted through incorporation of community leaders and traditions....Similarly rooted practices may be considered elsewhere, especially for less serious crimes (12).
The 2006 document emphasizes the importance of fitting every truth and reconciliation commission to the needs and resources of the host country. The TRC must be desired, and consented to, by both the people and the leaders. It must be written primarily by the native leaders, though supported often by the international community.9 The document also addresses psychological and social failures in South Africa and Timor-Leste, such as the failures to provide private testimonies for victims of sexual trauma or to provide other support to victims who did not feel reconciled. The United Nations’ document writes, “A commission should be prepared to provide support and counselling... Many commissions hire mental health professionals or social workers to provide such support, as well as set up referral systems to community-based organizations that may be able to provide more sustained assistance” (23).

The United Nations’ acknowledgement of the impact of community-based efforts in Timor-Leste and other lessons learned is important because it gives credence to Burgess’ and Ottendörfer’s claims that the truth and reconciliation process should be more adaptable, meaning it can be changed by domestic countries to fit the needs of their specific country. It also shows that institutions such as the United Nations can learn from their mistakes and adapt their processes for implementation and enforcement of the TRC norm. This further demonstrates that while power politics can play important roles in norm enforcement, individuals can effectively influence organizations and the greater international community by defining the norm.

Yet while the United Nations’ list of tools for effective TRCs acknowledges past failures and lessons learned, it still does not acknowledge nor mitigate the second reason for domestic contestation of the TRC norm in Timor-Leste: incompatibilities with domestic definitions of national identity. The document states that “consultation should explicitly include victim

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9 “Supported by” often means financial support. The document highlights the financial burden of truth and reconciliation commissions, which can cost between USD $5 to 10 million (6).
communities and civil society organizations and should allow for a period of significant input into the fundamental mandate of the commission” (Ibid., 7). This consultation method is problematic because it necessitates defining the victim community before the truth and reconciliation process has begun. The process of defining a victim community versus a perpetrator community becomes difficult when “atrocities have been committed on all sides,” such as in the Colombian civil war (Foulkes 2011). Yet the case studies suggest community reconciliation processes are more effective at understanding the cultural context of national conflicts and creating solutions that establish many truths about victims and perpetrators in ways that acknowledge that there are many truths in a conflict.

Conclusions and Implications

This paper has shown that individual actors in South Africa, Timor-Leste, and Colombia contested and adapted the global truth and reconciliation norm. This not only challenges the realist assumption that norms are inherently a reflection of the interests of great powers; it also reinforces the constructivist claim that norms can be adapted and constructed via many different actors. Understanding who has power in the formation, adaptation, and implementation of the norm is important for tracking the evolution of the norm. Antje Wiener (2009) calls for research into the patterns of TRCs in order to predict when a state will accept or contest a norm, such as the global truth and reconciliation norm, in the future. Further, Hirsch (2011) writes “the more a norm is flexible and adaptable to change,” the more it is likely to be congruent with more settings,” or different post-conflict countries, and “hence likely to be stronger” (826). He also writes that the more a norm is up for debate and potential change, the more likely the norm will be strong internationally. Understanding the strength of the global truth and reconciliation norm will help us predict its survivability, applicability, and adaptability in future post-conflict
societies. Ongoing individual adaptation of the truth and reconciliation process in Colombia paints a promising future for truth and reconciliation as an adaptive model for aiding countries in their transition to peace. If the truth and reconciliation norm and justice norm more broadly can continue to be adaptive, it is likely that future truth and reconciliation commissions will be less contested and more effective, as individual countries continue to apply and adapt the justice norms on their own terms.
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