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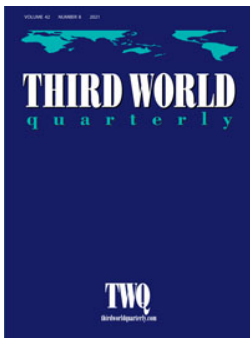
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International assistance after conflict: health, transitional justice and opportunity costs

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ABSTRACT

After violent conflicts, international actors face difficult choices about whether and how to provide assistance. These decisions can have immense consequences. As aid always occurs under conditions of scarcity, theoretical reflection is crucial to reveal the opportunity costs and potential tensions between alternative courses of action. Yet there has been relatively little scholarly reflection on what should constitute priorities for post-conflict assistance and why. This paper advances this debate by comparing two very different areas of assistance that both embody compelling values and goals: public health and transitional justice. It argues that aid for public health deserves greater attention based on powerful normative considerations and its impressive empirical record. It also suggests the need to examine not only clearly underperforming areas, but also tough cases. Transitional justice, despite its strong normative foundations, faces challenges and limitations that justify reform and a reconsideration of the emphasis commonly placed on it. Our intention is not to suggest that long-standing commitments ought to be abandoned or that all aid should be allocated to health. Rather, by scrutinising the priorities of international assistance, we hope to start a general discussion about how the international community can best help societies heal after conflict.

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Introduction

When violent conflict ceases, international policymakers face stark choices. Amidst overwhelming social and political needs, decisions must be taken that will have immense consequences. What should international assistance following conflict prioritise? These post-conflict decisions can be a matter of life or death for millions of people worldwide, dramatically impacting the quality of life of millions more. But practical constraints abound in even the most well-funded stabilisation and reconstruction efforts: resources are always scarce and tough choices inevitable. In these settings, theoretical reflection is crucial to bring out into the open potential tensions and opportunity costs.

Despite the considerable practical importance of these choices, there is relatively little scholarly reflection on what should constitute priorities for post-conflict assistance and why.

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Donor governments, international organisations and non-governmental organisations (NGOs) provide a broad array of assistance after conflict, ranging from formal aid programmes to funding for local or international initiatives, in-kind support, infrastructure and technical expertise. There are many pressing needs. Resources – money, time, human and political capital – are always scarce. Trade-offs are inevitable as ‘a decision to fund one project is a decision not to use the same resources elsewhere’ (Clements 2020, 2). In recent years, aggregate foreign aid has decreased, thereby increasing overall scarcity (Gulrajani 2017, 376), and the COVID-19 global pandemic has further strained aid budgets.¹ In light of these facts, each potential course of action has to be judged not only in light of its benefits – that is, by the extent to which it is successful in aiding post-conflict reconstruction – it also has to be assessed in light of its opportunity costs – that is, in relation to other possible, but forgone, interventions.²

Drawing on opportunity-cost considerations, we suggest that investments in public health are one example of assistance that deserve more international attention. Health aid rests on powerful normative considerations and has shown the ability to dramatically improve people’s lives after conflict, often at relatively low costs. Yet ‘except in countries of strategic or political interest to donors’, Haar and Rubinstein note, ‘donor investment in [post-conflict] states remains low even as global health spending has dramatically increased’ (Haar and Rubenstein 2012, 2). At the same time, taking opportunity cost seriously justifies reform and potentially a partial reconfiguration of international priorities away from areas that are performing less well. We focus on a particularly tough case: transitional justice. While efforts to confront the past have become a ‘permanent feature’ and ‘essential component’ of post-conflict transitions (Andrieu 2010, 538), these efforts have frequently failed to meet expectations. And ‘justice is not cheap’, as Carla del Ponte, Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), once put it (BBC News 2003). As Baylis notes, ‘Hundreds of millions of dollars are spent each year supporting ad hoc tribunals, trials in national courts, commissions, reparations, and rule of law initiatives in transitioning countries’ (Baylis 2017, 371). The United Nations (UN)-backed Special Court for Sierra Leone (2002–2013), for example, cost roughly US\$300 million (Gberi 2014). The Health Sector Reconstruction and Development Project (2001–2009), by contrast, received \$28 million in World Bank grants to improve health outcomes in a country with some of the world’s highest maternal and child mortality rates (World Bank 2010). Although transitional justice efforts in Sierra Leone delivered some significant achievements – including the conviction of former Liberian president Charles Taylor – it could be argued that even this relative success has done little to ‘fundamentally [change] the daily lives of Sierra Leoneans who still grapple with the aftermath of war’ (Hoffman 2008, 131).

Our intention is not to suggest that all long-standing commitments ought to be abandoned or that all support for all types of transitional justice, let alone all post-conflict aid, should be allocated exclusively to health. Rather, by scrutinising existing priorities and highlighting a promising avenue of post-conflict assistance, we hope to start a general discussion about how the international community can best help societies heal after violent conflict. Although international assistance can be politicised and pursued for non-altruistic motives,³ donors have repeatedly pledged to make their aid more effective and beneficial for recipients (OECD 2005, 2008). Our goal, in part, is to help provide practical insights into how these stated commitments can be best fulfilled.

The argument is developed in five sections. First, we begin by suggesting that investments in public health deserve more international attention in post-conflict settings. In the second section, we turn our focus to transitional justice, which currently constitutes a major international priority. Transitional justice rests on powerful normative foundations, but has a mixed tracked record, while taking up significant resources. In the third section, we sketch different plausible evaluative criteria by which to make comparative judgements about areas of assistance as different as public health and transitional justice, and argue that these criteria support our argument. The fourth section considers potential objections: the fact that there is no unitary world agent that can reconfigure assistance priorities; the notion that goals such as public health and transitional justice are incommensurable; and the idea that international donors should have full discretion over how they provide assistance. We argue that none of these objections succeed in undermining our more general argument, which we summarise in the final section.

Rebuilding health and health systems

While it is beyond the scope or intention of this paper to offer a detailed analysis of the entire scope of post-conflict assistance, it is clear that the international community as a whole can place greater or lesser emphasis on interventions in certain areas. In this section, we highlight the benefits of public health assistance and argue it deserves more international support. It is worth stressing, however, that multiple legitimate goals exist. Perhaps most obviously, one crucial priority for any enduring post-conflict order is the promotion of a state that has both the legitimacy and the authority to establish a monopoly on the legitimate use of force to prevent a return to violence (Swenson 2017). Other critical goals include, but are not limited to, the creation and rebuilding of essential infrastructure; the development of democracy; relatively just legal and taxation systems; the disarmament, demobilisation and reintegration of former combatants; and the promotion of sustained inclusive development (Ghani and Lockhart 2009). The emphasis lies on empirically informed pluralism of assistance, rather than on a reductionist focus on a single priority.

Why, then, dwell on health? Health illustrates the need to (re-)examine international priorities particularly well. While health has not been a major international priority after conflict (Rubenstein 2011), assistance in this area shows great promise. The rationale for supporting public health in post-conflict settings rests on particularly strong normative foundations. One of the most immediate and dramatic manifestations of violent conflict is the burden of disease and death it produces. This burden is not limited to the casualties among combatants: it endures long after the armed conflict comes to a close, and it is borne overwhelmingly by civilians (Ghobarah, Huth, and Russett 2004) and disproportionately by women (Plümper and Neumayer 2006). It is widely held, for instance, that the indirect toll on public health in the aftermath of war is about as large as or larger than that directly incurred during the conflict (Ghobarah, Huth, and Russett 2004; Hoeffler and Reynal-Querol 2003). The causal mechanisms are manifold. For one thing, armed conflict diverts human and financial resources away from the health sector, and towards military ends. Healthcare professionals may be enlisted, killed or forced to migrate, thereby causing a 'brain-drain' effect. The migration of large groups fleeing violence facilitates the spread of infectious diseases like measles or malaria. Another factor is the destruction of the health infrastructure during war (Iqbal 2006). Through these and other

mechanisms, the trauma and disease inflicted by war linger for decades after the cessation of violence.

Health has a dramatic impact on both the duration and quality of human life. It is a profoundly urgent and compelling need. Health is not only a human right – a right owed to every person simply by virtue of their humanity (UN General Assembly 1948) – its protection and promotion are central to any just society. Disease and disability limit people's ability to pursue their individual projects in life. Like the distribution of income, wealth, jobs and other goods, health is a component of social justice; access to health services is a hallmark of a just society (Sen 2004).

Health is also an area where international aid has been shown to be effective in modest but significant ways. As Valentino has argued, 'international public health programs are almost certainly the most cost effective way to save lives abroad' (Valentino 2011, 69). Indeed, the most cost-effective programmes aimed at addressing preventable diseases 'can save lives for as little as \$3000 to \$4000' (Oberman 2019, 198). A whole host of high-impact, low-cost and effective internationally backed health interventions exist (Banerjee and Duflo 2011, 41–70; Valentino 2011, 68–9). At the micro level, health initiatives that have been proven effective through rigorous evaluation include nutritional programmes, deworming, crop fertilisation, HIV prevention and treatment, malaria prevention, vaccinations against disease, and clean water provision (Banerjee and He 2008; see also Kotsadam et al. 2018).⁴ At the macro level, health aid has been shown to reduce infant, child and maternal mortality and to boost overall life expectancy (Pickbourn and Ndikumana 2016; Mishra and Newhouse 2009; Bendavid and Bhattacharya 2014; Gyimah-Brempong 2015). Nutrition aid and nutrition-sensitive aid can reduce undernourishment and the proportion of children with stunted growth (Khalid, Gill, and Fox 2019). Aid has improved access to clean water and sanitation (Ndikumana and Pickbourn 2017) and reduced death from diarrhoea (Pickbourn and Ndikumana 2019). Research has shown that post-conflict health assistance and socio-economic aid more generally have positive results when given for non-strategic purposes and states do not enjoy extensive resource rents and believe aid may be withdrawn (Girod 2015). Although global health assistance has grown in recent years, post-conflict states – where needs are often greatest – have frequently not been among the recipients. This may be due to a perception that aid to post-conflict states has less of a pay-off than assistance to countries with more stable governance. However, evidence suggests that with the appropriate safeguards, not only is effective aid possible; post-conflict states may be comparatively better at absorbing aid (Collier and Hoeffler 2004). Even if aid is not *more* promising in post-conflict settings, it appears to be at least *equally* promising (Yogo and Mallay 2015; Rubenstein 2011). While aid to different sectors and specific initiatives may have divergent impacts, research supports the positive impact of health aid in post-conflict settings (Donaubauer, Herzer, and Nunnenkamp 2019, 732–3).

Country-level evidence also shows promise. For example, within a year of independence, post-conflict Namibia greatly reduced child mortality through the provision of immunisation against measles in rural regions. In addition to the intrinsic worth of improving population health, this policy was a 'quick win' that demonstrated the benefits of the transition to peace (Addison and Brück 2009, 11). Similarly, after over two decades of conflict, East Timor found its health facilities and human resource capacity devastated and often non-existent. International support proved essential for 'rehabilitating' the state-led healthcare system and related health gains (Alonso and Brugha 2006).

Afghanistan endured decades of war and destruction, leaving behind a country with some of the world's worst health indicators. In 2003, the Ministry of Public Health cooperated with the World Bank, the EU and The United States Agency for International Development (USAID) to design and implement a Basic Package of Health Services (BPHS), with the goal of providing primary care to all citizens across the country, in particular the underserved countryside, with a primary focus on child and maternal mortality. While by no means perfect, the BPHS has had considerable success: in 2003 Afghanistan had a maternal mortality rate of 1600 per 100,000 births; by 2010 the figure was 327. Over the same period, infant mortality was more than halved. The BPHS programme cost around US\$5 per capita per year (around \$175 million per year), making it one of the better funded health programmes in any post-conflict state (Newbrander et al. 2014).

Beyond the immediate impact of improving and often saving lives, international support for health and health systems can make a positive contribution to state-building and to establishing a more durable peace (Kruk et al. 2010; Jones et al. 2006). Equally important, promoting access to health is widely viewed as legitimate and desirable by the people it seeks to help (Santa Barbara and MacQueen 2004; Kruk et al. 2010). Health gains have had positive spillover effects into areas such as education and economic activity (Bhargava et al. 2001; Currie and Vogl 2013). Likewise, bolstering the health of the population and supporting the developing of health systems after conflict can enhance state efficiency, effectiveness and legitimacy (Brinkerhoff 2005, 6). While understandable fears exist that aid may crowd out domestic health initiatives, evidence suggests external spending on health tends to spur additional government investment by promoting a policymaking climate favourable to state spending on health, supporting local health actors and their advocates, and generating pressure for more investment in health by the state (Murdie and Hicks 2013). Moreover, health initiatives have a demonstrated potential to make an impact even when state officials are not meaningfully committed to good governance (Dietrich 2011). Overall, health aid has been shown to have a beneficial sector-wide ability to address urgent needs, a favourable distributive effect and generally high levels of legitimacy, making health an especially promising area for intervention.

Aid outcomes depend on many factors and even well-designed programmes do not necessarily succeed. We are not suggesting that health spending will work in every context or that all health aid can necessarily scale up (Wilson 2011). Opportunity-cost calculations demand credible monitoring and evaluation to understand both the impact of aid and any major negative (or positive) externalities. Aid must be attuned to both the specific circumstances and the overarching environment.⁵ If conflict has restarted, aid provision in general is far more difficult and the risk of politicising all assistance, including health aid, increases. Yet considering the potential for improvement that even simple interventions represent, the results are encouraging and deserve more attention.

Transitional justice

There is ample evidence that aid can be ineffective. Specific foreign aid initiatives, including health programmes, can fail for numerous reasons (Easterly 2006; Clements 2020). It is therefore important to be attuned to areas where aid does not live up to expectations. In Afghanistan, for example, the Special Inspector General for Afghanistan Reconstruction (SIGAR) has identified many aid programmes that have failed to deliver their intended

results.⁶ Opportunity costs, however, are particularly useful to help illuminate what is not obvious. Thus, in this section we focus on a 'tough case' in the appraisal of the priorities of international assistance: transitional justice. Transitional justice is a cornerstone of international post-conflict assistance (Teitel 2008). It also serves especially important goals and is underpinned by compelling normative considerations. At the same time, transitional justice should be examined carefully, given its prominence and the limitations of existing mechanisms and their considerable opportunity costs.

The modern origins of transitional justice are rooted in 'the post-war tribunals in Nuremberg and Tokyo, and the democratisation of previously authoritarian regimes in Latin America and the former Soviet Union' in the 1980s and 1990s (McEvoy 2007, 411; see also Teitel 2003). These processes generally involved middle-income countries and, after World War II, advanced industrial states. In Latin America and post-Communist Europe, these efforts were primarily domestically funded and operated. Today, within the context of foreign aid, and particularly aid after conflict, transitional justice often involves support from donors in the Global North to post-conflict states primarily in the Global South.

Transitional justice can take local, national, international or hybrid forms; these processes can be based in state law, non-state justice or international law. It includes both punitive mechanisms, such as the International Criminal Court (ICC), and restorative approaches such as reparations and truth and reconciliation commissions.

After conflict, transitional justice may seek to punish perpetrators, provide recompense to victims for past wrongs or merely ensure that truth is documented. Transitional justice can attempt to prevent future injustices and deter further violence, based on the logic that if accountability exists, no government or rebel group can commit terrible crimes with impunity. It can signal a break with the past as a normative rejection of the old order. Effective justice may also allow society to heal by fostering reconciliation. As the goals of transitional justice can be multifaceted and often ambiguous, measuring success can present a real challenge (Thoms, Ron, and Paris 2010).

As with public health aid, the normative arguments behind transitional justice are exceptionally powerful. Few would oppose using legal instruments to deter mass atrocities or punish those who perpetrate them. Indeed, most states have explicitly agreed to provisions in international law that require investigating and prosecuting these atrocities (even if they often evade that commitment in practice). More importantly, few would argue that individual victims and society at large do not deserve recognition, recompense and accountability for their suffering.

In practice, however, international support for transitional justice raises serious concerns regarding how many of its mechanisms are designed and implemented – whether domestic, international or a hybrid of the two. Where reconciliation and political stability are emphasised, accountability for perpetrators may not be attempted. Truth and reconciliation commissions reflect an inherent trade-off. Broadly speaking, the state fulfils its duty to investigate if it focuses criminal investigations on the most egregious violations and those responsible for them, while those who engage in truth-telling and reconstruction exercises receive amnesties or other dispensations. This occurred, for example, in South Africa (Gibson 2006) and Timor-Leste (Kent 2012). But it is by no means clear that truth-telling provides relief or facilitates healing for victims (Mendeloff 2009). In some instances, these processes may even make matters worse for some victims, by asking them to relive their traumas whilst perpetrators enjoy impunity (Brounéus 2010). Likewise,

little evidence suggests that the truth-telling process and subsequent recommendations actually produce the desired legal, political or social changes (Mayer-Rieckh and Varney 2019).

Hybrid tribunals offer the appeal of not being purely international interventions, and they can help secure local buy-in. But they also face vexing problems, as the disappointing results from the first wave of hybrid tribunals show (McAuliffe 2011). Historically, hybrid approaches have faced a greater risk of domestic political capture, and they have often served the ends of the state more than the victims (Ciorciari and Heindel 2014). International support for local mechanisms appears more promising when it enjoys regime support, but challenges still exist. Post-conflict Rwanda embodies many of these tensions. Established after the 1994 genocide, the so-called 'gacaca system' consisted of roughly 12,000 community-based courts that tried more than one million people (Chakravarty 2016, 7). This is an important result. Traditionally, gacaca processes emphasised reconciliation and restoring communal harmony. While it drew on some pre-existing social practices and norms, it was novel in its handling of major crimes, the capacity to levy prison sentences and the extensive international support it enjoyed (Uvin 2001). The process was generally seen as intelligible, legitimate, well-organised and effective (Clark 2010). The process also served distinctly non-justice goals. With international support, President Paul Kagame's regime has used both the formal courts and the gacaca courts to help solidify his authoritarian rule (Chakravarty 2016). In short, results have been mixed as both state and non-state justice remain highly politicised.

In post-conflict settings, 'the norm is for TJ [transitional justice] processes to be funded largely by international donors and for international technical assistance to play a strong role in all aspects of the process' (Arthur and Yakinthou 2018, 1). Recent decades have seen international transitional justice efforts generate a 'huge industry of lawyers, UN staffers, NGO activists, consultants, and fellow-traveling academics who are busy setting up tribunals and truth commissions' (McCargo 2015, 6). At their worst, international justice mechanisms mirror rent-seeking behaviour in effect if not in intent (Hayden 2011). As a lucrative, high-status field, it can appear to be more interested in its own survival, through securing additional cases, than in justice (Baylis 2008).

While not uniformly bleak, the empirical record of the impact of transitional justice after conflict is uneven and often lacking. A commitment to transitional justice may carry important symbolic ramifications by signalling a break with past violence (Sikkink 2011). Joining the ICC may help deter future human rights violations by member states (Appel 2018). In general, however, international transitional justice initiatives have low baseline achievement levels. Domestic governments often have strong incentives not to participate (Kim and Hong 2019), and the record of international efforts is even worse without regime support (Vinjamuri and Snyder 2015). Consequently, the individuals most likely to face trial are those who are out of favour with powerful states in the international community, or the victorious regime, or a combination thereof. International criminal mechanisms have not been an effective generalised deterrent in terms of individual prosecutions (Kim and Hong 2019). Even if one includes tribunals established after the fact, the vast majority of perpetrators face little prospect of prosecution, let alone conviction. Impunity can risk entrenching corrupt elites, fomenting criminality, and encouraging rent-seeking behaviour. However, when these mechanisms are established, they can over-promise and under-deliver, which risks alienating the population and furthering the perception that impunity is inevitable.

Punitive justice efforts can unsettle delicate political balances, which can set back efforts to stabilise institutions and to prevent a return to violence. Finally, even when key leaders are prosecuted, it may do little to address the immediate, profound human suffering resulting from conflict.

The potential capacity of transitional justice mechanisms to deter atrocities during ongoing and future conflicts remains subject to debate. Jo and Simmons (2016), for instance, have argued that the prospect of ICC prosecution can mitigate the level of civilian killing provided that the rebel group is seeking international legitimacy. Notably, however, this a pre-conflict rather than post-conflict factor. When credible prosecution mechanisms exist, perverse incentives can follow. Leaders who face credible threats of punishment upon leaving office have strong incentives and a demonstrated propensity to cling to power by any means necessary, both in general (Krcmaric 2018) and in situations of civil conflict (Prorok 2016). Furthermore, the threat of ICC prosecution can increase the duration and intensity of conflict when the risk of domestic punishment is low (Prorok 2017). These findings are echoed in specific case analysis. The ICC indictment against Sudanese President Al-Bahir not only damaged prospects for peace, but undermined international humanitarian and peacekeeping endeavours (Duursma and Müller 2019). Moreover, international justice processes often empower 'extremely nationalist or authoritarian elites who actively limit political opposition, dialogue and diversification of the political scene, hindering democratisation processes' (Steflja 2018, 1675–6).

These calculations become more fraught under even a rough cost–benefit analysis. Transitional justice is expensive (Baylis 2017). International transitional justice mechanisms tend to be particularly expensive whilst producing very few convictions. In Cambodia, the hybrid domestic-international tribunal has cost roughly US\$300 million in international aid, lasted over a decade, and tried and convicted three people (Mydans 2017). The regime actively interfered throughout and blocked additional prosecutions. The International Criminal Tribunal for Rwanda (ICTR), which operated independently from the gacaca courts, charged 93 people and sentenced 62 (UN Mechanism for International Criminal Tribunals n.d.). The ICTR cost roughly US\$2 billion (Leithead 2015). The ICC has cost well over \$1.5 billion as of the end of 2016 (Ssenyonjo 2018). In 2020, the ICC had an annual budget of approximately 150 million euros (ICC 2020, 6). As of April 2021, the ICC has generated a total of nine convictions and four acquittals (ICC 2021). In aggregate, international criminal courts have charged roughly 300 people, of whom fewer than 200 were ultimately adjudicated (Ford 2018, 184). In terms of cost, 'international criminal courts spent more than \$6 billion between 1993 and 2015', which equates to 'almost \$30 million dollars per individual tried' (Ford 2018, 185). Other initiatives can also carry a hefty price. In the Balkans, for example, efforts to identify the remains of missing persons 'cost nearly \$200 million' (Arthur 2018, 239). Most recent truth commissions drew on extensive external support (Hayner 2010, 216–18). Budgets ranged from under US\$1 million to \$55 million with most falling between \$5 million and \$10 million (USIP 2008, 12).⁷

As described earlier, there is a decidedly mixed record regarding their success. It is difficult, of course, to quantify the role that transitional justice mechanisms play in healing the wounds of conflict. But while international tribunals have rarely prosecuted and convicted a significant number of perpetrators, let alone a majority, they tend to require vast financial resources and personnel (Olsen, Payne, and Reiter 2010, 61–78; Mani 2008, 257).⁸ Hayden puts the costs of international criminal justice into context. He notes that 'since its founding in 1993,

the ICTY has handled a total of 161 defendants in a total of 103 cases, for a total budget (1993 to 2008/09) of \$1,557,690,022, or \$9,675,093 per accused' as of 2011. The ICTY will have spent an estimated US\$2.3 billion, a rate that translates into roughly '\$14,000,000 per accused' (Hayden 2011, 322). The ICTY is not an outlier. Jalloh estimates the ICTR spent roughly \$26 million per case, the Special Court for Sierra Leone cost \$23 million per case, and the hybrid tribunal for Cambodia had a budget of US\$36 million per accused (Jalloh 2011, 431–2).

International support must also be cognisant of whether it is viewed as legitimate by the people it seeks to help. International assistance for transitional justice is often mired in concerns about the legitimacy of its mechanisms. Purely domestic processes can reflect problematic power balances within society. Legitimacy concerns are far greater, however, when transitional justice is perceived (rightly or wrongly) as imposed from outside with little say given to domestic actors. No donor country has ever been tried for complicity in human rights violations, which hints at the limitations of the international model (Kendall 2011). At the same time, among African states there has been a growing chorus of ICC criticism, active obstruction and even plausible threats of mass withdrawal (Mills and Bloomfield 2018). Transitional justice is often a significant expenditure, tends to result in few convictions, may create perverse incentives and may be prone to political capture, and can provoke significant state resistance. Given the issues we have sketched, the international community should think carefully whether its emphasis on transitional justice, and especially international criminal justice, is warranted, and at least consider reform to improve its impact.

Making comparative assessments

It is, of course, difficult to compare areas of post-conflict assistance that pursue vastly different goals, over different timelines, funded by different bodies. Systematic data remains scarce. But that does not preclude reflection on the comparative merits of different interventions and the general priorities of the international community. Foreign aid resources are always scarce and, even before the profound disruptions caused by COVID-19, resources were becoming scarcer (Gulrajani 2017). Donors make choices about how and where to fund transitional justice as well as whether to support transitional justice over other priorities (Arthur 2018).⁹ Moreover, aid trade-offs in areas like health are not merely hypothetical. In 2020, Australia, for example, reduced health expenditure to Pacific states and reallocated those funds to infrastructure assistance even as those states continued to face 'health crises, including a devastating measles outbreak, polio and drug-resistant tuberculosis' (The Guardian 2020). Thus, strategy matters and allocation decisions must be cognisant of the opportunity costs of each approach.

Imagine a donor country faces the choice of contributing funds to either a transitional justice initiative or a basic healthcare package. Let us assume, for the sake of argument, that the donor country is exclusively interested in achieving the best possible outcomes for the post-conflict society. How can a decision of this sort be made? It might be tempting to resolve this question through appeal to a human rights framework. In other words, the choice might be thought to come down to which approach guarantees the fulfilment of human rights most effectively. However, since rights are at stake in either intervention, an appeal to the promotion of human rights cannot, by itself, resolve the conflict. Alternatives must be

examined in light of some plausible set of normative criteria, informed by the empirical track record of previous initiatives in both areas.

One criterion would certainly concern the *impact* of alternative forms of assistance. On the one hand, impact refers to the consequences of a possible programme or intervention – that is, the degree to which it produces desirable outcomes or, when outcomes are uncertain, the likelihood of success. On the other hand, impact can also refer to efficiency – that is, the degree to which a possible intervention produces a successful outcome in relation to the means invested. As outlined above, international support for transitional justice mechanisms has often failed to achieve their stated aims, whilst using extensive (monetary and non-monetary) resources. For example, as we noted, the ICTY alone has spent about US\$2.3 billion prosecuting 161 defendants. In contrast, between 1996 and 2011, the World Bank committed US\$1.31 billion directly to rebuild infrastructure and to promote growth, and of that only ‘\$25 million for the rehabilitation of hospitals and clinics’ (Hayden 2011, 323). What makes comparisons like these striking is that public health interventions, while not guaranteed to succeed, have received comparatively few resources despite a particularly high potential for saving lives.

Another plausible criterion to compare areas of assistance is the *urgency* of the needs that are addressed. Urgency describes the strength or importance of a person’s claim to assistance. But it may also reflect a temporal component: an urgent action is one that should be taken now rather than later. Many forms of international assistance address urgent needs in the immediate aftermath of conflict. In contrast, transitional justice mechanisms require many years to document abuses and prepare prosecutions, with uncertain results. Interventions such as childhood vaccinations or deworming, on the other hand, often have immediate, tangible effects. Now, of course, there are often compelling reasons to prioritise long-term goals over immediate needs. But if at least some priority is to be given to immediate needs – in particular when these are a matter of life or death – transitional justice initiatives, while important, are perhaps less urgent than other goals. Note that the point stands independently from considerations of impact: even successful transitional justice processes are comparatively slow and do not impact most people’s immediate needs.

One could also compare areas of assistance in light of the *distributive effects* in the host society. Here what matters is that the benefits of post-conflict assistance reach people in ways that can be considered fair or equitable. To be sure, both health interventions and transitional justice efforts can be designed in inequitable ways. In practice, however, this risk seems to loom much larger in the case of transitional justice. This is especially the case in domestic and hybrid mechanisms, where incentives are strong for governments to structure the process to either consolidate their power, such as in Rwanda, or to preclude any real accountability, such as in Cambodia. Even relatively successful transitional justice mechanisms do little to address the socio-economic inequalities that often contribute to conflict in the first place. While it is also possible to design public health programmes that benefit only, say, particular geographic regions or ethnic groups of a country, large-scale public health programmes, like the BPHS in Afghanistan, can help improve the lives of disadvantaged groups, such as women or rural populations, and thereby reduce long-standing social inequalities.

Finally, consider the *legitimacy* of alternative interventions, understood here in a minimal sense as the degree to which post-conflict assistance bolsters or undermines the credibility of the state to the local population. Indeed, if we adopt a *victim-centred* approach, the perspective of affected populations needs to take a crucial role in prioritisation decisions. As discussed before, the equitable delivery of health services and support for the development of health systems can contribute positively to the perception of the post-conflict state as legitimate. Furthermore, health interventions funded by outside donors, though by no means always uncontroversial, typically reflect a widespread local consensus on the importance of improving health-related quality of life. Transitional justice, on the other hand, commonly raises more challenging questions of legitimacy. As described before, domestic, international and hybrid mechanisms often reflect problematic power balances both within host societies and in relation to donor countries.

Admittedly, these brief remarks refer only to the general track record of transitional justice and health initiatives, and each potential form of assistance in any given country needs to be examined in its specific circumstances. It is also true that the criteria we have offered can be conceptualised in different ways, and that there may be different views about their comparative importance. Nevertheless, it seems clear that several kinds of important considerations point in the same direction and support the view that health interventions ought to play a more prominent role in post-conflict assistance: their ability to address urgent needs, their favourable distributive effect and their generally high levels of legitimacy make them an especially promising area for assistance. More generally, comparisons like these suggest that international post-conflict priorities need to be examined more systematically.

The point here is not that transitional justice is unimportant, or that all funding for transitional justice should be reallocated. Rather, we aim to raise the possibility that policymakers need to think strategically about their decisions when allocating funds. This can also help to ensure that underperforming initiatives, in transitional justice, health or elsewhere, do not strategically avoid rigorous evaluation (Arthur 2018, 235–7). Although transitional justice is a worthwhile goal, whether it should constitute a priority for international donors must be evaluated in light of its opportunity costs. This invariably involves comparisons with other possible forms of assistance. Although there is likely to be disagreement about both the comparative merits of different approaches and the criteria by which to judge them, these kinds of debate must be addressed more explicitly if international assistance is to fulfil its own stated aims successfully.

Three objections

Certain interventions have proven effective in helping post-conflict societies meet their most urgent needs, including, for instance, investments in public health. Other initiatives have clearly failed. Other cases are more difficult. For example, despite a compelling normative foundation, international support for transitional justice has often failed to live up to expectations. These observations speak to the need for significant reform of how foreign donors approach opportunity cost and, potentially, a reconfiguration of donor priorities: away from clearly underperforming projects, and towards more promising ones. In this section, we consider three objections to this conclusion: (1) there is no agent on the global stage that can set the foreign assistance priorities of the international community; (2)

transitional justice and health are incommensurable goals; and (3) the way donors assist post-conflict societies is their prerogative. We find, ultimately, that none of these objections undermines the force of our argument.

The absence of a global agent

The hypothetical example in the preceding section assumed a single agent free to decide on the allocation of resources for post-conflict assistance. But one might object that in reality, there is no unitary agent on the global stage that allocates resources in a systematic fashion. Rather, there is a complicated patchwork of different agents – national donor agencies, international organisations, supranational bodies – each with its own priorities, pre-existing commitments and areas of expertise. Given this fragmentation, scaling back efforts and commitments in one area will not necessarily free up resources for use in other areas. The absence of a global agent, so the argument goes, makes it impossible to reconfigure the post-conflict priorities of the international community as a whole.

In response to this objection, we acknowledge that there is no central decision-making body that can distribute assistance to post-conflict societies. It is also true that if donor countries reduced their contributions to the ICC, for instance, the newly available funds would not be channelled automatically to other pressing needs in post-conflict societies. These facts notwithstanding, our point is that greater reflection and coordination on post-conflict assistance would be *desirable*. All too frequently, aid providers pursue their individual goals for idiosyncratic or narrowly strategic reasons, without a broader understanding of the consequences of their efforts and the trade-offs at stake. Much like in other areas of international cooperation – such as global environmental policy – the lack of a global agent creates challenges but does not negate the need to reflect critically on the general priorities of the international community.

The incommensurability of assistance goals

Assuming it is reasonable to call for a reconfiguration of priorities in the sense just described, someone might still object that it is impossible to compare areas of assistance in any systematic fashion. The values served by transitional justice and public health are simply *incommensurable* – that is, they cannot be measured on a single scale (Chang 2013). Internationally supported transitional justice is approached and funded as a temporary activity that promises to punish perpetrators and recompense victims; public health is an ongoing developmental activity that improves the welfare of the population. The two areas follow different rationales and purposes, and neither is inherently more valuable than the other. As such, the objection goes, comparing different areas of assistance is like comparing apples and oranges.

Again, we do not deny that any form of comparison is hard. Take one of the criteria for comparative assessments mentioned before, the impact of alternative interventions. If the values of peace, justice or health cannot be measured on a single scale, then post-conflict priority-setting cannot be reduced to an exercise in utilitarian sum-ranking. And yet, it is impossible to deny that impact is a central consideration when weighing alternative courses of action under conditions of scarcity. Even if measured only using their own internal logic

– the extent to which they achieve their own stated aims – efforts to assist post-conflict societies must stand a reasonable chance of success to be justified in light of their opportunity costs. Otherwise, scarce resources could be better allocated elsewhere.

It is possible that transitional justice ideals could be incorporated into the pursuit of health, for instance, by targeting health initiatives to address harms resulting from conflict, or by rebuilding crucial health facilities damaged by conflict. Likewise, establishing a more just legal order, and ensuring access to it, can dramatically improve people's overall quality of life, including their health. But when these synergies are not possible, we must often make choices between incommensurable or incomparable values. Ultimately, any government must decide how much of its budget is spent on culture, say, and how much on police work. There is no single correct answer to indicate the right balance, and governments ideally rely on their democratic legitimacy in making these choices. In the case of post-conflict assistance, existing priorities – whether they are unplanned or set deliberately – must also be publicly scrutinised and debated. There is likely to be disagreement about the values at stake, the criteria to assess them, and the right balance to be struck. But this, we argue, merely shows the need for more academic and policy discussion.

The prerogatives of donors

Consider a final objection. One might object that since donor countries commit resources to the stabilisation and reconstruction of post-conflict societies voluntarily, they are free to decide how to invest these resources. They are, of course, not free to provide 'assistance' that results in harm to people in host societies or undermines important societal goals. But beyond these constraints, the objection goes, it is their prerogative to support, say, transitional justice measures rather than population health.

A first response to this objection is to scrutinise the assumption that post-conflict assistance is *supererogatory* – that is, praiseworthy but not a stringent moral obligation. As has long been recognised by just war theorists (Bass 2004), parties directly and indirectly involved in conflict incur special obligations to help ensure a successful transition to peace. But even absent any special obligations, it is plausible to hold that the international community as a whole shares a collective obligation to assist. This obligation can be grounded, for instance, on a moral imperative to help secure human rights and a duty of assistance to burdened societies (Pattison 2015). If there is a collective duty to assist post-conflict societies, then surely that duty must be discharged in ways that can be justified on reasonable grounds to host societies. At minimum, this implies a commitment to effective assistance. Indeed, clear commitments to effectiveness, efficiency and legitimacy have repeatedly been made by the donor community (OECD 2005, 2008).

But let us assume, for the sake of argument, that post-conflict assistance is supererogatory. Would donors then enjoy unfettered discretion over how they provide assistance? Not necessarily. As philosophers have recognised, agents can have a 'duty to do something conditional on them being willing to expend a cost, even if they otherwise had no duty to expend that cost' (Oberman 2019, 208). In other words, while donors may have no prior duty to assist, once they commit to providing assistance, they may incur 'conditional duties' to assist in justifiable ways. If one form of assistance promises little benefit to the host society, and alternative interventions would achieve much better outcomes, a compelling case exists for donors to reform or reconfigure their assistance.

Conclusion

As long as there are conflicts, there will be difficult choices regarding post-conflict rebuilding and reconstruction. These decisions have immense life-or-death consequences for millions of people worldwide. When the challenges of establishing an enduring post-conflict order cannot be sufficiently addressed by domestic actors alone, there is a compelling need for international support to help consolidate peace and support recovery. Yet even the most robust, well-funded international assistance efforts face resource scarcity. Tough choices must be made and trade-offs between multiple priorities are often inevitable.

By focussing on the costs and opportunity costs of post-conflict assistance, we have argued for the need to think more systematically about aid allocation. Clearly this demands credible monitoring and evaluation and an end to funding initiatives that are ineffective or even counterproductive. The concept of opportunity cost may also help illuminate tough choices. We have illustrated that this is possible by looking at the hard case of transitional justice; it is undoubtedly an important aspiration for societies that deal with the legacy of conflict, but existing initiatives need to be scrutinised carefully, and potentially reformed or reconceptualised, in light of their empirical record and their costs. Other areas of international assistance may deserve more attention. We have argued that public health interventions, though by no means guaranteed to succeed in every case, harbour great potential to improve the lives of post-conflict populations.

What international priorities should be, and how assistance should be structured, will invariably be controversial. It is conceptually, normatively and empirically difficult to compare vastly different post-conflict goals, such as transitional justice and public health. This is especially true given that, in practice, international post-conflict assistance is fragmented among different bodies that pursue idiosyncratic goals, over different time frames, with varying degrees of success. Nevertheless, existing priorities and practices cannot be accepted uncritically. Assistance in post-conflict settings needs to be designed and delivered in ways that are justifiable to the affected communities, and to that end we must consider competing priorities more systematically.

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Notes

1. For example, the United Kingdom announced nearly £3 billion in aid cuts (BBC News 2020).
2. On the concept of opportunity cost, see Newman (2017).
3. Donor motives can include promoting economic and geopolitical interests, in addition to helping societies recover from violent conflict. Mixed motives do not render the evaluation and comparison of aid expenditures fruitless or impossible, but rather underscore the need to measure assistance efforts against the goal of optimally assisting post-conflict societies.
4. Even William Easterly (2006, 375), perhaps the most prominent sceptic of international aid, has endorsed such initiatives.
5. For example, aid may bolster an unsavoury regime. These concerns are real and must be evaluated on a case-by-case basis. Assuming the health aid is effective, lives are being saved. Nevertheless, certain regimes may be so heinous that international donors could be justified in withholding support.
6. SIGAR's extensive reporting on US assistance to Afghanistan can be found at <https://www.sigar.mil/>
7. For a list of truth and reconciliation commission budgets, see Hayner (2010, appendix 2, 268–73).
8. For an overview of international monetary contributions, see Muck and Wiebelhaus-Brahm (2016).
9. Even within the justice sector, donors must choose whether to fund transitional justice, ordinary justice or initiatives focused on non-state justice (Swenson 2018).

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